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# Lessons from a basic income programme for Indigenous Australians

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## ABSTRACT

This article examines the importance of basic income in supporting development and economic security in remote Australian Indigenous communities. Specifically we draw on the case of the Community Development Employment Programme (CDEP) and examine its significant basic income features: it provided economic security, flexible definitions of work, community control and a means to establish community development initiatives. We find that CDEP suited the economic and cultural circumstances of remote-living Aboriginal people whose livelihoods depend on a hybrid form of economy inclusive of customary (non-market) practices rather than market capitalism. We then trace shifts in Indigenous policy in recent times which saw the dismantling of CDEP in the name of 'real' employment, and we examine the consequences of this for Aboriginal people. We end by proposing the reinstatement of a more complete basic income scheme, initially for people in remote Indigenous communities in Australia who are in deepest poverty.

## 1. Introduction

Indigenous<sup>1</sup> employment policy in Australia is in disarray. This can be explained in large part by a dramatic shift in social policy to embrace neo-liberal principles focused on the individual, alongside paternalistic and punitive welfare measures (Altman, 2010; Neale, 2013; Stanford & Taylor, 2013). Recent Indigenous development policy reconfigures the exercise of political power to the logic of markets (Madra & Adaman, 2013; McMahan, 2015). Specific programmes targeting Indigenous Australians aim to instil responsibility in individuals by re-engineering their social norms and values, and to do so efficiently by marketing service delivery on a competitive basis (Altman, 2010; Klein, 2016b). Furthermore, because financial capability and acumen have been redefined as the markers of the responsible human being, governments, their agencies and others have acquired legitimacy to intervene to correct perceived deviations from the ideal of self-interested and utility-maximising cognition and behaviour (McMahan, 2015). This 'neo-paternalism'<sup>2</sup> increases the conditionality, surveillance and regulation of those receiving government support, with the purported aim of delivering individual freedom (Bielefeld, 2014; Cahill, 2014; Mead, 1997).

A programmatic example of this policy approach underway in Australia includes the controversial Northern Territory Emergency Response (NTER) initiated in 2007. The NTER or 'intervention', as it

is commonly known, involved the enforcement of a raft of policies targeting Indigenous individuals and communities across the Northern Territory. Measures included attempted bans on alcohol consumption and pornography, the quarantining of welfare money to restrict the availability of cash and purchases of certain items, imposing highly regulated tenancy arrangements which disallow alternative residential arrangements, compulsory acquisition of township leases from legally recognised owners in order to facilitate governmental controls, and the appointing of government business managers with legal rights to monitor the meetings of community organisations and with absolute powers in townships (Altman, 2007). The NTER was a racialised policy which targeted Indigenous Australians and was only possible because the Racial Discrimination Act<sup>3</sup> had been suspended specifically for the intervention to take place (Bielefeld, 2014). The NTER was viewed as conservative Prime Minister John Howard's final blow to any vestiges of Indigenous self-determination (Altman, 2010). It was the harbinger of a neo-colonial project to hasten assimilation or mainstreaming, irrespective of the wishes of Indigenous subjects. Measures based on neo-liberal behavioural economic principles are a reminder of the enduring coloniality inherent in Australian settler society. This coloniality is an ongoing process for ordering relations based on perceived racial difference (Maldonado-Torres, 2007). Coloniality also involves the shaping of the structure and control of labour, resources and modes of production, and upholding Western hegemony (Quijano, 2000): it has a specific mode of being – one which highlights the inferiority of subjects not subscribing to the norms of the West (Maldonado-Torres, 2007, p. 243). The focus of this paper examines in detail the recent reform of Indigenous-specific employment policies and their neo-colonial failures. We specifically contrast current policies with the previous Community Development Employment Programme (CDEP); an employment programme which supported self-determination and operated like a basic income.

The disparity in employment outcomes between Indigenous and non-Indigenous Australians highlighted by the Productivity Commission reflects an ongoing failure in the Australian government's modernisation project of socioeconomic convergence. In recent times, successive governments have focused too much on 'closing the gap' as measured in official statistics.<sup>4</sup> Consequently, success in Indigenous policy is only measured in terms of distinct statistical outcomes, such as whether disparities between Indigenous and non-Indigenous outcomes are declining.<sup>5</sup> Such statistical picturing, which plays a central role in wider processes of power and knowledge production (Merry, 2011), tends to reflect normative ideas about 'progress' (Mosse, 2004, 2005), and overlooks the aspirations and agency of Indigenous people (Campbell, Pyett, McCarthy, Whiteside, & Tsey, 2007; Dudgeon et al., 2012; Klein, 2016a).

In the past, there was an alternative approach to address the massive challenge posed by Indigenous labour surplus in places with few employment or commercial opportunities. It was also an alternative to neo-paternal Indigenous policy. The CDEP<sup>6</sup> was established in 1977 by the Fraser conservative government, and provided support for productive labour to engage in community and commercial activities. CDEP was based on a policy realisation that standard Australian welfare and employment-creation institutions were unsuitable for the exceptional economic and cultural circumstances of remote-living Aboriginal people, and that an innovative institution which recognised such difference was needed. CDEP was piloted, expanded and supported for 40 years before being incrementally dismantled by successive governments over a decade from 2004.

Whilst there is a considerable body of research about CDEP (see Morphy & Sanders, 2001, and more recently Jordan, 2016b), there has been little analysis of CDEP as a basic income scheme which provides an economic base and sufficient flexibility to support diverse Indigenous livelihoods (Altman, 2016a). This is possibly because CDEP was re-framed in recent times as an employment programme only, whereas it was originally a flexible programme which utilised a broad interpretation of 'work' to include mainstream employment creation and enterprise and community development, as well as basic income support. Given the fundamental shifts in Indigenous policy which have largely eliminated options for community-based development and self-management, alongside enhanced precarity in the global economy and mainstream employment, we argue that a programme like CDEP, operating as a basic income scheme, could open up new possibilities for Indigenous self-management even in the

current neo-liberal framing of policy. Specifically, such a ‘new’ concept might ameliorate high levels of economic insecurity and deep poverty experienced by Indigenous people, especially those living remotely. A programme like CDEP might also provide avenues for dignified and culturally appropriate forms of work and self-managed community development.

This article draws on over 40 years of ethnographic research (much conducted by one of the authors of this paper) in various remote Indigenous communities. We proceed by first examining what is meant by ‘basic income’; secondly, we review the history of Indigenous ‘employment’ policy with a specific focus on the historical ‘invention’ of CDEP. Thirdly, we examine the elements of CDEP which could be operationalised as a basic income scheme. Fourthly, we briefly examine the demise of CDEP. Finally, by drawing on what was learnt from the basic income element of CDEP, we highlight potential avenues to begin to redress the tragic livelihood consequences of contemporary Indigenous policy failure.

## 2. What is basic income?

Basic income schemes as a means of providing economic security, autonomy and dignity for marginalised communities has been garnering support globally (Ackerman & Alstott, 2006; Altman, 2016a; Atkinson, 2014; Davala, Jhbvala, Mehta, & Standing, 2015; Standing, 2014). At one level, basic income (BI) is a simple idea to provide every resident (children and adults) of a particular geographic location a regular subsistence wage unconditionally (Ackerman & Alstott, 2006), sufficient to establish an income floor through times of job and wage insecurity (Standing, 2014). As BI is unconditional, every individual can continue to work without any means-testing which can lead to high marginal tax rates and poverty traps (Davala et al., 2015; Van Parijs, 2006). Furthermore, the unconditional element of a BI means that people are not subject to conditionalities which as noted earlier are increasingly focused on attempts to change behaviour, individualising poverty (Bielefeld, 2014; Brown, 2015; Klein, 2016c; McMahon, 2015). Basic income programmes internationally have mainly been a successful form of economic safety net for extremely marginalised populations, such as found in the Basic Income Trial in India (Davala et al., 2015) and in unconditional cash transfers in Southern Africa (Ferguson, 2015). In the Global North, however, trials for a BI are positioned as a basic wage for every citizen, not only for the marginalised and vulnerable (Standing, 2014). However, the data on such trials and programmes are limited.

BI is fundamental to the meeting of social and economic justice goals. Standing (2014, pp. 5, 6; see also Van Parijs, 2006; Wright, 2006) makes the argument that a full citizen has access to five types of rights: civil, political, cultural, social and economic. Arguably, despite nominal full citizenship, Indigenous people in Australia have missed out on at least the last two rights (Altman, 2016a). Social rights include the right to an adequate standard of living, including housing, healthcare and education, all areas where significant gaps are evident today according to census data (Altman, 2014).<sup>7</sup> Economic rights include the right to practice one’s occupation, share in the economic resources of the commons, enjoy a fair share of economic growth and access to all forms of income. This has never been the case for Indigenous Australians since colonisation.<sup>8</sup> BI values the work of unwaged productive labour which is an issue also of relevance here. The concept of employment is limited in policy to involvement in the formal labour market. Yet many Indigenous people live remotely where there are no labour markets and so engage in productive work ‘on country’, undertaking customary (non-market) work for their livelihoods such as hunting and the production of art (Altman, 1987; Altman & Taylor, 1989).<sup>9</sup> This has historically been an issue overlooked in Australian employment policy except when was CDEP operating; there is a national political and policy blindness to recognising productive work outside the formal labour market.

## 3. A synoptic history of Indigenous employment policy

Pre-colonially, Indigenous peoples were ‘fully employed’ as hunter-gatherers for millennia. It is only in the last 200 years with European invasion, illegal dispossession, attempted and often-failed assimilation

or integration, and state colonisation that Indigenous unemployment and underemployment has been created. For example, in the 1960s under the assimilation policy, those Indigenous people living remotely were required to engage in formal labour, including indentured labour (Parliament of Australia, 2006).<sup>10</sup> Then, from 1968, there were further changes: those working in the pastoral industry had to be paid award wages, while others living at what were then termed 'government settlements' and 'missions' were paid below-award 'training allowances'. The assumption of policy then was that Indigenous people would either be assisted to establish viable enterprises in difficult commercial circumstances, or that they would adopt individualistic Western norms and skills and migrate to find employment elsewhere in the country.

By the early 1970s, it was clear that this approach was failing: remote places were neither magically developing into nodes of state- or mission-supported capitalism nor were local people migrating for jobs.<sup>11</sup> Indeed, as Indigenous people were belatedly recognised as full Australian citizens from the early 1970s, they became entitled both to wages on par with non-Indigenous Australians and to standard welfare benefits, even though the public funding provided to run remote townships was never sufficient to employ everyone. Keynesian-style social security institutions designed to provide income support during short periods of unemployment in mainstream and more densely populated Australia were poorly tailored to remote circumstances where there were few jobs (Altman, 2016b).

Rapid changes in policy and practice followed the election of the progressive Whitlam government when self-determination became the dominant idea of policy. Aboriginal people suddenly had choices, which expanded with land rights. People could now choose to live even more remotely than in townships, on their ancestral lands at outstations and homelands.<sup>12</sup> It was in this period that CDEP become firmly established.

#### 4. The invention of CDEP

In 1977, the esteemed economist Dr. HC 'Nugget' Coombs proposed CDEP in collaboration with progressive government bureaucrats and with the concurrence of remotely located Aboriginal leaders (Rowse, 2012; Sanders, 2012). Under this pilot scheme, communities would receive a block grant equivalent to a community's welfare entitlements and the estimated costs of its administration, and some funds to underwrite the establishment of community commercial and social enterprises. These funds were used to engage participants in a range of projects, from local community development and service provision to social and commercial enterprises. Participants in CDEP were generally required to work 15 h per week paid at award wages, and were given the option of working extra hours for additional pay if financial resources to meet such a 'top up' were available. CDEP had attractive design features with no formal income testing or externally monitored work testing (although many Indigenous organisations themselves did apply forms of 'no work, no pay' regulations in their administration of CDEP). The scheme grew rapidly in popularity – by 2004 there were over 35,000 Indigenous people participating, with 70% living in remote Australia and 265 community-based Indigenous organisations administering the scheme.

Although CDEP had the institutional form to support Indigenous aspirations, agency and realities, from the outset there were two problems with the scheme. Firstly, for those who wanted to work a standard week, the CDEP funding available was generally insufficient as programme support was limited to the provision of payment for approximately 15 h of work per week per participant. While the purpose of CDEP was never to monopolise economic development projects and options in remote communities, unfortunately such substitution or cost shifting onto CDEP did occur in many communities where the government neglected to fund other services and development programmes, which resulted in the Indigenous-specific CDEP funding as the only major source of development funding.

Secondly, for those who did not want to work at all, or who wished to work too few hours to sustain themselves and their families, there were issues of discriminatory denial of access to social support. This was more to do with poor policy-making on social security access, rather than in the design of the CDEP, as legislation was passed in the Social Security Act in 1991 to restrict the availability of social

security in communities where CDEP was operating (Sanders, 2016). Yet it is important to note that CDEP was never meant to substitute for the social security entitlements of everyone in participating communities.

Nonetheless, there are four key features of CDEP which are worth highlighting when considering it as a form of basic income. These include the ability of communities to control the CDEP scheme; whether CDEP operations were flexible enough to support Indigenous notions of productive labour; how far CDEP supported community development; and the capacity of the scheme to provide an income floor:

- (1) CDEP was community-controlled and voluntary. Whilst initially the whole-of-community decision whether to opt in or out was controversial as CDEP was not voluntary for individuals, over time there were many more people seeking participation than available CDEP positions. In essence, an Indigenous community council or organisation opting into CDEP was allocated a lump sum wages grant, calculated on a per participant rate approximating welfare entitlements. On top of this, CDEP organisations were paid an amount to administer the scheme and related projects and an allocation to purchase capital equipment. Together, these two additional elements added 40% to the wages component. The organisation would then allocate these pooled funds to individuals based on their active participation in part-time work which was paid at award wages. It was generally the case that participants had to undertake some work to receive payment.

This work requirement was always problematic owing to the notional links of CDEP wages with welfare. Participants could not just be left without income by community organisation decision-makers who were often kin, and so there was a fair degree of leniency in applying 'no work, no pay' rules. Some organisations made lower CDEP payments to the inactive; others encouraged them to get their income support from the federal government social security agency Centrelink. As a general rule, community-based management was cognisant of cultural obligations (religious ceremonies and funerals) and responsibilities to kin which might have precluded participants from work participation.

- (2) CDEP was a mechanism to allow flexible work arrangements for those not wanting to work full-time or who were in the formal labour market. CDEP was flexible in how 'work' was defined, allowing for culturally productive forms of labour falling outside of the formal economy and not remunerated (Altman & Johnson, 2000; Gibson, 2010; McRae-Williams & Gerritsen, 2010). An illustrative (and historical) example can be found in a comprehensive time allocation study undertaken by Altman (1987) at a small and very remote homeland community of Kuninjku-speaking people in Arnhem Land. Using data collected over 253 days in 1979–1980, Altman showed that Kuninjku adults spent an average 3.6 h per day in productive work in what he called the subsistence and market exchange sectors of the local economy, such as hunting or in art production (Altman & Taylor, 1989, pp. 67, 68). Analysis using standard deviations showed that there was little variability in work effort over the year. While these daily figures appear low, when taking into account culture-specific continuous work patterns (seven days per week) they translate to 25 h per week. And when culture-specific participation rates were factored in – all adults over 15 years of age 'worked' to some degree – this converted to full-time work according to the norms of the wider society at that time, at 40 h per week, with 60% work participation rates. The point here is that the Kuninjku were fully engaged in productive work, both inside and outside the home, which challenges much popular discourse about Aboriginal passivity, dysfunction and non-participation in work.
- (3) CDEP had a community development focus as it not only created part-time work for Indigenous people in very remote situations, but it also facilitated a degree of community self-management in social, cultural and economic development (Jordan, 2016a). Specifically, CDEP provided freedom for Indigenous organisations to pursue 'development' in line with local aspirations and priorities. An indication of CDEP's capacity to support Indigenous



self-determination was the ability of communities to reconfigure CDEP according to local priorities (Altman, 2016b; Jordan, 2016a). For example, Jordan (2016b) documents how CDEP on the south coast of New South Wales contributed to income-generating activities benefiting both individuals and communities. Wages from CDEP supported people to develop enterprises like oyster farming, a popular Aboriginal cultural centre, tourism initiatives, harvesting firewood for commercial sale and a furniture-making venture, as well as a substantial market garden. CDEP wages also generated social benefits for individual and community wellbeing, easing tensions in relationships between and within families and providing opportunities for shared goals and activities. Jordan (2016b) notes that many local people reported that the encouragement to engage in CDEP, within a supportive environment, created a sense of pride and enthusiasm among participants.

- (4) CDEP provided work opportunities when the formal labour market was small or non-existent. Many Indigenous people living remotely in desert Australia or in the tropical savannah do not have access to mainstream labour markets (Productivity Commission, 2015). The impacts of missing markets meant that CDEP participation was often the main source of employment income in regional and remote Australia. CDEP participation became a crucial institution for ensuring that people did not fall too far below the poverty line. It was a failure of government development policy over many years that they did not, in conjunction with CDEP, fund additional services and initiatives to ensure productive forms of community development. Instead, in many areas, CDEP organisations became the key providers of services and gave a modicum of economic security and development. It was the success of CDEP in providing an economic base for Indigenous people which was eventually a partial cause of its downfall, as it became the institutional scapegoat for successive governments' unwillingness to provide proper needs-based and equitable support for greater self-sufficiency and community development. Indeed, building genuine autonomy and economic self-sufficiency in remote communities has never been a goal of the Australian settler state (Hage, 2016; Wolfe, 2006).

There is limited statistical information about CDEP. In particular, the five-yearly population census has been unable to differentiate CDEP from other forms of labour market participation, except in the remotest places where English literacy is low and census information is collected by interview. The best information on CDEP comes from the National Aboriginal and Torres Strait Islander Social Survey (NATSISS) undertaken by the Australian Bureau of Statistics. Information from the 2002 NATSISS, when the CDEP was at its peak, shows that the scheme was effective in meeting its multiple objectives. Altman, Gray, and Levitus (2005) used NATSISS data to show that, on average, people on CDEP earned AU\$100 a week more than those on welfare, and they were far less likely to be arrested. In very remote Australia, 90% of those on CDEP worked more than the minimum 15 h a week, one in five worked over 35 h – a significant employment creation outcome given the absence of labour markets. At the same time, CDEP participants in remote regions were able to participate in more hunting and fishing, in more ceremonial activity and in more recreational or cultural group activity than both those in formal employment and the unemployed.

Although CDEP was not a perfect institutional arrangement, participation was voluntary, it was productive, it had legitimacy, and far better community development outcomes were generated than from welfare. Community organizations were empowered to utilise the scheme for the provision of basic income.

## 5. CDEP as basic income: a case study from Arnhem Land

The case study of the Kuninjku-speaking community where Altman has undertaken collaborative research since 1979 illustrates how CDEP was reconfigured to operate predominantly as a form of BI. In this case, the CDEP organisation, the Bawinanga Aboriginal Corporation, not only provided an economic base for participants in a region where there was a highly restricted market for labour,

but it also allowed participating outstation communities to decide how to manage operational specificities locality by locality. CDEP was administered flexibly to support diverse Indigenous notions of productive labour, and to prioritise community development initiatives.

Firstly, Kuninjku-speaking people live between a cluster of outstations and a township called Maningrida in Arnhem Land in Australia's Northern Territory. This area has limited formal labour markets due to a complex history of colonisation, remoteness from markets and no commodity exports, Aboriginal visual art aside. Maningrida was originally established as a government settlement in 1957, but most Kuninjku resisted centralisation and associated pressures to assimilation and continued to self-provide as hunter-gatherers in the wider area. In the early 1960s they eventually moved to the government settlement for a variety of reasons including the blazing of a vehicular track into their territory, curiosity, the need for western medical attention for some suffering leprosy and the pull of maintaining social and ceremonial relations with other neighbouring groups who had centralised (Altman, 1987). Even so, the Kuninjku still resisted the assimilationist efforts of the Australian government to transform them into mainstream Australians. Kuninjku decentralised back into tiny communities called outstations, exasperated with dealing with colonial authority and the political tensions associated with living on the traditional lands of another Indigenous group whilst in Maningrida. On returning to live at outstations on their own ancestral lands, Kuninjku people reconstituted a form of economy which mixed production for domestic use, mainly in the form of hunting and fishing; added new forms of commodity production, mainly of arts and crafts; and had a limited degree of dependence on state transfer payments which, from 1989, included access to CDEP. As there was no formal labour market at outstations, CDEP was an essential element providing some cash transfers to underwrite their 'hybrid' economy.

Secondly, CDEP allowed the community to control work routines and to define productive labour. The remote living of Kuninjku people and other groups in the 10,000 km<sup>2</sup> Maningrida region was supported from 1979 by a community-based regional resource organisation, the Bawinanga Aboriginal Corporation (BAC). BAC assisted outstations with housing and infrastructure support, communications access to Maningrida, delivery of store goods, access to welfare entitlements, and arts marketing. In the 1990s, with access to CDEP, BAC evolved into one of Australia's largest Indigenous corporations with over 600 CDEP participants and over 100 other employees; it also grew into a very successful development corporation mainly through the strategic deployment of CDEP workers as subsidised labour in its commercial and social enterprises.

BAC used its allocation of CDEP wages funding in a three-tiered system: people living at outstations were paid for 3.6 h of unsupervised work a day; people who worked in the town were paid 4.6 h for a morning's work and had potential to earn extra income from extra employment; and people who were inactive in Maningrida were provided minimal income support to keep them from falling too far below the poverty line, but they were also encouraged to exit CDEP for welfare. If people were participating in ceremonial activity, they would receive 3.6 h payment a day. There was a degree of mobility between these three categories (Manners, 2001, p. 211).

Thirdly, CDEP was administered flexibly to support Indigenous people who were wanting to undertake productive activities on their traditional lands, commonly referred to as being 'on country'. In the 1990s, most Kuninjku adults living at outstations moved onto CDEP. For a decade and a half, until Indigenous policy changed dramatically from 2007, Kuninjku through their own actions and with the assistance of BAC's advocacy developed an unusual form of economy which Altman (2001) terms 'hybrid' – it was an economy based on articulations between state, market and customary sectors. CDEP operated as a basic income when Kuninjku lived at outstations; while there was an understanding dictated by BAC policy that 18 h a week were spent on outstation 'village' maintenance, in reality CDEP was paid unconditionally and was unsupervised on the realistic assumption that people at outstations had to work to survive. During this period, Kuninjku were able to maximise their cash resources through productive hunting mainly for meat and fish, as a replacement for expensive store-purchased protein foods. They were also prolific producers of art, and as CDEP was not income-tested they were able to successfully engage with global arts markets, an engagement actively and successfully brokered

by Maningrida Arts and Culture, a business arm of BAC. Moreover, CDEP was used to remunerate productive work inside the home, labour generally undertaken by women. This shows how the hybrid economy model can be inclusive of non-market work inside the home as well as work at ceremonies and other cultural activities.

Fourthly, CDEP supported investments made to improve individual and community wellbeing such as community development initiatives. Kuninjku used their CDEP payments strategically and in a 'virtuous cycle of economic hybridity' (Altman, 2016a, p. 191). They saved surplus cash from CDEP and arts income to purchase vehicles which facilitated more hunting, more arts work and the maintenance of communications between Maningrida and outstations and between outstations, and facilitated the sharing of bush foods. With the freedom that CDEP as basic income provided, some Kuninjku also chose to live and work in Maningrida in salaried jobs, as community rangers working in natural resource management or as textile designers and printers getting CDEP and earning 'top ups' from sales (Altman, 2016b).

This case study from Arnhem Land shows how CDEP was sufficiently flexible to operate productively as a form of Universal Basic Income. The Kuninjku were liberated by CDEP to pursue a range of productive activities in their own way beyond rigid forms of mainstream employment, while also enjoying the freedom to participate in their culturally specific and time-intensive ceremonial practices. Whilst CDEP was initially a programme with diverse objectives, over time it was reconfigured for outstation residents with their concurrence as BI. As illustrated in this case study, CDEP was not a welfare destination or what has been described as 'sit down money'. Instead, CDEP provided a way for the Kuninjku to engage productively in forms of community development which were aligned to their aspirations. CDEP as a basic income assisted people to productively engage in livelihood improvement.

## 6. The destruction of CDEP

From 2004, with a shift in Indigenous policy from a form of 'self-determination' to new forms of assimilation, CDEP was systematically dismantled, with its ultimate demise occurring on 1 July 2015. It has been replaced by a remote work-for-the-dole scheme first called the Remote Jobs and Communities Programme (RJCP), now renamed as the Community Development Programme (CDP); a name evocatively similar to CDEP.<sup>13</sup> State frugality, federal/state strategic fiscal behaviour and an inability to envision CDEP as a productive basic income were all important reasons for the demise of CDEP.<sup>14</sup> So was a broad change in national policy which saw a shift from a Keynesian social democratic approach to the current mix of neo-liberalism and neo-paternalism. A dominant view emerged, reflected in political and policy narratives, that Indigenous people were undeserving and behaviourally deficient even when living in places with no labour markets. These major shifts in ideology have had serious repercussions for Indigenous employment policy. As discourse shifted from emphasising community development to prioritising integration into market capitalism, the principle of Indigenous-led development declined, and there was at once an unwillingness to recognise the precarious nature of labour markets in remote Australia as well as unrealistic optimism about the prospects for capitalist development with assumed trickle-down benefits for local Aboriginal people.

It is sobering to consider that for the Kuninjku, the CDEP period of 1990–2007 was the least precarious since colonial times. Since the abolition of CDEP, Kuninjku people have faced enhanced economic insecurity and poverty because there is only conditional and paternalistic welfare available to cover their basic needs. Despite the government's expectation that the removal of CDEP would force people to find 'real' jobs, remote regions like Maningrida have very limited formal labour markets and there has been no evidence of growth in formal employment or enterprise prospects. Under such circumstances, policy-makers might imagine a solution based on people like the Kuninjku migrating to take up employment opportunities elsewhere. But such labour migration is anathema to many people who have strong spiritual and connections to their ancestral lands; and they also have a keen understanding of their limited prospects in competitive labour markets given they have no or limited

English proficiency, poor health and few of the skills required for formal employment. Furthermore, many Indigenous people living remotely have different norms, values and priorities, which causes irreconcilable tensions between Indigenous relational and neo-liberal ways of thinking and being.

Since 2008, successive Australian governments have maintained a bipartisan commitment to the Council of Australian Governments (i.e. Commonwealth and State/Territory governments) called the National Indigenous Reform Agreement. One key target of the agreement is to halve the disparity between Indigenous and non-Indigenous rates of employment; yet this target, to be met by 2018, is more elusive than when set in 2008. At the same time, the government has abolished the CDEP scheme and effectively moved 60% of the 35,000 people once on CDEP from work to welfare in the last decade (Australian Government, 2015). Moreover, while the government highlights that welfare is associated with passivity and dysfunction and uses the ubiquitous language of Aboriginal activist Pearson (2000) to promote the view that 'real' jobs will provide the development answers, a recent survey of remote jobs service providers funded by the government indicates that the greatest cause of joblessness is the absence of jobs (Fowkes & Sanders, 2015, p. 7). This major shift in ideology has had serious consequences for Indigenous people because it has moved the goal posts from aiming to achieve community development and self-management to focusing only on integration into the precarious labour markets at the periphery of late capitalism. We argue that reviving elements of CDEP which operated as BI might provide far more pathways to livelihood improvement.

## 7. Basic income for remote Indigenous Australia

In 1989, Altman and Taylor produced 'The Economic Viability of Outstations and Homelands' report commissioned by the Australian government. The report recommended that a Guaranteed Minimum Income for Outstations (GMIO) scheme be established as a new programme without income or work testing, providing basic income to those who demonstrate a commitment to outstation living in recognition of both their work in the informal sector and the absence of formal employment. It was also recommended that a nexus be maintained between GMIO and welfare so that the proposed scheme would be relatively cost neutral for the Australian government; and that a Capital Fund for Subsistence, or what Ackerman and Alstott (2006) term 'stakeholder grants', be established to assist in underwriting community development activities. The GMIO proposal looked to blend the best of Australia's CDEP and Canada's Cree Income Security Program (ISP) from Quebec, negotiated as part of the James Bay Agreement in 1978. At the time, the GMIO proposal of a partial basic income did not get any policy traction because the focus then was on expanding CDEP. Now that CDEP has been demolished, out of the ashes there may be a new opportunity to revisit the GMIO proposal, and basic income more broadly. One crucial feature of the GMIO and the Canadian ISP is that they are in a sense partial basic income programmes which people living in remote outstations or specific geographic regions can access. The idea of a partial basic income as a way gradually to introduce a Universal Basic Income may have more policy traction than the immediate wholesale introduction of Universal Basic Income.

Moreover, given the failure to achieve the goal of closing the employment gap over the past decade and current unstable global circumstances, basic income and stakeholder grants are logical alternatives to the continued failure of the status quo provisions. A basic income and stakeholder grants could also be a more economically efficient way of administering policy, since the extraordinary administrative costs of targeted paternalism make the new CDP costly to run.<sup>15</sup> Furthermore, a guaranteed basic income scheme, coupled with a form of associated stakeholder grant delivered as an economic right, could open up livelihood opportunities for Indigenous peoples living in deep poverty. Such a shift could alter the power imbalance which arises from excessive dependence on the state, and empower Indigenous stakeholders and support further economic, cultural, social and political rights as defined in the articles of UNDRIP.

### **7.1. Reviving the Indigenous sector and supporting Indigenous agency**

The Howard government's destruction of what Rowse (2002) termed the 'Indigenous sector', comprising an intricate network of emerging Indigenous organisations established between the 1970s and 1990s, was the ultimate blow to Indigenous self-determination. These organisations and their governing boards and staff operated in a manner which respected Indigenous forms of development, agency and culturally appropriate ways of working (Hunt, 2008). The cost of radically reducing the capacity of Indigenous organisations has been significant. Organisations of the Indigenous sector took years to slowly build and have been too hastily destroyed through defunding, increase in competition with non-Indigenous organisations, and the destruction of their overarching body – the Aboriginal and Torres Strait Islander Commission (Kowal, 2008). Organisations which have survived this political and financial assault continued to operate under precarious conditions, facing pressure from initiatives such as the new public sector management and competitive tendering from out-of-community for-profit service providers.

These measures and the defunding of Indigenous organisations have been influenced by the escalation of a deficit discourse about Indigenous agency (Fforde, Bamblett, Lovett, Gorringer, & Fogarty, 2013; Klein, 2016a). In a National Press Club Address on 12 November 2014, Mick Dodson, an Indigenous scholar, articulated problems with this deficit discourse:

Cease contributing to the narrative, to the discourse of negativity about Indigenous people .... The negativity actually makes people sick. If you are constantly told you are useless, black and we are going to fix you, it makes you sick. We need more of a positive narrative out there.

The focus on Indigenous agency-as-a-deficit makes it easier to justify a new wave of paternalistic policies which are increasingly dominant in Indigenous policy (Altman, 2014; Maddison, 2008; Sanders, 2009; Strakosch, 2015).

In marked contrast, many international development scholars place the role of agency of the poor agency as central to success (Chambers, 1997; Cooke & Kothari, 2001). For example, Sen (1999, p. 53) states that 'the people have to be seen ... as being actively involved – given the opportunity – in shaping their own destiny, and not just as passive recipients of the fruits of cunning development programs'. The focus on agency in contributing to successful development processes should not be underestimated, yet in Australia's Indigenous policy it is largely overlooked. Even while the state articulates a goal of empowering Indigenous people and reducing dependency, it funds external providers and decisions are made with tokenistic consultation and from the top down. For example, the Closing the Gap framework and its associated targets pursued by consecutive Australian governments make no mention of Indigenous agency or priorities, nor of the importance of meaningful engagement with a diversity of Indigenous actors. Indigenous development is similarly constantly haunted by the spectre of neo-paternalistic policy-making in Australian settler society. The omission of Indigenous agency is serious as it reduces Indigenous peoples' ability to have a say in, let alone control, their own futures – a key plank in the enduring battle for sovereignty and self-determination (Hay, 2003; Maddison, 2009; Moreton-Robinson, 2007).

A renewed focus is needed to reconstitute and rebuild Indigenous organisational capacity across Australia. The Australian Government made an election pledge in 2013 to 'empower' communities, but instead has overseen escalating levels of direct government intervention in community affairs and the rapid decline in community representation (Altman, 2014; Strakosch, 2015). Engaging with a pre-selected handful of compliant Indigenous individuals and organisations, with the assumption they speak on behalf of the wider population, is deeply problematic and does not constitute Indigenous-led development nor anything which could be regarded as self-determination (Cooke, 2003; Cooke & Kothari, 2001; Klein, 2015).

One option for rebuilding the Indigenous sector is to make unconditional stakeholder grants available alongside an individual basic income. This is different to the current approach which is not delivering results. Rebuilding the Indigenous sector will require recognition that it is effective Indigenous grassroots organisations which need to address the aspirations and needs of Indigenous people. A



focus on rebuilding the Indigenous sector could see other positive benefits to Indigenous people in remote Australia. Research shows that those Indigenous peoples who are active and empowered are likely to be healthier, more fulfilled, have a lower engagement with the criminal justice system, and be in position to generate regional and national benefits through their engagements in a diversity of productive activity, including natural and cultural resource management, the arts and cultural economies and in self-provisioning as well as commercial enterprises (Altman, 2016a). Research by Dockery (2011) clearly shows that wellbeing is higher when people are living and working on their own lands.

## 7.2. Redefining work and focusing on community development

In remote Australia the means to improve Indigenous livelihoods has been misunderstood, owing to a preoccupation with convergence and statistical equality which forecloses the possibility of Indigenous peoples wanting something different. Altman (2014) advocates a rethinking about the Indigenous economy using the lenses of economic hybridity and drawing on empirical evidence to show that articulations *between* market, state and customary sectors are most likely to deliver sustainable livelihoods. In particular, economic hybridity theory proposes that where people have new-found customary rights, it is likely that custom will deeply influence livelihood. The hybrid economy model is not prescriptive or normative, but is highly descriptive of actually existing productive economies which are currently floundering without the basic income provided until recently by CDEP. Basic income and appropriate stakeholder grants properly applied will inevitably open up livelihood possibilities beyond those currently available.

Such an alternate approach is urgently needed to empower local communities to mould forms of hybrid economy which recognise the distinct inter-cultural norms and values that will allow productive accommodation between capitalist and non-capitalist forms of economy. An opt-in basic income scheme based on the still-remembered historical architecture of CDEP and its key features – notional welfare offsets and community management to defer expensive and excessive state surveillance and forms of annual stakeholder grants tailored to local prerogatives and possibilities – will be relatively cost-neutral to the government. The historical evidence already exists to make the cogent argument that such a new approach would be better than the status quo.

## 8. Conclusion

This paper has analysed the basic income elements of the CDEP scheme in remote Australia as a way to address the disarray of consecutive governments' Indigenous employment policies over the past decade. Through firstly reviewing the changes in employment policy from CDEP, as well as analysing the basic income elements of CDEP, we have articulated potential pathways for challenging current employment policy which is heavily influenced by neo-liberal ideas. As a productive option, basic income support could be provided to the 37,000 adults in regional and remote Australia who are currently trapped in restrictive and impoverishing work-for-the-dole schemes. These people should be empowered to have choice in solving their own labour surplus and livelihood challenges on a voluntary opt-in basis.

## Notes

1. We use the term 'Indigenous' to refer to Aboriginal and Torres Strait Islander peoples.
2. A helpful distinction between 'old' and 'new' or neo-paternalism can be found in Dee (2013) where neo-paternalism is the commitment to secure behavioural change through conditionality placed on any form of state assistance.
3. In the absence of a National Bill of Rights, the Racial Discrimination Act of 1975 was passed by the Australian Parliament to make racial discrimination unlawful in Australia.
4. For example, the latest report from the Productivity Commission (2015) to the Council of Australian Governments (National Indigenous Reform Agreement Performance Assessment 2013–2014) shows that the employment gap between Indigenous and other Australians is widening, and unlikely to close in the foreseeable

future. The Productivity Commission (2015) shows a 38 percentage point disparity in employment outcomes between Indigenous and other Australians in remote Australia, and provides a compelling case that since 2012–2013 this situation might have worsened.

5. The 'Closing the Gap' targets are: (1) Halve the gap in mortality rates for Indigenous children under five within a decade (by 2018); (2) 95% of all Indigenous four-year-olds to be enrolled in early childhood education (by 2025); (3) Close the gap between Indigenous and non-Indigenous school attendance within five years (by 2018); (4) Halve the gap for Indigenous children in reading, writing and numeracy achievements within a decade (by 2018); (5) Halve the gap for Indigenous Australians aged 20–24 years in Year 12 attainment or equivalent attainment rates (by 2020); (6) Halve the gap in employment outcomes between Indigenous and non-Indigenous Australians within a decade (by 2018); and (7) Close the gap in life expectancy between Indigenous and non-Indigenous Australians within a generation (by 2031) (Commonwealth of Australia, 2016).
6. CDEP was originally referred to as the 'Community Development Employment Projects' scheme.
7. See also the Prime Minister's 2016 Closing the Gap Report (Commonwealth of Australia, 2016) and the National Indigenous Reform Agreement: Performance Assessment 2013–2014 (Productivity Commission, 2015).
8. For example, the United Nations Declaration of the Rights of Indigenous Peoples (UNDRIP) identifies not only economic, political and social rights, but also the self-determining right to cultural development. In 2007 the Australian government refused to ratify UNDRIP, but which it subsequently 'adopted' in 2009 highlighting that its articles are not binding on domestic law.
9. Customary (non-market) activities such as art and hunting can also be hybrid economic activities where Indigenous peoples sell meat or art in the market economy for additional cash (Altman & Nieuwenhuysen, 1979).
10. As a general rule, if people were paid, it was mostly in-kind, with small amounts of cash given as pocket money (Parliament of Australia, 2006).
11. At the same time the status quo of below-award wages was not just morally challenged, but also legally indefensible after the pastoral award decision by the Industrial Relations Commission in 1966 (Skyring, 2012). In 1974, award wages were finally introduced at what were increasingly referred to as townships or discrete Indigenous communities.
12. The two terms 'outstations' and 'homelands' can be used interchangeably and merely reflect different regional preferences.
13. Scholars have pointed to the similarity of the CDP title to CDEP, suggesting it was an attempt of the government to stimulate eagerness in the uptake of participants to CDP. In some remote areas, the similarity in names did cause some initial excitement in participants who thought the old CDEP had been bought back in (see Jordan, 2016c).
14. For a detailed synopsis of the demise of CDEP and analysis of contemporary work-for-the-dole programmes, see Jordan (2016a).
15. While precise information on the cost of CDP is impossible to obtain from the government, its administration by both paid service providers and Commonwealth government agencies results in duplication which was not evident with CDEP.

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No potential conflict of interest was reported by the authors.

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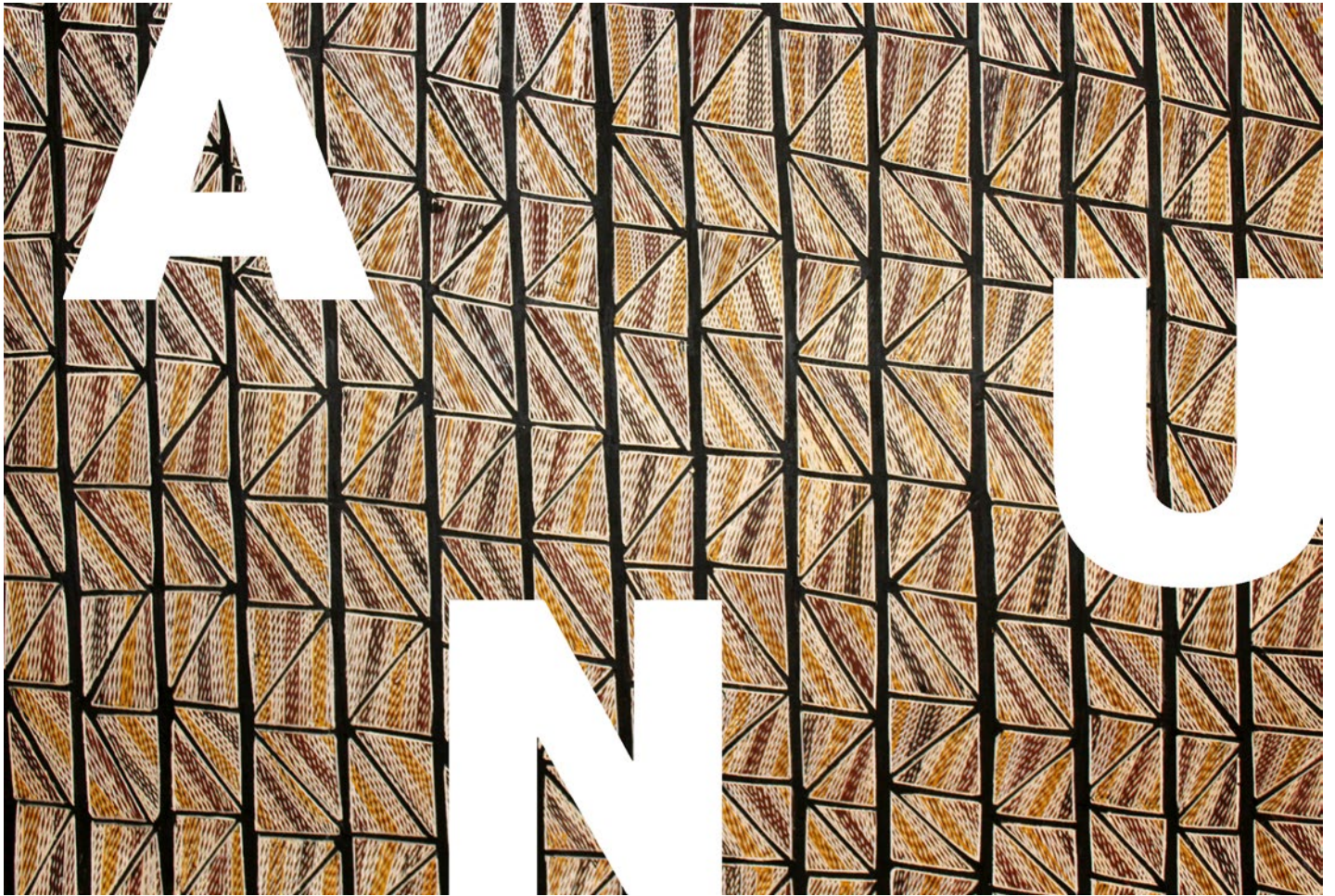
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JOB CREATION AND INCOME  
SUPPORT IN REMOTE INDIGENOUS  
AUSTRALIA: MOVING FORWARD WITH  
A BETTER SYSTEM

COMPILED BY K JORDAN AND L FOWKES

Centre for  
Aboriginal Economic  
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November 2016



# Job creation and income support in remote Indigenous Australia: moving forward with a better system

Compiled by K Jordan and L Fowkes

**Kirrily Jordan** is a Research Fellow and **Lisa Fowkes** a Research Scholar at the Centre for Aboriginal Economic Policy Research at the Australian National University.

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## Acronyms

AMSANT	Aboriginal Medical Services Alliance of the Northern Territory
ANU	The Australian National University
APO NT	Aboriginal Peak Organisations Northern Territory
ATSIC	Aboriginal and Torres Strait Islander Commission
BAC	Bawinanga Aboriginal Corporation
BI	Basic Income
CAEPR	Centre for Aboriginal Economic Policy Research
CDEP	Community Development Employment Projects (scheme)
CDP	Community Development Programme
CEO	chief executive officer
IT	information technology
NLC	Northern Land Council
NPP	No Payment Penalty
PM&C	Australian Government Department of the Prime Minister and Cabinet
RJCP	Remote Jobs and Communities Program
WCO	Warburton Community Office



## Introduction

*Kirrily Jordan, Centre for Aboriginal Economic Policy Research (CAEPR), Australian National University (ANU)*

Recent media reports have highlighted serious concerns about the Australian Government's Community Development Programme (CDP). There is mounting pressure for the scheme to be scrapped or radically overhauled, and concerted efforts from a number of Aboriginal community organisations and CDP providers to urgently propose a more viable alternative. This Topical Issue gathers together a series of short articles to provide background to these developments and some thoughts on a productive way ahead. The contributors are academics and representatives from key institutions, all of whom have a longstanding interest in the field and are deeply concerned by the current policy direction. The papers – read either as stand-alone pieces or as a whole – seek to lend weight to the mounting case for urgent change.

### *How did we get here?*

Before introducing the seven contributions some context is necessary. CDP is a remote-area Work for the Dole scheme with around 35 000 participants. About 84% of the participants are Aboriginal or Torres Strait Islander people, often living in discrete Indigenous communities or small outstations. The program is billed by the government as a 'remote employment and community development service' with two elements: 'helping people find work, and allowing them to contribute to their communities and gain skills while looking for work'.<sup>1</sup> CDP was introduced on 1 July 2015 as an amendment to Labor's Remote Jobs and Communities Program (RJCP), which, in remote areas, had replaced the longstanding Community Development Employment Projects (CDEP) scheme and the universal employment services program, Job Services Australia.

The confusing similarity in names (from CDEP to CDP) was a deliberate decision reflecting the popularity of CDEP in many Aboriginal and Torres Strait Islander communities. But there are fundamental differences between the two schemes. CDEP was a government-sponsored part-time employment program, with participants paid a wage (rather than social security income) to work on local projects prioritised by the community. Employers (usually Aboriginal and Torres Strait Islander organisations) received block grants from the Australian Government that allowed them to pay wages equivalent to the welfare income participants would otherwise have received, plus an allowance for

administrative costs, capital and equipment. In many cases, any profits made through CDEP activities<sup>2</sup> (such as small enterprise) were reinvested back into the scheme. Because the base wage paid to individuals was set at roughly the same rate as unemployment benefits, participants were required to work for around 15 hours per week so that their hourly rate met the minimum award. Additional hours of work could be undertaken for extra pay (called 'top-up').

One of the key features of CDEP was that employers had substantial flexibility in determining the work activities they offered and in managing staff absences in a way they felt to be most productive, based on knowledge of local circumstances. In contrast, CDP is firmly within the social security system: participant payments are made via the unwieldy Centrelink system, and very inflexible rules are determined centrally in the Australian Government Department of the Prime Minister and Cabinet (PM&C). Minimum work hours have been increased from about 15 to 25 hours per week. There has been no corresponding increase in pay, so participants' hourly income has been substantially reduced – although no longer a wage, these payments are now well below what would otherwise be the minimum award.

A number of nongovernment and for-profit providers, as well as some local governments, were eventually contracted to deliver CDEP alongside Aboriginal and Torres Strait Islander community organisations. However, throughout its nearly 40-year history, many Aboriginal and Torres Strait Islander organisations used CDEP to leverage impressive economic and community development outcomes, including the creation of small-to-medium-sized enterprises deploying CDEP labour. This was true even in difficult circumstances very remote from standard labour markets, including the creation of small-to-medium-sized enterprises deploying CDEP labour. Aboriginal and Torres Strait Islander CDEP organisations also became key local institutions that were often able to put principles of self-determination into practice.

Especially after the election of the Howard Government in 1996 (and escalating following the demise of the Aboriginal and Torres Strait Islander Commission [ATSIC] in 2004), governments began to question the scheme's future. Despite evidence of positive outcomes in many cases, successive governments argued that by closing CDEP participants would be forced to move into non-CDEP jobs, where it was thought that incomes and opportunity would be much greater. As was repeatedly pointed out to them at the time, the enormous risk was that, in remote locations with limited

employment opportunity, a more likely outcome was long-term dependency on social security and further impoverishment. In the end, the Australian Government pressed ahead with its vision, replacing CDEP with Work for the Dole programs: first RJCP and then CDP. In effect, it presented the solution to welfare dependency as moving people onto welfare payments but then applying increasingly inflexible income penalties to those not meeting their minimum work requirements. The underlying assumptions were that the biggest barrier to getting a job was a lack of work discipline, and that a more punitive approach would force the 'desired' behavioural change.

In practice, though, suspending people's welfare payments does not resolve the shortage of remote jobs, nor encourage people to move off their country to find work elsewhere or reliably motivate behaviours the government desires. The warnings that closing CDEP would see increased welfare dependency and impoverishment seem now to have been warranted. Indeed, the government's own data show that CDP is creating a substantial problem: the rapidly increasing and vastly disproportionate application of income penalties to CDP participants as compared to the equivalent program in nonremote areas (jobactive). The implications of this are profound. Many participants are incurring multiple penalties in a short time – including high rates of 'serious penalties' that can result in their being cut off welfare payments for eight weeks. While job outcomes in remote areas are limited by a range of complex factors that are very difficult and slow to resolve, this dramatic increase in income penalties is leading to widespread harm including increased poverty, a reported drop in food sales, increasing debt and a greater risk of incarceration when the suspension of welfare payments limits people's ability to make payments towards fines. Among CDP participants, frustration, confusion and anger are rife.

Serious concerns about the program are growing and an increasing number of Aboriginal organisations and CDP providers are mounting challenges against the scheme. The Human Rights Commission has been asked to investigate whether the program is discriminatory, given that it is mostly affecting Aboriginal and Torres Strait Islander people. The Australian Council of Trade Unions is also examining the scheme on the basis that it provides none of the benefits of standard employment. Behind the scenes, there is a flurry of activity as Aboriginal organisations – concerned about the detrimental effects of the scheme on their communities – are looking to develop and advocate for policy alternatives. Despite this, the Minister for Indigenous Affairs Nigel Scullion has so far remained committed to CDP, outwardly, at least,

suggesting that the government is on the right track and delivering media releases that frame CDP in an unduly positive light.

### *Outline of contributions*

This collection of articles weighs in to this policy debate by presenting some of the evidence and argument that change is urgently needed, and highlighting avenues for a more productive approach. The papers are written by five academics and scholars: Lisa Fowkes, Inge Kral, Will Sanders (ANU), Jon Altman (Deakin University and ANU) and Elise Klein (University of Melbourne); and two chief executive officers (CEOs) of Aboriginal organisations: Joe Morrison (Northern Land Council [NLC]) and John Paterson (Aboriginal Medical Services Alliance of the Northern Territory [AMSANT]). Together, their contributions set out the broader policy context of the move from CDEP to CDP, identify key causes for concern, and suggest some possible ways forward. These contributions are introduced briefly here in turn.

In the first entry Jon Altman responds to Tony Abbott's recent remarks that 'abolishing CDEP was a well-intentioned mistake' – and that CDP is the government's attempt to atone for it – in two ways (see Aikman 2016). First, he draws on evidence of how the closure of CDEP has affected Kuninjku-speaking people in western Arnhem Land to argue that it was not only a mistake, but also devastating and unjust. Second, he situates CDEP's closure within a much broader policy trajectory and identifies that the imposition of CDP is no atonement. Instead, he sees it as a 'critical tool of a second wave of colonisation', and part of a wider strategy to deny self-determination and force Indigenous people into forms of market capitalism that are either absent where they live or often ill-suited to their immediate needs and aspirations.

A similar theme is taken up forcefully by Joe Morrison, in an abridged transcript of the Nugget Coombs Memorial Lecture he gave in Darwin in October 2016. He sees the abolition of CDEP and its replacement with CDP as part of the dominant approach to Indigenous affairs that is fundamentally failing. This approach is predicated on top-down, 'on-the-run' policy making without appropriate consultation with the Indigenous people who will be most affected. Tracing this model back to the Howard Government's 'war on Indigenous self-determination', begun in 1996, Morrison sees CDP as just one manifestation of an assimilationist and paternalistic mindset that has failed to grasp the uniqueness of Indigenous people in Australia and their right to assert it. In contrast to this current mindset, CDEP was 'public policy created in the bush, for the



bush'. The respect it accorded to Aboriginal realities led to some major successes, such as the ranger programs that now employ nearly 1000 Indigenous people on country and help Australia meet international obligations for ecosystem management.

John Paterson describes the attempts by the Aboriginal Peak Organisations Northern Territory (APO NT) to influence decisions over the future of remote employment services and the failure, on both sides of politics, to listen. Like Morrison, he sees the destruction of CDEP as part of an assimilationist agenda that is more broadly focused on dismantling self-determination, and draws attention to the very troubling results. In an edited transcript of an address to the CDP Workshop held by Jobs Australia in Alice Springs in September 2016, Paterson highlights the health impacts of the escalating penalties being applied under CDP, suggesting that remote communities are now in crisis. He calls for an urgent change in policy direction, in which Aboriginal organisations must be at the centre of decision making and program delivery. He argues that employment – that is, waged work – should be the focus of a future scheme, including new jobs in sectors such as health and municipal services, and subsidised waged work where other jobs are not available.

Lisa Fowkes takes a close look at how the top-down policy making that led to CDP is further entrenched through the bureaucratic control of providers, which is a defining feature of the program. Although 26 of the 38 organisations delivering CDP are community-based Indigenous organisations, the message from PM&C is that they are the delivery arm of government, with limited authority to tailor the program for local circumstances. The performance management arrangements set by the department lock the organisations into this inflexible program delivery, even when they can see it causing harm. Fowkes' analysis shows that the denial of self-determination continues to be operationalised not just through a lack of appropriate consultation when developing policy but also through a heavily centralised bureaucratic management style once policy decisions are made.

The Minister for Indigenous Affairs, Nigel Scullion, has argued that CDP is achieving positive results because, based on PM&C data, participation in the program has increased. However, Fowkes suggests that we should be cautious of the PM&C data, with the figures due at least in part to an administrative change and a variation in what information is recorded. But her second paper in this collection identifies an even bigger concern with the way the top-down management of CDP is contributing to very poor outcomes: the dramatic overrepresentation

of CDP participants among social security recipients who are incurring financial penalties. In the 2015–16 financial year, 82% of all serious penalties for 'persistent noncompliance' (which can mean an eight-week nonpayment period) were applied to CDP participants. This is astounding given that they make up less than 5% of 'jobseekers' in the social security system. One significant reason is that the participation requirements for CDP participants are much more onerous than those for their counterparts in jobactive – the equivalent scheme for nonremote areas – so there are more opportunities to fail.

Another reason CDP participants are disproportionately affected by income penalties is the mismatch between the realities of life in many remote communities and CDP's reliance on Centrelink for the administration of payments. Inge Kral documents some of the chaos and confusion that results, with CDP participants in the remote Ngaanyatjarra Lands waiting hours or even days to try to 'connect' with Centrelink on the few community phones. Even when a connection is made, language barriers often mean that little is understood on either side. Kral documents some of the outcomes for participants and their communities, including reduced access to food, increased rental arrears, the associated clocking up of debt, and the potential for incarceration of participants who are unable to pay fines. All of these are profoundly troubling, with the last also deeply problematic at a time when governments are under increasing pressure to reduce the overrepresentation of Aboriginal and Torres Strait Islander people in prisons. A further problem with CDP is the erosion of working conditions and legal protections for participants, compared with both mainstream work and CDEP.

With so many problems apparent in the current scheme, our attention should rightly turn to what could productively replace it. Elise Klein looks to an innovative approach based on the principles of a basic income – that is, the unconditional payment of a subsistence wage to all residents in order to provide economic security and remuneration for productive labour. This idea has some history in Australia through CDEP. Criticisms that CDEP was effectively 'sit-down money' were common in the years leading up to its demise, and providers were often at pains to point out that they instituted some variant of 'no work no pay'. But, in very remote outstations, CDEP wages were often paid without any requirement to do supervised work, and in other locations there was often flexibility to define work in line with local aspirations and priorities. Klein suggests this did not mean that participants were necessarily unproductive: the income security allowed many people to be fully engaged in

productive work such as caring for country. Similarly, a basic income could help to further the goals of self-determination by supporting flexible and culturally appropriate work aligned to local aspirations.

The apparent harm being caused by the failures of CDP need to be addressed with some urgency. Will Sanders argues that the worst harms could be immediately alleviated by making CDP less punitive and more reasonable. In Sanders' analysis, a first port of call would be reducing work requirements to 15–16 hours per week of activities, as was the long-held standard under CDEP. A second immediate change could be to allow providers flexibility in determining how they report nonattendance in activities. This would effectively give them discretion in deciding whether an income penalty is the best way to re-engage a participant, on a case-by-case basis. For the same reason, Sanders suggests that payments to providers should be independent of participants' attendance at activities. Making these changes would be a relatively straightforward process and entirely possible given the political will.

Urgently reforming and replacing CDP would also reflect much-needed goodwill on the part of the current government, given the wilful destruction of CDEP over the last 20 years. Indeed, despite Abbott's characterisation of that process as a 'well-intentioned mistake', both Coalition and Labor governments pressed ahead with dismantling CDEP in spite of regular warnings from many Aboriginal and Torres Strait Islander people and much evidence, based in grounded research, suggesting its closure would be dangerously destructive. This was ignored in favour of an ideological commitment to a market logic, with further impoverishment and alienation of program participants the predictable result. We should now be demanding both accountability for such poor decision making and determined efforts to immediately redress the appalling outcomes documented in this collection.

The final paper outlines some key principles that might sensibly inform that process. It argues that urgent changes must be implemented to halt the unacceptable rate of income penalties while a new scheme is designed. A replacement program must be based on genuine collaboration with Aboriginal and Torres Strait Islander communities and organisations, and focus on supporting people's ability to live a 'good' life in remote regions. It should reflect the principles of flexibility, community and enterprise development, and appropriate remuneration.

There is no doubt there will be changes to the CDP scheme as pressure mounts. The challenge for policy

makers will be to learn from their recent mistakes, take advice from those on the ground seriously and reject outright the failed model of top-down, centralised control.

## A most egregious transition: CDEP to CDP

*Jon Altman, Deakin University and ANU*

'Abolishing CDEP was a well-intentioned mistake and CDP is our attempt to atone for it.' So said ex-Prime Minister Tony Abbott in an exchange with Amos Aikman reported in *The Australian* newspaper on 6 October 2016 (Aikman 2016).

There is no question that the abolition of CDEP was a disastrous policy decision by the Howard Government, subsequently endorsed by a series of both Labor and Coalition governments during the next decade. This was an outcome that was predicted by a considerable body of evidence based on both official statistics and case studies about the benefits of CDEP to Indigenous individuals, communities and organisations compared with welfare and Work for the Dole. This evidence was provided to one government after another by CAEPR at the ANU, as summarised in a recently published monograph edited by Kirrily Jordan (Jordan 2016) – all to no avail.

In this contribution I want to do two things.

First, I seek to give a sense of what this 'well-intentioned mistake' has meant on the ground for remote-living Aboriginal people who, over 20 years with the support of their service providers, had built a plural form of economy predicated on access to CDEP. I focus in this assessment on the lives and livelihoods of a group of people in western Arnhem Land with whom I have collaborated in research since 1979.

Second, I demonstrate that CDP is compounding, rather than atoning for, this 'well-intentioned mistake'.

At best, the good intention in abolishing CDEP was 'to move people off welfare and into "real" employment', as the aim of CDEP was redefined by Joe Hockey, Minister for Employment and Workplace Relations, in early 2006 (in Blakeman 2016:231). This statement is worth unpacking because it reflects an equating of people working on CDEP – established as a flexible Indigenous-specific program with multiple objectives including employment creation, community development, enterprise support and basic income maintenance – as an employment-only program; and it erroneously defines

CDEP participants as unemployed and recipients of welfare, which they were not.

The stated concern of the Howard Government when it began to dismantle CDEP from 2004 – shifting it from the abolished ATSIC to the Department of Employment and Workplace Relations – was that it had ‘become a destination rather than a stepping stone towards jobs’ (DEWR 2005:3). This was especially the case in more settled regions of Australia where the government believed there were robust labour markets and no discernible barriers (besides CDEP) to Indigenous mainstream employment. This clearly overlooked a body of research documenting the absence of formal employment opportunity in remote regions of Australia.

CDEP was established in 1977 as a program designed for remote Australia only, for implementation in situations where labour supply greatly exceeded demand. It was expanded into more densely settled regions a decade later.

Even if the neoliberal notion that abolishing the program would somehow force people into ‘real’ employment in places where jobs existed was valid, the subsequent abolition of CDEP right across regional and remote Australia was undertaken without any feasibility assessment or evidence-based program logic. (And there is evidence that even in the more densely settled areas, the abolition of CDEP saw more participants end up on welfare than in jobs.)

In the short term, ‘real’ employment could not be conjured up magically in very remote places. These regions have seen rapid growth in labour supply since 1977 but have had remarkably stagnant economies, partly because of structural factors and partly because of cultural factors, but mainly because effective developmental assistance from governments, which underwrites most development in remote Australia, has been missing.

The CDEP scheme was established as a community development and employment program to be managed by community-based organisations and local councils. From these origins it migrated geographically, bureaucratically and conceptually.

Purpose-built for remote Indigenous Australia, CDEP expanded rapidly, especially under the Aboriginal Employment Development Policy from 1987; by 2004, more than 35 000 Indigenous people were participating in the program (as well as some non-Indigenous spouses), with 265 community-based Indigenous organisations

administering the scheme. From the late 1980s, the scheme expanded geographically into regional urban and even metropolitan Australia, until it was abolished in those locations from 1 July 2007. The dismantling process then travelled back to remote Australia, where CDEP programs finally ended on 1 July 2015.

CDEP migrated bureaucratically from Indigenous-specific agencies – the Australian Government Department of Aboriginal Affairs and then ATSIC (1977–2004) – to a series of mainline agencies, ending up at its moment of demise with PM&C. This is an agency that, even according to a handpicked Commission of Audit, was assessed in 2014 as lacking capacity in Indigenous affairs.

After the dismantling of ATSIC, CDEP was conceptually and unilaterally redefined from being a multipurpose and flexible Indigenous-specific program to being a labour market program. This redefinition has softened to some extent as it has become obvious to the Abbott and Turnbull governments that the warnings about the absence of jobs in remote places were empirically well founded. And so the jobs-focused RJCP that replaced CDEP on 1 July 2013 was replaced by CDP on 1 July 2015.

CDP purportedly focuses more on ‘work-like activity’ for community benefit, but, as Lisa Fowkes’ analysis of official information clearly demonstrates, in its first 16 months of operations it has been far more effective in penalising participants for breaching its draconian attendance requirements than at engaging them in Work for the Dole five hours a day, five days a week.

To create jobs, livelihood possibilities and meaningful activities in remote situations requires investment in local and regional development, and organisations with capacity to assist. This was highlighted by the Miller Review of Aboriginal Employment and Training Programs more than 30 years ago (Miller 1985). Alongside the well-intentioned mistake of abolishing CDEP, successive governments have failed to make realistic investments to facilitate opportunities in remote situations where hundreds of small Indigenous communities are located, generally on Indigenous-titled land.

On the ground, this well-intentioned mistake has destroyed emerging and often quite remarkable forms of plural Indigenous economy that have been carefully incubated over many years. I illustrate the nature of this destruction with reference to what I have termed the ‘hybrid economy’ of a group of 300 Kuninjku-speaking people in western Arnhem Land with whom I have worked

for decades. These people came into contact with the Australian colonial state relatively late, in the 1960s, when they moved to the government settlement of Maningrida. In the settlement they experienced structural violence and economic deprivation and so in the 1970s moved back to their ancestral lands to live at outstations. This move was not a 'lifestyle choice' but a survival necessity, given the failure of state-sponsored market capitalism and colonial trusteeship in Maningrida.

At outstations, Kuninjku enjoyed land and resource rights and the critically important assistance of a regional outstation resource agency, the Bawinanga Aboriginal Corporation (BAC). There, they were able to fashion a sustainable hybrid economy for themselves based on a combination of self-provisioning, sale of arts and crafts, and access to state transfer payments that only included unemployment benefits from 1980.

In that same year BAC applied for access to CDEP in preference to the payment of unemployment benefits. The application failed but, in the absence of formal employment at outstations (except for a handful of part-time teacher assistance and health assistance jobs), this benefit was paid as a form of minimum income support without activity testing.

In 1989 BAC did gain access to CDEP and quickly became one of the largest and most successful development corporations in remote Australia. With CDEP and the growing scale and capacity of BAC the Kuninjku hybrid economy flourished. People were able to engage in more arts production brokered to global and domestic markets by Maningrida Arts and Culture (a business arm of BAC). They were also able to engage in hunting, fishing and food gathering on their land, and enjoy a degree of basic income security from CDEP which was provided without income testing or activity testing when people lived at outstations where they worked for a livelihood. Some people moved to Maningrida and took up employment in CDEP-subsidised work as community rangers or arts workers. By 2008 about 100 Kuninjku artists were collectively earning more than \$1 million a year from the sale of their art which, combined with CDEP and other transfer payments and returns from self-provisioning, provided them a reasonable livelihood.

Until the 2007 Northern Territory Intervention, Kuninjku continued to grow this hybrid economy based on what they do best: hunting and fishing for bush food and producing art, inspired by tradition, for tourist and fine-art markets. These skills were also expanded into community ranger work in natural resource management and into

paid carbon farming based on prescribed burning informed by customary practice.

This growth was assisted by relatively unconditional income support from CDEP and the remarkable development efforts of BAC, largely underwritten by CDEP. It was based on Kuninjku agency and their understanding of the theory of comparative advantage (devised by 19th century British classical economist David Ricardo). The theory proposes a focus on relative speciality – in this case, combining resources guaranteed by land rights and native title laws with Kuninjku skills.

In 2003 I had an opportunity to directly address the now defunct Ministerial Council for Aboriginal and Torres Strait Islander Affairs where I advocated for the maintenance of CDEP, alongside enhanced development support, for people like the Kuninjku who are pursuing productive livelihoods on their land. I recommended a policy approach that maximised participation in all sectors of the hybrid economy to align with Indigenous aspirations, without undue entanglement in policy rhetoric about economic independence or equality.

My views were ignored by politicians and officials in Canberra, who were busy devising new employment programs for remote-living Aboriginal people without regard to Ricardo's theory or the realities of life in these very remote regions. In 2004, after CDEP was transferred to the employment portfolio and the Howard Government was re-elected, I warned that abolition of CDEP in very remote Australia could see unemployment rates skyrocket from 7% to 76%. I again highlighted the need to reconcile the CDEP policy reform rhetoric with the challenges of outback reality. These warnings were ignored.

Since 2007 the incremental reform and ultimate abolition of CDEP has effectively demolished the Kuninjku hybrid economy that had been slowly fashioned over decades. The abolition of CDEP has also greatly weakened BAC, the organisation paid to deliver CDEP to about 600 participants on their ancestral lands which was thus enabled to build significant organisational and financial capacity. From 2009 the global financial crisis saw national turnover of Indigenous art sales plummet by 50%; the decline for Kuninjku was even higher and sharply felt because this was their only point of substantial productive engagement with market capitalism. There was no industry assistance package on offer to bolster the visual arts sector, and no assistance to artists as their incomes declined rapidly; instead, there was the relentless government commitment to abolish CDEP.

Tony Abbott suggests that CDP atones for this destruction and loss of household income. But, in reality, CDP fast-tracked this destruction and now ensures that people like the Kuninjku are prevented from re-establishing their productive economy that effectively and sustainably combined capitalist and customary forms.

Under CDP guidelines able-bodied Kuninjku people aged 18–49 years are required to work 25 hours per week for Newstart payments; they are regularly breached for nonattendance at ‘work-like activity’ and penalised, so lose household income. At the same time, their arts income has been greatly reduced, as has their capacity to engage in self-provisioning which requires access to relatively expensive equipment like vehicle and guns. And if Kuninjku earn extra income, as they regularly did when on CDEP, they are now subject to the social security income taper that sees their Newstart payments reduced when earnings exceed \$50 per week. Far from atoning for the destruction wrought by the abolition of CDEP, the new CDP actually entrenches this destruction, and ensures that people are further economically impoverished and diverted from vital livelihood activity like hunting.

The destructive transition from CDEP to CDP, it must be emphasised, is just one of a suite of governmental measures that negatively affect Kuninjku people. This is not the place to discuss all these measures and their negative impacts in detail. I just note in passing that income management and BasicsCard tie welfare recipients, including people working 25 hours per week on CDP, to the stores in Maningrida, even as their access to bush food is dramatically reduced; the payment of welfare is linked to school attendance, which again forces people to centralise; and it is only in Maningrida that the government is expanding the housing stock, although extreme overcrowding remains the norm for most. Finally, an enhanced police presence and heavy-handed regulation of vehicle registration, driving licences and gun licences reduce options for transportation to Kuninjku-owned hunting grounds and access to hunting equipment – noncompliance results in prohibitive fines and even imprisonment.

This all suggests that there is a broader elimination agenda under way beyond employment reform – an intolerance of any economic form that does not embrace market capitalism, even in situations where options for productive participation in mainstream capitalist ventures are minuscule or absent.

These reforms are collectively impoverishing Kuninjku in a way that I have not witnessed since I first worked with

them in 1979. At times during my recent visits people have told me that they are hungry and ask for food – a kind of request that I have not experienced in the past and that is extremely demeaning for proud hunters.

Kuninjku are aware that all these strategies, including CDP Work for the Dole and associated onerous administrative requirements, aim to centralise them in Maningrida to inculcate them with western norms and forms of discipline that are needed for the ‘real’ jobs that politicians and officials imagine will eventuate one day. They are all too aware that their aspiration to retain their productive form of hybrid economy is being eliminated under the CDP regime. Any attempt to push back against the government’s so-called ‘mistake’ is punished as ‘breaching’, leading to draconian withdrawal of welfare support which entrenches impoverishment.

The transition from CDEP to CDP has not only been devastating, it is also unjust. This can be demonstrated by applying three of the tests that Guy Standing (2014) proposes to determine whether reforms are socially just. The ‘security difference principle’ requires reform to improve the security of the most insecure in society; the ‘paternalism test principle’ requires that any new controls should not be imposed on some groups in society that are not imposed on others; and the ‘dignified work principle’ requires all types of productive work be recognised and respected.

In the Kuninjku case, and for many others living remotely, all three tests fail. People’s incomes and livelihoods have been made more insecure; they are subjected to paternalistic controls over their welfare income (and expenditure) that are not applied elsewhere; they are required to engage in Work for the Dole for longer hours and at lower rates of return than in the past and compared with other Australians; and alternative forms of work, especially in the customary realm, are demeaned and neither recognised nor respected. The transition from CDEP to CDP has seen a vulnerable minority living within one of the world’s richest countries subjected to unacceptable forms of economic violence and bureaucratic torture.

Tony Abbott, the politician who aspired to be the Prime Minister for Indigenous affairs (and who is now lobbying to be instated as the Minister for Indigenous Affairs), might be admitting with hindsight the mistake of abolishing CDEP. However, this admission of policy error does not extend to an apology for pain and suffering that might have accompanied CDEP’s abolition. Nor does Abbott take any responsibility for his personal commissioning of the Forrest Review of



Indigenous Training and Employment (Forrest 2014), which drove the final nails into the coffin of CDEP with its recommendations, implemented by the Abbott Government, for the acceleration of its demise. Nor have his comments done anything to change the trajectory of the Turnbull Government's ongoing application of the destructive CDP.

In my view, the abolition of CDEP is a central plank of an overarching strategy to eliminate any nonstandard form of Indigenous economy and integrate all Indigenous Australians into market capitalism, irrespective of the human cost. This strategy is accelerating under CDP as the Turnbull Government continues a project of supposed improvement, seeking to close statistical gaps even as policy decisions see employment gaps widening and Indigenous people defined as unemployed becoming more deeply impoverished.

Abbott's further comment in *The Australian* that 'ending consequences for not turning up would be disastrous' (Aikman 2016) is revealing. It clearly insinuates that Aboriginal labour must be disciplined, with penalties if necessary, and centralised for ready mobilisation. It also insinuates that the land must be emptied of people making 'lifestyle choices' and reserved instead for imagined future capitalist development. It is assumed that the road to integration will be trickle-down employment and enterprise opportunities, which historically have never emerged in remote Australia. The destruction of any noncapitalist and distinctly Indigenous economic forms is an essential element of this project of neoliberal governance; despite the rhetoric of Indigenous empowerment, any heterodox development alternative is perceived as a risk to late capitalism's expansion that needs to be eliminated.

CDP is a critical tool of a second wave of colonisation, but it is facing resistance and it is failing. How might Indigenous Australians such as the Kuniŋjku be afforded proper opportunities to make a decent living as they choose? How might they be empowered to revisit the post-colonial possibilities that saw the emergence of hybrid forms of economy, supported by enabling Indigenous-controlled development corporations such as BAC?

The reintroduction of CDEP and the payment of compensation for this most egregious transition might be a start. Economic formations that have been unjustly eliminated, and community organisations that have been disempowered and depoliticised, could be slowly re-established. But it is important to avoid the trap of just focusing on CDP; such reform must be just one element

of a broader shift in policy approach to decolonisation and self-determination that must accommodate the fundamental Indigenous economic right to live regionally and remotely, and make a living differently.

## **Why government policies continue to spectacularly fail**

*Joe Morrison, Chief Executive, NLC*

When one looks back to CDEP, I have to salute Nugget Coombs and his advanced thinking about remote employment. His vision about a post-contact reconstruction of the country's relationship with Indigenous people represented the heart of the notion of a fair go. It compares starkly to the public policy failures that litter Indigenous affairs today.

My ultimate message is that Indigenous people must take control of this agenda if we are to crawl out of the assimilationist and paternalistic mess that stains the nation and ignores the uniqueness of Indigenous people in this country.

Experience has shown us that it's not worth waiting around for governments to deliver, especially in a climate of reduced funding in the Indigenous Affairs portfolio delivered by remote-control policy design and implementation. There is a lack of experience in the management of Indigenous Affairs within the bureaucracy, exacerbated by the war on Indigenous self-determination that was launched by Prime Minister John Howard in 1996. Howard attacked Indigenous organisations and Indigenous rights and revived old policies of assimilation and paternalism. He went to war on the history of conflict and settlement of this nation. However, the situation didn't improve for Aboriginal people in the Northern Territory under prime ministers Rudd and Gillard.

Since then, the concurrent move of Indigenous Affairs into PM&C and the introduction of the Indigenous Advancement Strategy laid the ground for a perfect storm. Chaos and confusion have reigned. In policy making, all the hallmarks of the Howard Government's infamous Northern Territory Intervention persist: top-down, ill-considered policies worked out on the run, without consultation, and implemented with callous disregard for their impact on Indigenous people.

When we are denied a proper place at the planning table we get a continuation of failures like CDP. The acronym CDP has been cunningly crafted to sound eerily like

CDEP, the scheme that was created on the advice of Nugget Coombs back in the mid-1970s.

With CDP we are seeing 'skyrocketing' rates of financial penalties that are having harsh and discriminatory impacts on jobseekers in remote Indigenous communities. Families and children are unfairly penalised; in some community stores, food sales have dropped since the introduction of CDP in July 2015.

In contrast, Coombs' vision for CDEP was beautifully simple. Rather than pay unemployment benefits to lots of Aboriginal people in remote areas, it would be more constructive for them to be employed part-time by local Indigenous organisations to undertake socially useful tasks. CDEP underwent various transformations after its introduction by the Fraser Government in 1977, but its death was eventually hastened by the Intervention in 2007. CDEP's obituary was written by the Labor Party in 2013.

Before that dramatic change came about, it should be understood that out of CDEP grew the ranger programs in the Top End. The first formal gathering to talk about post-land rights management and development of the Indigenous estate took place at Nimirilli on the Blyth River in 1999. About 80 people attended that meeting, hosted by the then powerful BAC that has a ranger program for outstations called 'Djelk'.

BAC's Djelk Rangers and the successful Dhimurru Aboriginal Corporation in northeast Arnhem Land were beacons. They showed that CDEP could provide the vehicle for building remote capacity and governance. The ranger groups that grew out of this movement are now supported by the Australian Government. At last count, there are more than 2600 Indigenous rangers employed around the country to look after the country, as their ancestors have always done. The NLC, as one of the originating institutions for this initiative, employs more than 130 rangers and we simply cannot meet the demand for new groups to be established.

If it wasn't for CDEP and the flexibility it provided to local organisations and people, the most successful employment opportunity for Indigenous people would never have got off the ground. And Australia would not be able to meet its international obligations for management of important ecosystems, nor engage Indigenous people to do this work.

This was public policy created in the bush, for the bush. It opened the door for Indigenous people to lead the agenda, informed by best-practice research.

Today, government policies continue to fail spectacularly, and that failure profoundly affects the everyday lives of our constituents. I detect a growing and palpable frustration among Aboriginal people in the Northern Territory that their human rights and aspirations are ignored by governments, while at the same time they are expected to accommodate an imposed agenda for economic development in the north. We have spent so much time gaining and then defending our rights that we have not secured our future. That's why we at the NLC want Aboriginal people themselves to have greater opportunity to develop their lands and waters in accord with their aspirations and values.

We have called on governments to establish a comprehensive strategy to deliver economic, ecological, social and cultural benefits to Indigenous people in northern Australia. But we cannot live in hope that governments will deliver. Last month, the management teams of the NLC and the Central Land Council came together in Alice Springs to map out an economic development strategy that meets the diverse needs of Aboriginal people in our regions. The aim is to enable true self-determination: having the knowledge to make decisions and the power to enact them in accord with the aspirations and wishes of landowners.

At the government level, what is most important is that policy is developed by Aboriginal people who have the most to lose in the current policy paradigm. The dominant direction of public policy and the incessant impost of reviews, inquiries and investigations sap the very essence of Aboriginal identity because bureaucrats and politicians refuse to reconcile their relationship with Australia's first people.

Back in 1976 Coombs questioned whether the dominant white society might lack the spiritual qualities to recognise the reality and virtue of Aboriginal identity, and the right of Aboriginal people to assert it. He suggested that until the arrogance, prejudice and fear that still largely determined many Australians' attitudes towards Aboriginal people gave way to humility, generosity and human warmth, there could be little grounds for hope of a quick resolution. He continued, 'If there is a taste of ashes on the lips of white Australian civilisation, it is because while we have mastered a continent and subordinated a proud people, we have remained in spirit aliens and strangers to it and them' (Coombs 1976).

Forty years later, Coombs' concerns are sadly still relevant. As he said then, what non-Indigenous people need to consider 'is whether Aboriginal achievement is won in a context of friendship and respect, or whether

it must be fought for, as in so many lands, in bitterness and violence'. Let us fervently pray that the wisdom of Coombs can somehow be revived and can prevail in the achievement of better public policy than we've seen in recent decades.

*This is an edited and abridged transcript of 'Unhappy anniversaries: what is there to celebrate?', the 8th Nugget Coombs Memorial Lecture, presented at Charles Darwin University, 5 October 2016.*

## **'What happened to the E in CDEP?' – CDP's disastrous impact on remote communities**

*John Paterson, CEO, AMSANT, and representing APO NT*

AMSANT is the peak body for Aboriginal community controlled health services in the Northern Territory. Our services operate over 50 health clinics across all parts of the Northern Territory, from urban to very remote communities. AMSANT is also a member of APO NT, and I am part of the CEOs' governing group for APO NT.

APO NT was established in late 2010 in response to the lack of Aboriginal involvement in the policies and programs that affect our lives, and the need for Aboriginal leadership to push back and to take control back. Our lives had become controlled by mainstream agendas – for example, in the Intervention – and by the BINGOs (big international nongovernment organisations) and NINGOs (non-Indigenous nongovernment organisations) and private providers that governments have increasingly been directing Aboriginal program and service delivery funding to.

Away from Aboriginal organisations.

Doing to us not *with* us.

And, of course, the increasingly managerial and punitive direction in which welfare policy has gone that has only served to increase disengagement and the sense of hopelessness that so many of our people experience.

APO NT seeks to turn this around. To put us back in the driver's seat.

APO NT has been involved in the policy debate around CDEP for some time. Shortly after APO NT was established, the then Labor federal government moved to introduce RJCP.

In recalling this, we need to remember that both sides of politics were involved in the destruction of CDEP. Both sides buckled to a malicious, assimilationist campaign against CDEP, which was more broadly directed against any form of self-determination. Both sides refused to listen to our advice and to the evidence. As with ATSIC, rather than reform it to improve it, successive governments caved in and killed it off through a series of cut-backs. So they both have to answer for the disastrous position we now find ourselves in.

And we shouldn't think that the haters and assimilationists have gone away – just in September Gary Johns had an opinion piece in *The Australian*, given free licence to spread his ignorant, racist views. And, of course, he trotted out the symbol most potently used to demean CDEP – painting rocks white.

I wonder what would be an appropriate symbol for the current CDP? I might leave you to ponder that.

Back to 2011. APO NT got funding to bring together Aboriginal CDEP organisations in the Northern Territory, and we workshopped an alternative model – initially called CEEDS (Community Employment and Enterprise Development Scheme), but later formalised in our submission to the Review of Remote Participation and Employment Services under the very catchy title *Creating and supporting sustainable livelihoods: a proposal for a new remote participation, employment and enterprise development scheme*.

In the end, we didn't have much impact on changing the subsequent RJCP except perhaps to help ensure that Aboriginal organisations were favoured or included in provider partnerships, and that there was more money available for community development-based projects than there would otherwise have been.

But, as most of you will be aware, the very complexity of the program expected to be delivered under RJCP excluded most community-based Aboriginal organisations that had previously run CDEP programs.

We need to get back to the involvement of these local Aboriginal organisations in running whatever programs replace the current disastrous CDP program. This is in line with APO NT's central mission: to put us back in the driver's seat, to devolve control back to communities, and once again see Aboriginal organisations delivering services and programs to our people.



How bad do things have to get, how disastrous does a policy have to be before we see change? CDP is a disaster, a wrecking ball in our communities. It must go.

Minister Scullion promised to reintroduce CDEP, but CDP couldn't be further from what CDEP was. As a very disgruntled council member at the recent historic joint meeting of Land Councils at Kalakarindji put to the minister: 'What happened to the E in CDEP?' The minister has no answer, just a blind belief against all the evidence that CDP will somehow magically work.

The reality is that communities are in crisis because of this program.

AMSANT Board members have been raising deep concerns about what is happening in their remote communities.

On health grounds alone, CDP must go. One Board member gave an example of a pregnant young Aboriginal woman who hadn't eaten for two days. Young mothers turning up to school nutrition programs because they were going hungry. Fifty thousand breaches under CDP over the most recent period. What do we expect the outcome of this will be on remote communities?

It's bleeding communities of the little income they survive on, making worse the already record low incomes that Aboriginal families have to try to exist on.

It's showing up in reduced sales of food in remote stores, including baby food. One area showed a 20% drop in baby food sales. One of our Board members estimates that, in the very small community the health service supports, the equivalent of \$750 000 a year is being lost through CDP breaches. This adds to the already existing but barely acknowledged problem of those – particularly young Aboriginal men – who are completely disengaged from the welfare system and therefore not receiving any income. These include the so-called 'not in the labour force' category.

What does all this disengagement and breaching mean? It means that those with incomes, such as parenting payments and pensions, are supporting a growing number of the community who have no income. It means more people, particularly women and pensioners, being hassled for money. It means more people having to go without, including children and pregnant women.

A pregnant woman having to go without food for days in this country is a disgrace.

And all this in the name of forcing people to 'work' for their dole. Under discriminatory circumstances – 25 hours per week for 46 weeks of the year, when nonremote participants only work for 15 hours per week for 26 weeks of the year. This is the Intervention all over again.

And what about the E in CDEP? There is no E being created out of CDP – no better employment prospects, no magic new jobs appearing, or new businesses. Just critically underresourced programs and huge disengagement. I'd reckon some programs would be hard pressed to even paint rocks white!

So what do we want to get out of a redesigned program? I'd urge consideration of the model that APO NT previously developed with Aboriginal CDEP providers. We believe there has to be some provision for waged work. In remote communities where there is no effective labour market, subsidised paid work and flexibility in work options and definitions are essential.

Governments must also ensure that permanent jobs are created and supported in essential and municipal services, as happened to a degree during the Intervention when CDEP jobs were transitioned to permanent positions.

We also experienced this with our health services, which are one of the largest employers of Aboriginal people in the Northern Territory. Our services were able to apply to take on CDEP workers in permanent positions as drivers and community liaison workers, for example.

But regardless, there will still need to be subsidised waged work provided. There will also need to be a focus on community development work and supporting emerging Aboriginal enterprises. And, as I mentioned earlier, we need to get back to the involvement of local Aboriginal organisations in running whatever programs replace the current disastrous CDP program.

We are committed to work on turning around this disastrous policy.

We need to ensure that, whatever follows, CDP results in communities being empowered, and in new Aboriginal providers, organisations and enterprises emerging.

*This is an edited transcript of an address to the CDP Workshop, Alice Springs, 30 September 2016, when Jobs Australia – the peak body for nonprofit employment service providers – held a forum to discuss the future of CDP. Alongside providers, representatives from APO NT and educational institutions participated in the workshop. John Paterson was asked to speak to the forum on behalf of APO NT.*

## CDP and the bureaucratic control of providers

Lisa Fowkes, CAEPR, ANU

Prime Minister Turnbull is one of many government officials who have, at various stages, expressed commitment to working *with* Indigenous people, not doing things *to* or *for* them.<sup>3</sup> Such statements reflect a widely held understanding that involvement of Indigenous people in policy decisions that affect them is essential not only to democratic inclusion but also to the effectiveness of policy itself. The challenges in improving wellbeing in remote Indigenous communities are too complex and diverse to allow for centrally imposed 'solutions'. One of the ways in which governments have tried to support Indigenous involvement in policy initiatives is through engaging Indigenous organisations to deliver government-funded programs. This was a critical aspect of the design of the former CDEP, which Nugget Coombs described as:

... not simply a means of providing employment as a source of a minimum cash income, but a training exercise in self-management and increasing independence for the Aboriginal communities involved. (Coombs 1977, cited in Rowse 2001:41)

For ambitions of local Indigenous involvement in decision making to be realised, the relationship between government and the organisations involved in delivery must be collaborative. Locally governed organisations must have sufficient autonomy to shape services to their circumstances and aspirations, and governments must be willing to work with them to understand local context, and how government rules and practices might need to be adapted to deliver better results.

At various stages during the life of RJCP it was this type of relationship that was promised. Indigenous organisations were encouraged to apply to deliver the program. Of the 38 organisations delivering what is now the CDP contract, 26 are community-based Indigenous organisations, while others include local government and locally based nongovernment organisations.<sup>4</sup> In community consultations before the start of the RJCP contract, participants were told that:

Communities will work with Remote Jobs and Communities Program providers to develop a Community Action Plan setting out each community's longer term approach to development, including employment, participation and economic and other development goals. Through these plans,

communities will be able to identify the issues they face and find local solutions. (Macklin et al. 2012)

Early RJCP guidelines suggested that community input might be used to set program targets, judge performance and guide application of penalties. Although the Coalition Government abandoned Labor's Community Action Plans and the associated \$234 million development fund, it did promise greater devolution of decision making in Indigenous affairs, with the prospect of more effective local collaboration in the implementation of the program.

However, the implementation of CDP has brought about an even greater centralisation of control. From the outset, the government's approach to managing its relationships with provider organisations has been characterised by top-down decision making, transfer of risk, and disregard for the specific contexts and operating challenges in which these organisations operate. This paper draws on observations and interviews conducted in the course of a research project looking at the implementation of RJCP, and now CDP, including specific interviews about the performance management process that were conducted with 10 providers in July and August 2016. This research has highlighted some of the consequences of the government's approach to managing the program – from diversion of resources to administration, to undermining of the provider organisations' own relationships with the communities in which they operate.

Minister Scullion announced the introduction of the daily Work for the Dole requirements that are at the heart of CDP only 18 months into what was intended to be a five-year contract for delivery of RJCP. This was done without consultation. Program changes took effect through a contract variation which was – according to at least one organisation's legal advice – so substantial as to constitute repudiation of the contract. Providers were given only weeks to consider the variation. Many considered that the five days per week Work for the Dole requirement was both unachievable and unfair. Although providers could have refused the contract, for many it would have meant loss of their organisation's major source of income, and even closure. Those that wished to continue delivering employment programs would risk being permanently excluded:

We are only in this program because it was forced on us – there was no alternative. It's about hanging on until the next program in the hope that it's something better. And remaining viable in between. (Senior Manager, Indigenous CDP provider)

The reason why we are in this space is purely to ensure that a local Indigenous organisation is delivering services within the region. (CEO, Indigenous CDP provider)

The directive approach to introduction of CDP was indicative of a wider shift in relations with providers. In March 2015 the Minister for Indigenous Affairs, Nigel Scullion, told a provider forum that they were ‘the delivery arm of government’ and that ‘if you are not doing well I will get someone else to do it’ (he extended the same warning to the PM&C staff who were present). Reinforcing the threat of termination, in May and November 2015 PM&C advertised for existing or new organisations to register their interest in delivering the program in the ‘expectation that some providers will leave RJCP in the next 6–12 months’. Whereas under Labor’s original RJCP the government had invested in local Indigenous organisations to maximise their ability to deliver the services, under CDP it was made clear that they could be readily replaced:

I remember having this conversation with the Board and basically telling them that the government speaks with forked tongue, because you remember when they brought in RJCP, the whole objective was to capacity build those Indigenous organisations that were delivering, and progress their capacity and capability to deliver the contract, throughout the contract. A key aim was to help them learn, with the possibility to roll over the contract and have it for 10 years. That became the fundamental difference between then and now. Now the CDP model is saying ‘if you don’t get it in there you will not get paid’. They are saying ‘we are expecting you now have the capability and capacity that you will need to pump this massive financial system – we need you to have it yesterday’ instead of ‘we are going to help you get it along the way’. (CEO, Indigenous CDP provider)

The new CDP contractual arrangements include two key mechanisms for driving provider behaviour. One is the Programme Management Framework, which sets out the government’s expectations of providers and the consequences of nondelivery. The other is a new fee structure, which attaches the bulk of potential revenue (an estimated 80%) to attendance in Work for the Dole. Each measure has increased provider risk, and each has required providers to intensify their focus on daily monitoring and online reporting of participant behaviour.

The Programme Management Framework for CDP sets out key performance indicators (KPIs) and targets against which providers are assessed every six months.

Unsatisfactory performance under any KPI or target can constitute a breach of contract. Most targets are numerical, assessed by reviewing information entered by frontline workers into the government’s information technology (IT) system. Targets are set at 100%, regardless of the specific circumstances in a region, or of past performance. For example, one target (worth 10% of the overall performance score) is ‘100% attendance of all Work for the Dole Participants in Activities (in line with their participation requirements)’. Another (worth 5%) is ‘100% of Eligible Job Seekers have been provided with monthly Contacts’. Only the regional employment target takes account of local conditions.

The effect of decontextualising target setting has been to turn local circumstances into problems that must be managed by providers. It is for providers to address lack of availability of literacy training in order to meet the relevant target for delivery, or to find a way of meeting with people monthly, even where those people regularly move between remote communities. Formal performance feedback from PM&C in at least one region has proposed that the provider take action to manage the impact of fighting and of the large number of funerals on Work for the Dole attendance. This approach to performance management both shifts the risk associated with delivery of services to contracted organisations and distances government officials from the realities of day-to-day implementation:

You would have heard about providers and their staff being threatened and assaulted – I raised that in Canberra with PM&C. The response was ‘that’s a provider issue and you guys have got to find ways to overcome that’. You’d think they would be thinking ‘hang on, we need to be doing more community consultation over this policy’. (CEO, non-Indigenous CDP provider)

Administration, particularly that associated with using the government’s IT system, was a central part of RJCP from the beginning of that program. This had narrowed the field of potential staff recruits and shaped the case management relationship (Fowkes & Sanders 2015). Introduction of the CDP funding and performance management arrangements has made administration and the IT system even more central. Rather than attach fees to Work for the Dole places, or the number of regular attendees, the government elected to pay on the basis of actual, recorded attendance. This has meant that each daily time sheet must be entered into the government’s IT system, along with reasons for nonattendance and participation reports. The administrative volume is enormous. Organisations have employed additional

administrative staff to do this work; they are often located in urban centres where internet is reliable and administrative skills are more widely available:

... we just couldn't attract the staff with the background in [the government's IT system] or the jobseeker compliance framework for those remote areas to do all that back-end stuff, so we have set up an office down here in [state capital] which has grown – where we have a compliance officer looking over the job plans and the compliance end of things as well as two part-time data entry officers. (Senior Manager, Indigenous CDP provider)

The payment model has also proven impossibly complex, with many providers unable to reconcile payments with their own information, and PM&C periodic payment adjustments to address discrepancies. This has generated a deep distrust among providers in the integrity of PM&C's data, which extends to its use of the data for performance management. The system has forced providers to become 'administrative entrepreneurs', working behind a desk to make sure that the right boxes are ticked to generate a payment:

We basically spend three days at the end of the month solid data auditing – but none of it is auditing around 'did we help this person find a job'. It's simply 'is this person in the right activity, at the right time'. For example, if someone is on income support, then maybe they don't put their form in, and they drop off income support for 10 days, then we are not going to get paid for them because they are not going to do Work for the Dole. We would exit them out of the activity so that we get basic payment for that period. It helps our attendance rate as well. But that doesn't achieve anything in terms of having a real meaningful difference in someone's life. (Senior Manager, non-Indigenous CDP provider)

Performance against the government's targets is also assessed almost entirely through the IT system and through review of documentation. 'Success' or 'failure' has become as much – if not more – a function of administration and documentation than of improvements on the ground:

You don't even have to leave your four walls – you can sit in a dark room and drive the laptop to get the result the Department wants you to. (Senior manager, Indigenous CDP provider)

... I have realised that it doesn't matter what you are doing on the ground, you have to hold up something

bright and shiny ... it is not necessarily that you are doing a bad job on the ground, it's about having to demonstrate it in the system. (Senior Manager, Indigenous CDP provider)

The desire to exercise greater control over providers has brought about increased investment in data entry, record keeping and internal auditing – the practices of bureaucratic accountability – at the expense of other, potentially more effective, activity. Like other rigid, target-driven systems, this one has considerable potential for gaming – again, at the expense of participants:

... placing a good participant costs me \$12 000 in lost Work for the Dole fees as opposed to taking a risk on a \$7000 [employment] outcome fee. The question is, would I have a better chance of keeping him in work for 26 weeks or keeping him engaged in Work for the Dole for 12 months ... but that's not how we operate. (Senior Manager, Indigenous CDP provider)

For some, the implementation of CDP has corroded their organisational standing, compromising their ability to act in accordance with community interests. This is particularly troubling for Indigenous organisations that have historically seen themselves as acting on behalf of local people. Under the CDP funding model, providers receive no payment for those participants who fail to attend Work for the Dole without a valid excuse unless they initiate compliance action against them (and subsequently re-engage them). Although they have some autonomy in theory, in practice the ability to make decisions about how best to maximise participation – and minimise harm – in their communities has been taken out of their hands.

Despite government commitments to explain the new Work for the Dole policy 'community by community', this task has been largely left to providers, who are left to deal with the impact of decisions taken centrally:

When the [CDP] program first started, PM&C undertook to go and have community meetings to explain to community members what the program was all about. It never happened. And it's probably too late now because there is another change coming in ... I would say it has had an impact on our standing in communities because ... under CDEP ... you could run quite diverse projects and activities – whereas now you are quite limited. And even the development of leaders and workers in the community has been impacted on because people say 'well, why should I do 25 hours of CDP when all I

am getting is Newstart?’ – when before you could do 15–17 hours and get top-up without it impacting your wage – so there was an incentive within the model ... Under the old CDEP model, most providers had a basic payment that would cover rental contributions and whatnot, but if we penalise someone under this model it impacts their housing, their ability to pay their power – so there is really no safety net. (CEO, Indigenous CDP provider)

The treatment of CDP providers as ‘the service delivery arm’ of government has extended to proposing that they actively intervene in communities to reduce the impact of cultural business and funerals on Work for the Dole and other government priorities. For example, recent guidance material issued by PM&C states that:

CDP providers should be actively engaged with local Indigenous community members and Centrelink officers in their regions to ensure visibility of cultural business and who will be involved. This will assist providers in taking a proactive role in the scheduling of cultural business when deemed appropriate. For example cultural business could be scheduled to take place during school holidays so that school attendance is not affected. (PM&C 2016)

Although providers may advocate for policy change within PM&C, many are reluctant to speak publicly about their concerns, fearing consequences for their CDP contract, or for access to other funds administered by PM&C. Some feel compromised by their delivery of the contract, even though they believed that they had little choice but to accept it:

You have to be careful of course because you can’t be seen to bite the hand that feeds you. And you can’t be seen to be delivering something and then be seen to be going against the grain. But I do think that there are ways to [advocate] and keep government on side – Jobs Australia is one of them, you guys are one of them, ACOSS [Australian Council of Social Service], Human Rights. (CEO, Indigenous CDP provider)

We haven’t really taken our chance yet – I don’t think the [organisation] has been outspoken or risked the PM&C relationship yet, for fear of what it might do, what might happen to the contract. (Senior Manager, Indigenous CDP provider)

The picture of CDP painted here is overly bleak. Across the country, organisations are working with people in their communities to identify new opportunities,

deliver projects that people value, and provide space for expression of cultural practice. Community boards and Indigenous leaders continue to provide guidance to their staff and to advocate for local people. Local PM&C officials develop trusting relationships with local organisations, helping them to navigate complex systems and advocating on their behalf with Canberra. But these positive practices – where they exist – are not acknowledged or encouraged by the formal systems, which emphasise central bureaucratic control – things done for the system, not achieved on the ground.

At a Senate Estimates hearing in October 2016, officials from PM&C told the senators that, in June 2015, only 45% of jobseekers had been placed in activities, and that number had since increased to around 84.3%.<sup>5</sup> Actual attendance in Work for the Dole had, they said, increased from 7% to 30% over this period. These results were taken to be ‘a significant marker of the way in which providers are working to actually service job seekers’. But it was only after June 2015 that Work for the Dole became mandatory for most participants, and it was from then that providers started to enter daily hours of attendance in the IT system to secure payments. Although attendance may have increased, the figures provided to Senate Estimates were an administrative artefact. At around the same time that this account of the program’s success was being given by PM&C, the board of directors of the Arnhem Land Progress Aboriginal Corporation released a statement that said:

We believe the current model is broken and dysfunctional and needs urgent attention to get people re-engaged and funded to continue to build skills, capacity and jobs. We believe the CDP model is having a negative impact on remote Aboriginal people and is a strategy from government to either save money or keep Yolngu subjugated, or both.

These very different assessments of CDP reflect the vast gulf between bureaucratic measures of achievement, based on data extracted from an IT system, and the experience of those whose lives are affected by CDP’s implementation. This gulf cannot be bridged by tighter controls on providers or by more closely managed targets. The experience of the first year of CDP shows that these efforts at greater top-down control are likely to be self-defeating, generating even more investment in bureaucratic processes. What is required, instead, is greater attention to context, sharing of problems and solutions at the local level, and reinforcing – rather than undermining – the ability of local Indigenous organisations to respond to the particular needs and aspirations of their communities.



## Impact of CDP on income support of participants

*Lisa Fowkes, CAEPR, ANU*

In the first year of CDP more than 146 000 financial penalties were applied to the income support payments of its approximately 34 000 participants. In contrast, the more than 750 000 participants in the equivalent program that operates in nonremote areas (jobactive) received just over 104 000 penalties. This paper provides an overview of trends in social security penalties and suggests some reasons for their emergence.

### *How the individual participation obligations are set*

Receipt of unemployment benefits has long been conditional on looking for and accepting 'suitable' work. Over time, the obligations of jobseekers have been extended to include the requirement to participate in program activities, the details of which are set out in job plans negotiated between contracted employment services providers and each individual.<sup>6</sup> Social security legislation sets out penalties for noncompliance, along with processes to protect against procedural unfairness and to ensure that requirements are not beyond the capacity of the individual. While social security legislation provides a broad framework, the specific obligations of particular groups of unemployed people are determined by the Australian Government and implemented via funding agreements with contracted providers. So, although the broad social security rules that apply to citizens are the same, governments can – and do – set varying levels of obligation for different groups of people, and allow different levels of provider discretion to tailor obligations through contracts that sit outside the parliamentary process. Governments may also use these contracts to drive provider sanctioning of behaviour to become more lenient or more punitive, within the parameters of the legislation.

### *The obligations of CDP participants compared*

When it established CDP in remote areas, the Australian Government implemented a more onerous set of obligations on participants than applied to comparable jobseekers elsewhere. Under CDP, participants who are considered to have full-time work capacity and are between 18 and 49 years old are required to Work for the Dole for 25 hours each week, five days per week, for at least 46 weeks per year – a requirement of 1150 hours in each year of unemployment (see Table 1). In contrast, participants in jobactive in the 30–59 age bracket who

have full-time work capacity can be required to Work for the Dole only after 12 months in employment assistance, and then for only 30 hours per fortnight, six months of the year – that is, a total of 390 hours each year. Similarly, principal carers in the remote program are required to work around 600 hours each year from day one, while their counterparts in nonremote areas may be required to work 200–390 hours each year after 12 months of assistance.

In addition to setting more onerous requirements for participants, the contractual provisions of CDP introduced strong incentives for providers to apply punitive measures to those who fail to attend. Under CDP, Work for the Dole service fees (which make up the bulk of revenue for providers) are linked to attendance. Where a jobseeker does not attend and has not provided a 'valid' excuse, the provider will only receive the relevant fees if they report the nonattendance (initiating a financial penalty for the jobseeker) and subsequently re-engage the jobseeker within 14 days. In theory providers still have discretion to 'allow' a nonattendance if they believe it is inappropriate to initiate a financial penalty, or that it might disadvantage the jobseeker, but, in practice, the exercise of this discretion leads to loss of income for the provider. No similar arrangements apply to providers in other employment programs, like jobactive.

### *Penalties arising from more onerous requirements*

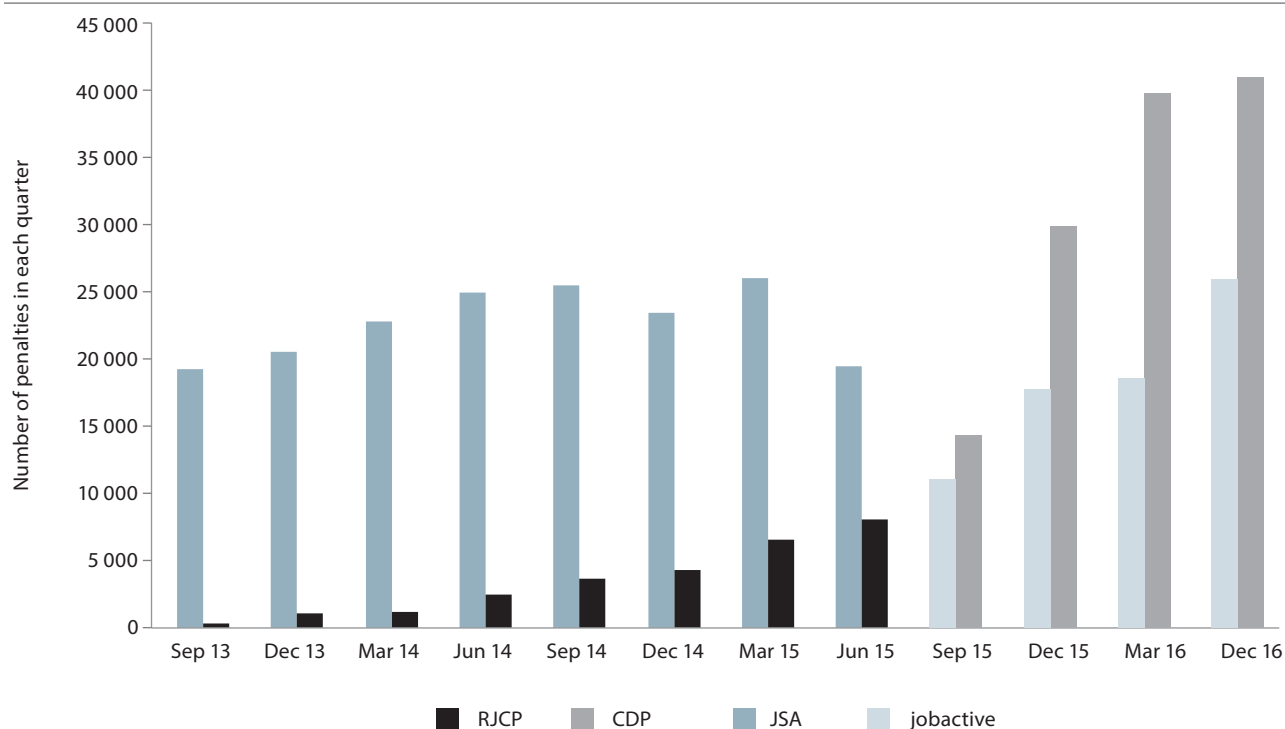
The combined impact of more onerous Work for the Dole requirements and incentives to penalise can be clearly seen in Fig. 1. This graph compares the number of penalties applied in each quarter for nonattendance in Work for the Dole under the remote program with those applied under its nonremote counterparts. Each of these penalties (called 'No Show No Pay' penalties for failing to attend an activity in a job plan) represents loss of one-tenth of a fortnightly income support payment. From the start of CDP (the quarter ending September 2015), the number of penalties for failing to attend Work for the Dole in CDP outstripped those applied to jobactive participants – even though jobactive has more than 20 times the number of participants. By the first two quarters of 2016 – once the new CDP financial model was fully implemented – the number of penalties had increased to more than 16 000 per month. In the first year of CDP, more than 125 000 No Show No Pay penalties were applied to participants.

### *Penalties for persistent noncompliance*

Once a jobseeker has incurred three 'minor' penalties (e.g. No Show No Pay penalties) in a six-month period, they may incur a penalty of up to eight weeks without

**TABLE 1.** Comparison of activities obligations of CDP and jobactive participants

Category	jobactive (July 2015 – June 2020)	CDP (July 2015 – June 2018)
Point at which annual activity requirement (Work for the Dole) starts	Annual activity requirement starts after 12 months or more of receiving assistance. Work for the Dole is the default, but jobseekers can opt for accredited training, voluntary work, part-time work or another approved program	Work for the Dole activity requirement starts immediately and is mandatory for 18–49-year-olds with full-time work capacity, unless in part-time work
Hours of activity required (other than early school leavers under the age of 22) – people with full-time work capacity	Aged under 30: 650 hours over 26 weeks each year (50 hours per fortnight) Aged 30–59: 390 hours over 26 weeks each year (30 hours per fortnight)	Aged 18–49: 25 hours per week in Work for the Dole activities on an indefinite basis, with up to 6 weeks time off (with approval) each year (1150 hours each year)
Early school leavers who are less than 22 years of age	25 hours per week (less for principal carers and people with part-time work capacity)	25 hours per week (less for principal carers and people with part-time work capacity)
People with part-time work capacity and principal carers	Aged under 30: 390 hours over 26 weeks each year (30 hours per fortnight) Aged 30–59: 200 hours over 26 weeks (15–16 hours per fortnight)	30 hours per fortnight or up to work capacity. Approximately 600 hours each year, noting that principal carers may not be required to participate during school holidays

**FIG. 1.** Number of No Show No Pay penalties for nonattendance at activities, September 2013 to December 2016

Source: Australian Government Department of Employment, Jobseeker Compliance data, <https://www.employment.gov.au/job-seeker-compliance-data>

income support for 'persistent noncompliance'. Before an eight-week penalty is applied, the Department of Human Services (DHS) must conduct a Comprehensive Compliance Assessment (CCA), which is designed to ensure that noncompliance does not arise from a particular condition or circumstance of the jobseeker that is outside their control – for example, mental illness, disability or personal crisis. In the first year of CDP an average of more than 3000 participants were referred for a CCA each month – a reflection of the many thousands of people of people being penalised multiple times over this period. Of these, 41% of referrals resulted in DHS finding that the jobseeker had acted 'intentionally, recklessly or negligently', meeting the requirements of a persistent noncompliance penalty. In contrast, only 27% of jobseekers referred to CCAs from all other programs were found to meet this test. Overall, in the 2015–16 financial year, 82% of all serious penalties for persistent noncompliance applied under social security legislation were applied to CDP participants, even though they accounted for fewer than 5% of jobseekers.

On the face of it, the higher rate of unfavourable CCA assessments for CDP participants is surprising. The sorts of factors that might contribute to noncompliance – undiagnosed or untreated health conditions, disability, family crisis, unstable housing – are more prevalent among remote Indigenous people than the rest of the population. But the fact that Indigenous jobseekers are poorly served by DHS assessment processes has been noted. For example, the former Department of Education, Employment and Workplace Relations found that remote Indigenous people were underrepresented in Stream 4 – the 'highly disadvantaged' stream of what was then called Job Services Australia (now jobactive), access to which depended on DHS identifying significant barriers through an assessment (Employment Services Assessment [ESAT] or Job Capacity Assessment [JCA]). The department explained that:

... it can be more difficult for people who live in remote and very remote areas with restricted access to medical and mental health services to provide adequate documentation to have non-vocational barriers recognised through the ESAT or JCA. Analysis conducted by the Department indicates that this has been a factor in restricting access to Stream 4 for job seekers in remote areas. (DEEWR 2012:33)

Similarly, an independent review of the jobseeker compliance framework found that:

It is clear that shortages of non-vocational services are greatly weakening the efficacy and fairness of the

compliance system in many regional areas. (Disney et al. 2010:75)

Most assessments continue to be conducted over the phone, or even via a file review, without the assistance of an interpreter (Fowkes & Sanders 2016:7).

### *Is it worth it?*

The Minister for Indigenous Affairs, Nigel Scullion, has dismissed concerns about the effect of penalties on CDP participants. On 14 September 2016, he told the Senate:

Our Community Development Program is now getting people into positive activities, making remote communities a better place to live. Over the last 12 months, the Turnbull government has made tremendous progress. Eighty per cent of participants in CDP are now engaged in meaningful activities, and there has been a sevenfold increase in attendance since the end of Labor's failed Remote Jobs and Community Program.<sup>7</sup>

It is far from clear that these figures represent actual improvement in participation or that they are making remote communities 'a better place to live'. For one thing, the participation figures themselves are problematic. Under RJCP providers were not required to place people into Work for the Dole except where they thought it was the appropriate option for that person. They could, instead, refer people to activities like voluntary work, vocational training, parenting programs, rehabilitation services or counselling, depending on individual need. These options are possible under CDP but the program's rigid requirements for 25 hours per week, for supervision and for daily time sheets make them more difficult to achieve in practice. There is no evidence that the Work for the Dole that people are doing today is more 'meaningful' or of greater assistance to them than what they were doing before. Nor is it clear that there has been a significant increase in people actually attending activities. According to figures provided to Senate Estimates, actual attendance in Work for the Dole is 30%.<sup>8</sup> Because RJCP did not require that hours of attendance be recorded in the IT system, there is no way of assessing whether this is an improvement. It seems likely that some people are attending more often; on the other hand, we have tangible evidence in the penalties data that many are not attending, and that penalties associated with nonattendance have continued to rise.

To date we have little information about employment results from CDP. PM&C has said that around 2700 26-week employment outcomes have been claimed during



the first 12 months of CDP – a result that is hard to assess in the absence of comparative information, or even information about which CDP jobseekers found work. In general, there is little evidence that Work for the Dole is likely to improve the employment prospects of those who participate in it.<sup>9</sup> But we also know that the government expects that many CDP participants will never find work. In fact, the Minister for Indigenous Affairs has been quoted as saying that, in his view, working for the dole in perpetuity is not a bad thing (Martin 2015). Surely even the most fervent advocate of paternalist welfare policy cannot justify a program that offers so little opportunity, while imposing such a disproportionate burden on our poorest citizens and their communities.

### **Only just surviving under CDP: the Ngaanyatjarra Lands case study**

*Inge Kral, CAEPR, ANU*

The Shire of Ngaanyatjarraku in remote Western Australia has taken the extreme step of bringing a complaint of race discrimination to the Human Rights Commission on behalf of all Aboriginal persons resident in the shire who have been, or are currently, subject to the CDP criteria as a condition for being granted income support. The shire is claiming that it is the right of Aboriginal persons within the shire to receive income support payments on an equal footing with non-Aboriginal persons. Understanding why the shire chose to take this extreme action requires a brief introduction to the history of the region, and the changed social and economic circumstances rendered by CDP (Kral 2016). In this article, I outline the impact and downstream effects of CDP. I focus primarily on Warburton, the largest of the Ngaanyatjarra Lands communities.<sup>10</sup>

#### *Historical context*

The shire is located in remote desert country some 1500 kilometres from Perth. It covers an area of more than 160 000 square kilometres and includes 9 of the 12 Ngaanyatjarra communities, with a total shire population of some 1400 people, 84% of whom are Indigenous.<sup>11</sup> On almost all indicators this is one of the most socially and economically disadvantaged regions in Australia, with the lowest per-capita income of any local government area, and minimal access to the services and institutions taken for granted by most Australians. Yet these communities have a history of working together to improve their circumstances, and to ensure that they survive and thrive.

Some Ngaanyatjarra started ‘working for their living’ (i.e. exchanging labour for rations) on missions and stations from the 1930s, while others continued a nomadic hunter-gatherer existence until the 1960s. In the 1970s, unprecedented access to cash came with the introduction of unemployment benefits. Coupled with the beginning of nonrestrictive drinking rights in 1971, this aggravated law and order problems. By the 1980s, competition for scarce resources engendered high levels of social tension, dysfunction and violence, and Warburton was on the point of collapse. The implementation of CDEP paved the way for a period of law and order and relative economic stability across the ‘Lands’. The structure and order achieved through CDEP were a key factor in building community governance through the establishment of the Ngaanyatjarra Council. CDEP was the underpinning government program that enabled the Ngaanyatjarra to manage their communities and improve their standard of living. It may not have been perfect, but it served the Ngaanyatjarra region well and was one of the most effective CDEP programs in remote Australia. CDEP enabled the growth of art centres, land management and an Indigenous media organisation, as well as a visible Aboriginal workforce in schools, stores, health clinics and local government services.

The Ngaanyatjarra CDEP was collective, allowing discretion in how funds were distributed. It provided an incentive to work. Those who wanted to work full-time could do so and earn ‘top-up’ wages, while a base-level pay was available to all those in CDEP, including those receiving a ‘no work no pay’ penalty. In this way everyone had a reliable base-level income, and some adults earned a good wage. It was not much money, but it was predictable. People always knew they had that money and could manage to budget or do some level of future planning. CDEP also localised the bureaucracy and CDEP funds were budgeted at the discretion of the community. The on-costs attached to CDEP funded the administration of a community-based ‘income management’ system.<sup>12</sup> The success of CDEP thus hinged on local control and local knowledge of people’s circumstances (Kral et al. 2009).

In July 2009, the process of progressively phasing out CDEP in the Ngaanyatjarra Lands commenced, despite protestations by the Ngaanyatjarra Council and its member communities (Kral et al. 2009). By July 2015 CDEP had been replaced by CDP. In remote communities CDP is driven by PM&C and that department controls access to income support payments. In effect, PM&C now controls the Ngaanyatjarra communities. Without a doubt, the current arrangements under CDP are taking the Ngaanyatjarra communities back to the

chaos, desperation and dysfunction of the 1970s and 1980s. The top-down external control of money via the Centrelink bureaucracy is letting people fall through the cracks. With the onerous CDP reporting requirements and punitive financial penalties, all sense of individual control, autonomy and long-term planning is being eroded as the focus turns to day-to-day compliance and the fear of loss of entitlements.

In what follows, I first describe interactions with Centrelink and compliance failures. Second, I address *the downstream effects of inadequate incomes and penalties*. Evidence provided here is for participants in Warburton; however, the situation is similar across all the Ngaanyatjarra communities.

### ***Interactions with Centrelink and compliance failures***

Once on CDP, people's income support payments are linked to participation in 'activities'. In Warburton people are placed in either 'Arts and Crafts' for women (painting, sewing, basket making, photography or computer skills) or 'Community Maintenance' for men (wood collecting, landscaping, metalwork or woodwork in the 'Men's Workshop'). Compliance failures are incurred for nonparticipation in these activities and for missed appointments (fortnightly with Centrelink and monthly with the local CDP provider).

Compliance failures result if an individual is registered as absent from activities without a 'valid' reason. In this case, fines are \$50 per day (or \$31 per day if on Youth Allowance). Missing three days within six months results in an eight-week No Payment Penalty (NPP). When an individual has an eight-week NPP the Centrelink Compliance Team can conduct an over-the-phone Comprehensive Compliance Assessment which may change the NPP to an eight-week Compliance Activity (with participants effectively 'working the penalty off'). Fortnightly reporting on earnings, partner earnings and change of circumstances entails either filling in a form that is mailed back to Centrelink, reporting by phone on the Centrelink Helpline, or reporting via the MyGov website. If an individual misses the monthly reporting appointment with the provider, the system blocks their fortnightly reporting. They then have to ring the Centrelink Participation Solutions line to explain the 'compliance failure', otherwise their payment is stopped. Some people independently manage the reporting requirements, while others do not. Most people come to the Warburton Community Office (WCO) seeking assistance with the fortnightly reporting to Centrelink, and/or compliance failures.

Under CDEP the WCO was the administrative hub that took collective responsibility for a complex web of bureaucratic and financial literacies on behalf of community members. A critical element of this was the creation of an 'information bank' of community members' birth dates, tax file numbers, banking records, education records and Centrelink reference numbers. Under CDP, however, the onus is on individual responsibility for maintaining these personal records and for managing interactions with Centrelink. Successful navigation of this new bureaucratic terrain is contingent on individuals having sufficient oral and written English and ICT (information and communication technology) competence to comprehend and comply with the requirements, having accurate evidence of their personal details, and being contactable by mail or by phone in a usual place of residence.

The WCO recognises that there are several major failings with this system and assists people with their Centrelink interactions, thereby taking on an extra workload without additional funding from Centrelink or PM&C. It understands that most people do not have sufficient English language and literacy to independently fill in Centrelink forms, negotiate the MyGov website or handle over-the-phone interactions with Centrelink. The WCO also still plays a de facto role in the guardianship of community members' personal information, especially by keeping their bank details and dates of birth. Without this guardianship even more chaos would ensue. The WCO copes because of the infrastructure and community knowledge built up over more than 30 years of CDEP. Nevertheless, it takes the brunt of people's frustration regarding their dealings with the Centrelink system and money issues. The strain on WCO staff is enormous.

The WCO has four phone lines. One is in use by community members all day, every day, usually on hold, trying to get through to Centrelink. Those who report to Centrelink by phone often do not understand what is said to them; they often guess the answers, or say yes to obligations they cannot meet because they think it is the 'correct' answer. Every day of the week people wait in the office for hours, sometimes days, to get through on the Participation Solutions line, mostly in relation to nonreporting and to avert penalties. For calls to the Centrelink Compliance Team there may be up to 300 clients waiting on hold across Australia. Individuals who try to undertake these calls on a personal mobile phone typically report the battery going flat while they wait on hold, so they give up. Additionally, with no household postal system, around 300 Centrelink letters arrive fortnightly at the WCO (including notifications of payments and penalties). Most Centrelink letters are

not collected by the addressees. When this occurs the WCO opens each letter to keep abreast of people's circumstances and so avert a penalty. In addition, the volume of mail now includes hand-delivered letters from the local CDP provider, notifying clients of their monthly meetings. Previously, the CDP provider placed a list of those due for a monthly appointment that week on a community noticeboard. They have since been instructed by PM&C that this is against the department's privacy policy and have had to cease this practice. Unlike the letters, this system worked: people could see their next appointment date and could alert others, and so avoid a penalty.

The Ngaanyatjarra, as with Indigenous people across Australia, have experienced wave after wave of government policy change. Their comprehension of how this new Centrelink system works is limited, and they do not understand the concept of 'mutual obligation failure'. If individuals receive a penalty they rarely question why. Appeal rights do exist. However, this requires a level of spoken and written communication in English that is beyond the ability of most Ngaanyatjarra. It also takes an enormous amount of confidence and comprehension of their rights, which most Ngaanyatjarra do not possess. People just accept the situation, and severe financial hardship has become the norm. Most are only just functioning because of support from the WCO. At the same time the WCO is struggling to know what is going on with the community it has to support.

### *Downstream effects of inadequate incomes and penalties*

The cost of living in these remote communities is high. Even salaried workers comment on the high price of food and fuel at the stores and roadhouses. The average fortnightly Centrelink payment is less than \$500 for adults and less than \$300 for those on Youth Allowance. Even the full Centrelink fortnightly payment is barely sufficient. Yet most people also have some deductions taken out of this payment. These include rent, contributions to a Social and Recreational Commitments fund (to pay for the community swimming pool, funeral fund, etc.), and payment of any court fines or Centrelink loans. Additionally, they may have incurred one or more \$50 per day fines for an absence without a valid reason. Many absences are unavoidable because circumstances are often beyond people's control. For example, they may leave the community outside business hours (late at night or on the weekend) and may have no control over the timing if they are dependent on others for a ride. Later, they may not have access to a phone to ring a CDP supervisor and provide a reason. If they are ill,

it is virtually impossible for them to provide a medical certificate because there is no doctor in the community. In contrast, CDEP was flexible. It allowed for part-time hours that suited people's many social and cultural commitments, enabling them to come and go from CDEP; even with a no work no pay penalty they still received a base payment.

CK's situation demonstrates the inadequacy of even the full CDP payment. Her Newstart Allowance is \$476.40 per fortnight, plus \$51.60 for various supplements. But with deductions (\$100 for rent, \$50 for court fines and \$46 for a Centrelink loan) she is left with \$332 per fortnight to feed and clothe her family. She has also 'failed' to meet her 'mutual obligation requirements' on a number of occasions by 'not attending and/or fully participating in her activity', leading to a reduced payment or a penalty amount owing to Centrelink. Once, she received a penalty because she went from Warburton to Kalgoorlie to help her husband who was stranded there with no money. She was unable to return to Warburton in time to report. CK likes to work and usually remembers her fortnightly reporting (via the MyGov website – she is one of only five in the community who are able to do this). But she finds it hard to match the circumstances of everyday life with the CDP rules.

Under CDEP everyone received the same base payment. There was less confusion, less bewilderment and less jealousy. Now people have come to accept that their fortnightly payments vary considerably, and many can no longer budget for food or other purchases. For those with penalties the *social and economic downstream effects are profound*. They are caught in a poverty trap that affects them, their family and the community as a whole.

I turn now to the three most visible downstream effects of irregular or reduced incomes: food security, housing and fines enforcement.

### *Food security*

Since the inception of CDP the stores and roadhouses in the Ngaanyatjarra communities have noticed that less money is spent on food, and they are unable to assist. In the past CDEP salaries were provided weekly, by cheque. This provided a critical budgeting tool for people on low incomes. It also safeguarded food security. Stores had a book-up system that articulated with the predictable CDEP payment cycle so that purchases could be made against future income and the next CDEP pay could be debited. Now, when they run out of money, people go without food. With Centrelink people are paid fortnightly, on different days, and in varying amounts

depending on penalties. Such fluctuations have made it harder for stores to plan and manage stock, especially perishable items.

People on an eight-week NPP have to rely on family, and those with money, especially those on the age pension, are pestered for assistance. As people become more desperate this leads to frustration, anger and sometimes fights over food. The WCO has described the daily and frequent requests for assistance for food and fuel and how the demand has increased since July 2015. The WCO assists as much as it can, but there is no longer any 'fat in the system' and it cannot help everyone. If people know that one person is favoured it causes bigger problems. The flow-on effect is that children are going hungry. Teachers try to feed children during school hours. In school holidays youth workers implement a 'lunch club' that provides food so that children do not starve. Most families shop on a daily basis so it is not uncommon that, by the next morning, there is no food in the house. The requirement to be at CDP activities by 8.30 am – that is, before the store opens – often means turning up hungry. *The CDP program in Warburton provides food on a regular basis* and supervisors note that food is the incentive for coming to work for many clients.

### **Housing**

From July 2010 the Ngaanyatjarra communities entered into a public housing tenancy arrangement with the Western Australian Government. Community Housing is run by the Ngaanyatjarra Council Regional Housing Program (NCRHP) on behalf of the government. At July 2016, \$100 per fortnight was deducted from most people's Centrelink payments – that is, a quarter of the average payment for rent alone. If a renter receives an eight-week NPP they inevitably fall into rental arrears. With no resources or savings to turn to, arrears deductions have to be set up once payments recommence. An NCRHP Tenant Support Officer comes into the WCO each week to find out who is off benefits and who is falling into arrears. Providing a safety net for this invisible poverty is virtually impossible and rental debt is now so vast that individuals, and their communities, will be permanently locked into this debt. Since July 2015 rental debt has grown to \$350 324 for the Lands as a whole, and \$88 224 in Warburton alone (ABS 2016).

Another aspect of household poverty is the inability to pay for electricity. When people incur an eight-week NPP the Energy Supplement of less than \$10 per fortnight also ceases. When there is no money in a household people cannot buy power cards, so families sit in the

dark inside the house with no lights and, in the freezing desert winters, no heating. Moreover, there is no capacity to save and no expendable cash for basic household goods such as fridges. Individuals are thus attracted to Centrelink loans. A loan gives people \$1000 but it also places them in debt. These loans have to be paid off within 12 months, and an individual cannot receive more than one loan per year. A typical Centrepay debt repayment is \$46.00 per fortnight. Loans are negotiated directly between the individual and Centrelink call centre staff without any independent or local WCO support. Some people try to negotiate these loans on a regular basis, but most do not understand the rules.

### **Fines enforcement**

One of the most severe downstream effects of incurring an eight-week NPP is the increased risk of imprisonment. For individuals charged with driving offences the penalty may be a Work Order, but, if they are on CDP, their Work Order cannot be undertaken simultaneously. This means that court fines are deducted from fortnightly Centrelink payments instead. Once an individual has these fines their drivers licence is cancelled and mandatory bans on driving ensue. Driving bans means that, if they drive (which they most likely will because they live in a remote community) and they are not licensed, it can go horribly wrong very quickly. In a small community where the police know everyone, the chances of being picked up for unlicensed driving are multiplied. Other orders for driving under suspension accumulate, and the vicious cycle becomes more deeply entrenched. Should they get an eight-week NPP and be unable to pay the fines, the Fines Enforcement Registry may imprison them for nonpayment of fines, in effect criminalising poverty.

Take the example of DL, a young man with no prior criminal convictions. He was driving into the small Western Australian town of Meekatharra when the speed limit dropped quickly. He was fined for driving at 110 kilometres per hour in an 80-kilometre-per-hour zone. This led to an automatic reckless driving charge and a six-month suspension of his licence. Within the following six-month period he was caught driving without a licence on two occasions, and each one compounded his original offence, leading to additional cumulative 9-month, and subsequently 12-month, driving bans. In that short period he also accumulated around \$4500 in fines for the offences. His trajectory is a problem because he now has two convictions for driving under suspension while on a court-ordered ban within a short time. If he gets a third, it is highly likely that the penalty will be a suspended order for imprisonment, plus an additional cumulative ban, or indeed prison. He is also subject to the fines enforcement

legislation, as well as imprisonment if he does not pay off his fines. Because he has entered into a time-to-pay period for his court fines this could be a major problem. If his CDP money is suspended under an eight-week NPP the time to pay his fines will cease, and that is the mechanism that will trigger the issuing of a warrant of execution for imprisonment. So DL would have to find the full amount of money to pay out his fines or potentially be subject to imprisonment.

### *The pretence that CDP is building 'work habits'*

CDP is undermining the skill base and incentive to work that was built up under CDEP. Through CDEP, the Ngaanyatjarra people (through the Ngaanyatjarra Council and the various affiliated community organisations) had, over many years of hard work and careful strategising, built up the work habits that the government claims to be seeking. For most adults in the Ngaanyatjarra Lands CDEP was their only experience of employment, and those on CDEP saw themselves as workers. The base rate of CDEP provided sufficient income for them to house, clothe and feed individuals and families. For those inclined to work more, the extra top-up benefits provided a decent weekly wage relative to the local economy. Now, under CDP, 'work' means 'activities' in the Men's Workshop or the Women's Arts and Crafts room. Work is also equated with 'reporting', rather than actually doing work. In the Men's Workshop there is no clear job description and no specialisation, and workplace pride is evaporating. Take DJ, a young man with a good work history and leadership qualities who was sent to the Men's Workshop. But DJ wanted to get a 'proper job' like working in the shire to keep himself busy, instead of with 'a big pile of workers'. As he says, 'I can do whatever they ask or offer for work, but not enough job, that's why. Only one job, RJCP [CDP] and Centrelink, but CDEP was every kind of job'.<sup>13</sup> As exemplified here, people are compelled to do activities that appear to have no purpose, just to get the hours.

In addition, employers in Warburton (e.g. health clinic, store) no longer want to employ CDP workers because the reporting requirements are too onerous. CDP is regarded as full-time, so missed days lead to penalties. Many workers build up skills but if they get an eight-week penalty they have to leave. Hence employers are unable to build a stable workforce. On the other hand, many people no longer want to work and are saying 'What's the point?'. Meanwhile, others are choosing to leave the community, often signing up with Centrelink in Laverton or Kalgoorlie where there are less onerous requirements and fewer penalties. Furthermore, CDP activities do not dovetail with community needs. There is no coordination

or future planning, or articulation with well-established community systems. For all the money spent on CDP, the community sees no positive outcomes. Moreover, the community has lost the on-costs that supported the community-based income management system. With the loss of these regular deposits into community funds, community savings are diminishing and the community as a whole is poorer.

### *Conclusion*

The fulfilment of the participation requirements to receive income support is now underpinned by the concept of mutual obligation. Meeting the terms of this compact relies on a shared understanding of the concepts and structuring mechanisms of mainstream Australian society, such as aspiration, success and education-to-employment transitions, coupled with a comprehension of the bureaucratic processes of government; most of this is completely foreign to Ngaanyatjarra society (Brooks 2016). Furthermore, CDP is predicated on an expectation of individual responsibility and literacy competence among remote Aboriginal people, the majority of whom lack the formal registers required for oral or written interactions with an external bureaucracy that is generally poorly informed about the complexities of remote life. Lastly, and ironically, the very authority that the Australian Government is seeking remote communities to exert over their membership to improve mainstream outcomes is being relentlessly undermined by the government simultaneously removing resources and a sense of control, and consigning community governance to mute irrelevance. In the Ngaanyatjarra communities a pessimism is spreading as people witness the dissipation of localised control and capacity building that have been carefully built up during the past 40 years. It is hard to imagine how they will be able to recover and reconstruct the organisational structures, and the sense of wellbeing and optimism incrementally established since first contact with Anglo-Australian settler society less than a century ago.

### *Acknowledgments*

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## How the ideas behind a universal basic income can inform the development of employment policy for remote Indigenous Australia

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While policy makers focused on Indigenous employment are in a quagmire with the failed CDP, alternative ways to think about employment and economic security are being explored through what is commonly called Basic Income (BI) (Ackerman et al. 2006, Atkinson 2014, Standing 2014, Davala et al. 2015, Altman 2016a). BI is a simple idea which provides every resident (children and adults) of a particular geographic location with a regular subsistence wage unconditionally (Ackerman et al. 2006). What is of interest to this collection of papers is how the foundational principles of BI could provide a way to rethink a new program to replace CDP. Specifically, a BI is sufficient to provide an income floor through times of job and wage insecurity (Standing 2014), and to support productive labour that falls outside of the capitalist work paradigm (Weeks 2011, Altman 2016a).

BI programs internationally have largely been successful in establishing an economic floor for extremely marginalised populations, such as found in the Basic Income Trial in India (Davala et al. 2015) and in unconditional cash transfers in southern Africa (Ferguson 2015). In the Global North, trials for a BI are positioned as a basic wage for every citizen, not only the marginalised and vulnerable in communities (Standing 2014). Altman (2016a) has also argued how CDEP in some locations across Australia acted as a BI, which helped ensure that people did not fall further below the poverty line, as well as supporting diverse and flexible forms of productive labour.

Given the fundamental shifts in Indigenous policy that have reduced options for community-based development and self-management in many locations, and the growing precarity of many people in the global economy, BI could open up new possibilities for Indigenous economic security and work, even in the current neoliberal framing of policy.

Specifically, BI is a way to broaden the understanding of work to include unwaged productive labour. The concept of labour is limited in Australian employment policy to involvement in the formal labour market. Yet many Indigenous people live in remote locations, where there are limited labour markets and so engage in productive work ‘on country’, undertaking customary (nonmarket) work for livelihood (Altman 1987, Altman

& Taylor 1989). By providing an economic floor, a BI would allow the freedom for people and communities to engage in such nonmarket productive activity alongside community development initiatives that are aligned to their aspirations and cultures (Davala et al. 2015). Research by Dockery (2011) clearly shows that, for many Indigenous people, wellbeing is improved when they have the freedom to live and work on country and have the freedom to engage culturally on their lands.

Considering BI within remote Indigenous employment policy is important because the fundamental principles underpinning BI could:

- ameliorate material poverty for people living remotely on traditional lands and currently engaging in productive yet largely nonmarket activity
- support dignified, flexible and culturally appropriate work without the shame and stigma associated with the punitive current and past Work for the Dole programs
- provide economic security that can be leveraged for sustainable community development such as social enterprise; economic security is also important given fluctuations in the global economy and shifts in domestic labour markets
- support individual and community agency, as shown time and time again in international community development research (Sen 1999, 2009).

Interestingly, Australian Indigenous policy already has a precedent for a BI through CDEP. CDEP was an alternative approach to address the massive challenge posed by Indigenous labour surplus in places with few employment or commercial opportunities. Specifically, there are four key features of CDEP that are worth highlighting when considering it as a form of BI:

- CDEP was community controlled and voluntary. In essence, an Indigenous community council or organisation opting into CDEP was allocated a lump-sum wages grant that was calculated on a per-participant rate that approximated welfare entitlements. On top of this, CDEP organisations were paid an amount to administer the scheme and related projects, and an allocation to purchase capital equipment.
- CDEP was a mechanism to allow flexible work arrangements for those not wanting to work full-time or in the formal labour market, and for those not able to do so. This flexibility was important because many Indigenous peoples are already fully engaged in productive work (such as care of country; see Altman 1987). This contradicts much popular discourse about

Aboriginal passivity, dysfunction and nonparticipation in work. CDEP also allowed for extra 'top-up' pay over and above base wages, so that people who were able to do additional work in CDEP or the formal labour market were encouraged to do so.

- CDEP had a community-development focus in that it not only created part-time work for Indigenous people in very remote situations, but also facilitated a degree of community self-management in social, cultural and economic development (Jordan & Altman 2016). Specifically, CDEP provided freedom for Indigenous organisations to pursue 'development' that was largely in line with local aspirations and priorities (Altman 2016b, Jordan & Altman 2016).
- CDEP provided work opportunities when the formal labour market was small or non-existent. Many Indigenous people living remotely in desert Australia or in the tropical savanna do not have access to mainstream labour markets (Productivity Commission 2015). The impacts of missing markets meant that CDEP participation was often the main source of employment income for Aboriginal and Torres Strait Islander people in regional and remote Australia. CDEP participation became a crucial institution for ensuring that people did not fall too far below the poverty line.

Alongside the economic security that a BI would provide, a renewed focus is needed to reconstitute and rebuild Indigenous organisational capacity across Australia. The Australian Government made an election pledge in 2013 to 'empower' communities, but instead has overseen escalating levels of direct government intervention in community affairs and the rapid demise of support for genuine community development. Engaging with a preselected handful of ideologically aligned Indigenous individuals and organisations, with the assumption that they speak on behalf of the wider population, is deeply problematic and does not constitute Indigenous-led development (Cooke & Kothari 2001, Cooke 2003, Klein 2015).

One option for rebuilding the Indigenous sector is to make unconditional stakeholder grants available to Indigenous organisations alongside an individual BI. This is different from the current approach, which is not delivering results. Rebuilding the Indigenous sector will require recognition that effective Indigenous grassroots organisations can address the aspirations and needs of Indigenous people.

Such a 'new' way of thinking about remote employment might ameliorate high levels of economic insecurity

and deep poverty experienced by Indigenous people, especially those living in remote locations. As demonstrated by elements of CDEP, a BI program would provide avenues for dignified and culturally appropriate forms of work. It would certainly be backed by a growing body of international research showing the importance of economic security for sustainable development.

### *Acknowledgment*

This contribution is based in part on collaborative research I have been undertaking with Jon Altman on universal basic income for remote Indigenous Australia.

### **Activities and authority in CDP: making them less punitive**

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In June 2015 the Minister for Indigenous Affairs, Senator Nigel Scullion, announced that RJCP would be significantly changed and renamed CDP. In so doing, he portrayed the change as a move away from Work for the Dole back towards the old CDEP scheme which, for more than 30 years, had employed Indigenous participants part-time (Scullion 2015). In fact CDP is an intensification of working for welfare, with participants remaining on social security income support and those aged between 18 and 49 with full-time work capacity being asked to undertake 25 hours per week of work-like activities over five days. This activities regime within CDP has combined with more centralised decision-making authority to dramatically increase levels of social security penalties, as documented by Fowkes (in the paper 'Impact of CDP on income support of participants', above). CDP has become a punitive imposition on income support recipients in remote areas, rather than an enabling redirection of welfare.

My question, therefore, is: how can CDP rediscover a less punitive regime of activities and authority that would move it genuinely back towards the enabling ethos of CDEP? I make two suggestions: reduce activities for those aged 18–49 with full-time work capacity back to 16 hours per week, and cut the link between participant attendance at activities and provider funding. I deal with each of these in turn before concluding on a more positive note about some current arrangements within CDP.

Activities regimes under CDEP were generally four mornings per week. This pattern dated from the late 1970s and was designed to counter any suggestion

that participants were being asked to work for less than award wages. A quotient of 15–16 hours was the result of dividing an amount equal to income support for a single unemployed person by a basic award hourly rate of pay. The widespread practice developed of CDEP employment being undertaken as four hours per day, four days per week, usually Monday to Thursday mornings. Although Minister Scullion acknowledged that, under CDEP, communities and individuals had been ‘quite well engaged’ and ‘felt at their best’, he rejected this former activities regime as inadequate when changing from RJCP to CDP in mid-2015. Four hours, four days per week was not quite seen as involving the ‘discipline’ of a ‘standard working day’ in which people ‘return after lunch’.<sup>14</sup> Scullion and the Coalition Government were ‘committed to the principle that activities should be 25 hours over five working days’. However, the minister went on to indicate that he would be ‘willing to review this in 12 months’ time’ (Scullion 2015).

I argue that it is now time to act on that willingness to review. The policy move to requiring work-like activities 25 hours per week over five days for CDP participants aged between 18 and 49 with full-time work capacity has done more harm than good. Penalties due to nonattendance at activities are disproportionately and unsustainably high, as documented by Fowkes. But an equal harm is that participants who attend activities under CDP do so, first and foremost now, to avoid penalties. The positive collective aspect of participants turning up and working in teams on activities of benefit to their community has been lost from view under CDP. I argue that a return to activities four hours per day, four mornings per week could be used to distinguish CDP from employment and to position its activities as for community benefit undertaken in return for income support.

Two of the great virtues of the activities regime under the former CDEP were that it avoided accusations of Indigenous people being asked to work for less than award wages, and it left afternoons and Fridays free for other priorities. These could include earning additional income through short-term, part-time work opportunities or ‘cultural’ activities such as visits to country, hunting and fishing, sports carnivals, ceremony or sorry business. This was a workable balance between the pulls of custom and modernity, between country and kin versus waged employment and other capitalist economic engagement.

During the two years of RJCP, my field observation suggested that the weekly activities regimes of CDEP had largely fallen into abeyance, but could at times be revived (Sanders 2016). After a year of CDP, I observe a

reinvigoration of activities but only a half-hearted move towards a five-day-a-week regime. Friday is still seen as a short day, when work is done under sufferance of being penalised because it is required by the rules. Preparing lunch for participants as an activity is more common than returning after lunch for more activities, as imagined by Minister Scullion. A sense of doing activities under sufferance has spread throughout CDP and given it quite a different ethos from the former CDEP. Whereas CDEP enabled Indigenous organisations to employ participants to do things for community benefit, CDP just requires individual jobseekers to undertake prescribed activities as some form of obligation to government for income support. Whereas CDEP was aspired to by participants as employment linked to, but sitting above, income support, CDP is part of the income support system and covers a far larger and less work-ready group of participants. Because of this more diverse group of participants CDP needs *more* flexibility and adaptability in activity requirements than the old CDEP, whereas in fact it has less.

This change towards a standardising, punitive ethos relates to the second aspect of CDP that I argue has also done more harm than good and should be reversed: the centralisation of authority. The old CDEP scheme had a very decentralised authority structure. It was up to local and regional Indigenous organisations to determine how they spent their grant and who was employed to do what. A framework of rules existed to direct organisations and protect individuals, but this still left much room for the local use of discretionary authority – such as when to enforce ‘no work no pay’ rules and when to respect other Indigenous priorities or a participant’s right to basic income support, both in CDEP and in the underlying social security system. This is why Tim Rowse described CDEP in 2001 as not just a ‘labour market’ program but also ‘a program of political development’ and ‘an instance of Indigenous political authority’ (Rowse 2001:39).

CDP, in contrast, is very centralised in its exercise of governmental authority, not only over participants but also over provider organisations. The framework of rules prescribes in detail how providers must deal with participants, directing participants to activities and then reporting any nonattendance at those activities on a daily basis. It is this very centralised, directive framework of rules and authority, together with the more diverse client base, which is leading to the disproportionate imposition of penalties on CDP participants compared with jobseekers under other programs, as documented by Fowkes. Another contributing factor is the funding arrangement under which provider organisations receive most of their money based on actual attendance

of participants at activities. This is not replicated in any other employment services program and makes budgeting for CDP providers almost impossible. A provider may in good faith organise activities and incur costs, but can later find themselves with no income to meet these costs if participants fail to attend. This is a form of financial risk shifting from government to providers that goes too far. Although it is reasonable to structure financial incentives to encourage provider performance, it is unreasonable to link funding post hoc to something that is beyond provider control. CDP providers need prospective certainty of funding in order to commit costs to participant activities. Provider organisations need to be able to exercise localised authority in relation to participant attendance at activities without thereby imperilling their own budgeting.

Minister Scullion's foreshadowed willingness to review aspects of CDP after 12 months needs now to be acted upon. The review needs to cover not just the activities regime of 25 hours, five days per week, but also the more diverse client base of CDP and the funding regime for providers which is based so heavily and directly on participant attendance at activities. Both the activities regime and the funding regime of CDP are currently doing more harm than good with this more diverse client base. They are making CDP very punitive for both participants and providers. They need to be reviewed, and made more supportive and enabling for the full range of CDP clients.

To conclude on a more positive note, Minister Scullion also announced in June 2015 that 'flexible arrangements for delivery' would apply to CDP participants living on outstations. These participants could undertake activities of their own devising without the constant supervision of provider staff (Scullion 2015). In the subsequent guidelines for CDP, this flexible delivery was clarified as applying to 'small communities with fewer than 10 job seekers'. In these circumstances, activities could be delivered in 'alternative ways that provide a benefit to individuals and the community or homeland, including through projects that are self-managed by job seekers' (Australian Government 2015:20).

These arrangements for delivery in small communities have opened up the possibility of a return to something like the activities and authority regimes of the old CDEP. Some outstations are now operating CDP like a basic income for community maintenance activities. This is not quite a universal, unconditional basic income, as Klein (above) advocates, but it is possibly moving back in this direction like the old CDEP. However, these arrangements are creating tensions between the operation of CDP in small versus larger communities. The policy aim should

be to make CDP everywhere less punitive and more enabling, not just in small communities with fewer than 10 jobseekers, but for all participants across CDP's diverse client base.

## **Moving forward with a better system: academic perspectives**

This concluding section summarises the views of the academic contributors to this Topical Issue. We suggest a way ahead by considering the following questions: What principles should inform a new program (or set of programs) to replace CDP? What role should conditionality play in any future arrangements? What might greater community control look like in practice, given the diversity of the regions included in remote employment services? Is the 'CDP 2' Bill a promising alternative? And what should happen next?

Among the contributors there is broad agreement – for example, on the need to revise the aims of the scheme to support diverse and locally valued livelihoods, and reject the idea that 'productive activity' necessarily means participation in a paid mainstream job. All contributors also agree that action to stop the unfair application of income penalties should be immediately taken, and that the influence of inflexible centralised bureaucracy on program delivery must be substantially reduced.

There are also some points on which the authors' views differ, especially on the issue of conditionality. These are complex problems and need much more discussion – including with those affected. In this vein, what we offer here is deliberately nonprescriptive. It is hoped that reading the perspectives canvassed might help policy makers, community organisations and CDP providers to think through a range of possible responses to this complex policy issue.

### ***What principles should inform a new program (or set of programs) to replace CDP?***

#### ***Broader aims***

The aims of a new scheme should be extended beyond the narrow focus on getting Aboriginal and Torres Strait Islander people into 'mainstream jobs'. Instead, the aims should be to (a) maximise people's ability to live a 'good' life in remote towns and communities, and (b) equip people to engage in the labour market in and beyond their community, if they choose to do so.



Any future program should recognise that people can be outside the formal labour market and still be undertaking activities that are valuable for their communities and families, and that are important to their livelihoods and wellbeing. In doing so, it will recognise the inherent value in Aboriginal and Torres Strait Islander people's social and cultural activities for the wellbeing of their families and communities, but also for Australia as a whole.

### ***Community control***

We should acknowledge that the large majority of participants in the current CDP are Aboriginal or Torres Strait Islander people, and any future program needs to be based on much better consultation and collaboration to ensure that their needs and priorities are properly addressed. In the haste to appear nondiscriminatory the government may have understated the cultural specificities of most participants and the particularities of their needs.

Aboriginal and Torres Strait Islander people in remote areas need to have ownership of the program and effective input into decisions about useful and appropriate forms of productive labour (i.e. what activities should be supported by the scheme), and the terms under which payments to individuals are made.

There is a vast difference between choosing projects and tasks that are identified as important by local people and being told to turn up somewhere every day for five hours and undertake activities that someone else has decided on. People need access to activities that are meaningful to them as individuals and for their broader community if they are to engage.

### ***Flexible arrangements***

The rigidity of the current arrangement of five hours per day for five days per week limits capacity to shape the program to local circumstances and contributes to the unacceptably high rate of penalties. Flexible work arrangements would recognise that not all participants have the aspiration or capacity for full-time hours or engagement in the formal labour market. Many people in remote communities have caring responsibilities, cultural obligations or complex barriers that mean that full-time work is not a realistic option.

A more flexible scheme would acknowledge that the best outcome for participants will differ, ranging from part-time participation in locally valued community development projects to full-time paid jobs.

### ***Appropriate remuneration***

To require this group of people to work 25 hours per week indefinitely in return for income support is seriously inequitable. At a minimum, where people are required to work, they should be paid an amount commensurate with the minimum wage. To do otherwise is to risk a return to the days when Aboriginal people were paid second-rate wages as wards of the state.

Participants need to have access to a 'living wage' that can fund the necessities of life in remote communities, and allow people to live productively and with dignity. They should have incomes that are sufficient to support their families, enable the local economy to function, maintain their health and not incur debts in perpetuity. Where people have insufficient income their capacity to develop skills for mainstream employment can also be substantially undermined.

If income penalties are applied they should be the exception rather than the current norm. Incentive structures need to be re-established for participants who wish to take on additional work. A 'base payment' could be made for an agreed period of part-time activity, with the possibility of working longer hours for additional pay.

### ***Job creation and community development***

Local job creation and community development are an essential part of the task of supporting wellbeing in remote communities. A new approach should provide better support for job and activity creation via locally valued enterprise and community development projects.

What is defined as productive labour under future arrangements needs to be negotiated with communities; job creation and community development activities should focus on opportunities that reflect local values and aspirations.

### ***What role should conditionality play in any future arrangements?***

This is the issue on which the contributors to this Topical Issue have the most differences of opinion. We all agree that the current penalty regime is inappropriate and detrimental. But we have different preferences for reform. Among us we see several broad possibilities.

A BI scheme would provide all unemployed people with an unconditional payment without requiring participation in program activities. The scheme could provide material and administrative support for culturally appropriate and



locally valued activities through additional block grants, but participation in these activities would be voluntary and the BI would be paid at the same rate irrespective of how people chose to use their time.

A potential benefit of this approach is in moving away from the use of conditionality to try to ‘nudge’ or coerce people into particular behaviours that have been decided on by people far removed from the lives and aspirations of those affected. In that respect, it could support a move towards self-determination or – to use Sen’s (1999) words – support for a ‘life one has reason to value’. It would also give people economic security where there is formal labour market shortage or precarity. This approach is effectively how CDEP functioned on some small homelands and outstations where there was little or no active supervision of work activities. Participants in those locations nonetheless engaged in productive labour on country, working on a range of programs for individual, household and community benefit.

A second option would include something like a BI component or basic living wage, but people engaging in locally determined program activities for an agreed number of hours would receive additional income up to the ‘full’ rate (there could also be further ‘top-up’ pay if people exceeded their agreed minimum hours). People’s capacity to engage in activities would be assessed and the minimum number of work hours to receive the full rate of payment adjusted accordingly. This system could also enable flexible movement in and out of program activities without a financial ‘penalty’, but those not participating (but with the capacity to do so) would be on the lower base payment. This would enable people to fulfil social and cultural commitments (funerals and ceremonies) and receive the base payment, and then be able to return to program activities and the full payment.

The benefit of this approach is that it would shift the focus from negatives (‘failure to fulfil obligations’) to positives (‘opportunities to earn and contribute’), and so remove the punitive focus that currently leaves some people feeling undermined, humiliated, devalued and controlled. Like a BI, it would also shift administrative resources from monitoring compliance to facilitating economic and community development, as well as providing a minimum level of economic security.

A third option would include some form of penalty where people did not meet their agreed participation requirements and did not have a reason that was accepted locally as valid. Many residents in remote communities do support some kind of penalties if these are perceived as fair and reasonable, and CDEP ‘no work

no pay’ provisions were widely accepted and applied. The principle of self-determination would therefore suggest that a scheme including penalties as part of a broader engagement strategy should not be ruled out.

There are risks to this third approach in that it may become overly punitive, and determining ‘valid reasons’ for nonparticipation will always require some judgment of individual behaviour. But any conditionality that is applied should be (a) proportional to the benefits and opportunities for participants, and (b) based on the principle of reciprocity at the local level, not compliance with centrally prescribed rules. Key differences from the current approach would be that the nature of penalties and incentives would be designed in collaboration with communities, and judgments about valid reasons would be based on local knowledge. Similarly, activities would not be required for their own sake. Engaging the community in determining rules (where these are desired), rather than imposing them from outside, is more likely to mean that these rules are embraced and effective. If the arrangements do include penalties these need not be income based (they could, for example, mean forfeiting participation in some other locally valued activity). The principle focus should always be on ensuring that work projects offered are of sufficient value to keep people engaged. Most program resources should be invested in these positive projects rather than in penalising people who are disengaged.

There will also be other versions of conditionality that we have not canvassed. Although we have different views on which direction is most promising, we all agree that the current approach is not working and that, at this stage, all options should be on the table. Proper consultation with different communities or regions in developing new arrangements could lead to a number of trials with different types of incentives or penalties, or a trial BI program that would make unconditional payments. Such consultation and trials could radically expand our knowledge of ‘what works’ beyond the standard assumptions about human behaviour relied on by bureaucrats and policy makers far from the field. It is widely accepted that a ‘one size fits all’ approach to Aboriginal and Torres Strait Islander policy has been part of the problem, so investing in a better understanding of what works in different regions would be of value.

***What might greater community control look like in practice, given the diversity of the regions included in remote employment services?***

Many of the papers in this collection have advocated for greater ‘community control.’ It is important to consider

community control in both program design and program delivery. The diversity of regions is one reason for the need for more community input into program design, and there may be a case for returning to a scheme specifically targeted to Aboriginal and Torres Strait Islander people. (It should be noted that CDP includes some regions with large non-Indigenous populations.) The current approach to Indigenous policy making often sees government consulting with only a few individuals, or relying on a 'fly in, fly out' model of community consultation that excludes most Aboriginal and Torres Strait Islander people from effective input into policy or program design.

One of the consequences of the policy direction of the past decade is the loss of many local Aboriginal and Torres Strait Islander organisations, and the loss of institutional capacity in others. Additionally, the loss of ATSIC as a representative body and mediator of funding has had a detrimental impact on the ability of remote communities to have a voice. Nonetheless, there are many organisations with insight into the needs of remote-living Aboriginal and Torres Strait Islander people that should form part of a comprehensive consultation strategy, ranging from local community councils and CDP providers to regional bodies, land councils, peak organisations and national representative bodies (the National Congress of Australia's First Peoples). In the future, reconstructing the scaffolding to enable genuine local input into program design may entail rebuilding something similar to ATSIC, where a hierarchy of locally informed opinion and understanding contributed to national policy making.

In some regions, CDP is already delivered by local Aboriginal and Torres Strait Islander organisations, although their autonomy has been severely hampered by a prescriptive CDP contract. In many regions, however, there is much less capacity for local, community-controlled delivery of services than there was a decade ago, and much of the remaining capacity has been reoriented to managing the administrative demands of government rather than everyday demands of the regions and the members. There is a need to rebuild the capacity of the Aboriginal and Torres Strait Islander community sector and value its contribution on its own terms, not just as an instrument of government policy.

Nonetheless the most appropriate organisations to deliver a new program will not necessarily be local Aboriginal or Torres Strait Islander organisations. They might be regional organisations (either Indigenous, or with an Indigenous board or advisory committee), or 'facilitating partners' contracted by government to work with local community groups to develop and implement

projects and initiatives. Whichever organisations deliver the scheme, it should be an explicit aim of policy to work on priorities and projects that are locally identified, and to build capacity of local groups to deliver them. There will also need to be non-Indigenous creative and intellectual input to reconstruct this new institutional world. Unfortunately, that capacity has also diminished during the past decade, as has government responsiveness to independent policy advice.

On a practical level, community control will require stepping back from a reliance on the Centrelink bureaucracy, which is not serving communities well. (It is possible that this could be improved with a restoration of proper workload funding to Centrelink, but we see no signs of that happening.) Moving away from reliance on Centrelink would entail a return to wages-based or minimum guaranteed income schemes. It would enable a localised form of 'no work no pay', and also ensure local oversight of the provision of basic necessities and access to services in some of Australia's poorest communities.

One of the things we can learn from CDP (and RJCP before it) is that commitments to 'flexibility' are meaningless if governments insist on detailed daily monitoring of the activities of both providers and participants. Whatever scheme replaces CDP must not prioritise excessive accountability to bureaucrats over accountability to communities. We should also recognise that increasing community control over program design and implementation will not necessarily produce a 'perfect' program. However, drawing more effectively on local knowledge will be a substantial improvement on the current model and allow further adaptive modification for local conditions.

### *Is the 'CDP 2' Bill a promising alternative?*

In 2015, the Minister for Indigenous Affairs, Nigel Scullion, introduced legislation that would enable him to establish different social security rights and obligations in specific remote areas. The minister argued that, to increase community control over CDP, it is necessary to make CDP providers responsible for administering penalties (just as CDEP providers could previously administer 'no work no pay' by deducting wages for days when participants did not work). However, his proposal was fundamentally different from CDEP in that CDEP was a wages-based system that did not involve a dilution of social security rights. Individuals in CDEP who were unable to meet the requirements for a full wages payment could still fall back on a social security safety net.

In contrast, the minister's proposal was that participants would stay within the social security system, with providers able to determine participants' social security entitlements. To enact this, the Minister for Indigenous Affairs would have been empowered to set different rules for remote Australia in relation to people's right to access social security. In practice, then, what he advocated was not a devolution of power but a centralisation of power in the hands of the minister who may or may not act in the interests of, or with the consent of, those affected. Given that many CDP providers are nongovernment agencies (and some are for-profit providers), this would also have facilitated the privatisation of a mainly Indigenous segment of the social security system by stealth. This raises serious concerns, and we remain very wary about removing people in remote areas from legislation regarding basic citizenship rights.

Local organisations are better placed to develop participation rules that are appropriate to the setting. Often, they are also better able to tailor activities to individuals. However, it is dangerous to allow basic rights to be applied differentially to different citizens, particularly in the absence of legislative checks and balances (such as a 'no disadvantage' test). And, despite the framing of this legislation as an increase in local control, there is no sign of a shift away from centralised decision making over things like hours of Work for the Dole or increased discretion to excuse nonattendance. More acceptable ways to increase community control over program delivery could include (a) the reintroduction of a locally managed wages-based scheme for some proportion of participants, sitting alongside the social security system, or (b) use of a community-controlled model of service delivery (discussed above) to flexibly tailor obligations to better suit local needs within the framework of existing social security legislation.

### *What should happen next?*

We have all, in different ways, argued the need for substantial change. How might we get a better result from the next attempt to develop and implement a new approach?

Short-term changes should be introduced to stop the exponential rise in penalties being applied to participants. This might involve placing a moratorium on breaching while there is proper investigation of what is going wrong. First steps could also include (a) reducing the weekly hours of mandatory activities to a level more aligned to those applying elsewhere, and (b) reinstating local authority over when hours are worked and when penalties are appropriate, as well as local community input into the

nature of activities. These would reduce breach rates and are likely to encourage greater engagement.

Simultaneously, work should be undertaken to design a scheme to replace CDP. Although this is an urgent task, the design process should not be rushed. It should be based on genuine collaboration, particularly with Aboriginal and Torres Strait Islander people and organisations, as well as CDP providers, who have considerable on-the-ground experience. Consultation to inform this process must be detailed and sustained and allow input from first principles in program design. Some level of regional planning is needed, but providers will also need to employ the right kind of people who have vision and insight.

There is some recognition now, even within government, that many positive initiatives and much institutional capacity were lost with CDEP. Unfortunately, corporate and participant memories of CDEP are declining and fading. If something like a reformed and improved CDEP is to be reinstated we need to reactivate and rebuild existing organisational capacity and memory.

In the end, the most sensible way forward may be a number of small trial schemes (just as CDEP was trialled in 1977). A number of organisations are already working towards new proposals. If several alternative models emerge they should not necessarily be seen as competing; indeed, if the local control that all contributors to this Topical Issue are calling for is taken seriously, then multiple trial models might be a positive first step in this direction.

## Notes

1. <https://www.dpmpc.gov.au/indigenous-affairs/employment/community-development-programme-cdp>
2. In this Topical Issue, we use the word 'activities' broadly; it may include, but is not limited to, the narrower meaning of the word as Work for the Dole activities.
3. Commonwealth Hansard, Parliamentary Debates, House of Representatives, 10 February 2016, p. 1171 (M Turnbull speech to deliver the 2016 Closing the Gap report).
4. At February 2016, there were 26 Indigenous not-for-profit organisations, 3 non-Indigenous not-for-profit organisations, 3 local government organisations and 6 private providers. Although Indigenous organisations make up the majority of providers, they deliver in fewer than half of the regions. Private providers tend to have larger contracts over several regions.
5. Commonwealth Hansard, Senate Finance and Public Administration Legislation Committee, 21 October 2016, p. 57.
6. 'Jobseekers' is the term used by the Australian Government to refer to recipients of benefits that have a participation obligation. At present, they include people on Newstart Allowance, Youth Allowance (Other), Parenting Payment with a youngest child of 6 years or older, Disability Support Pension under 35 years with compulsory requirements, and Special Benefit subject to an Activity Test.
7. Commonwealth Hansard, Parliamentary Debates, Senate, 14 September 2016, p. 897.
8. Commonwealth Hansard, Finance and Public Administration Legislation Committee, 21 October 2016, p. 57.
9. For example, Borland & Tseng (2011).
10. This paper draws on ethnographic research (interviews and participant observation) undertaken in the Ngaanyatjarra Lands over many decades. The case study (Kral 2016) focuses on Warburton where the offices of the Shire of Ngaanyatjarraku are located. A mission was established at Warburton Range in 1934 and operated until it was relinquished in the government in 1973.
11. Two of the Ngaanyatjarra communities lie in other shires. Cosmo Newberry Community lies within the Shire of Laverton, and Kiwirrkura Community lies within the Shire of East Pilbara.
12. Before the introduction of the concept of 'income management' associated with the Northern Territory Emergency Response (the Intervention), the Ngaanyatjarra communities had operated their own form of income management to assist their communities to sustainably and fairly manage the impact of poverty and disadvantage. Ngaanyatjarra people and communities progressed by members giving up a measure of individual benefit in favour of the common good. CDEP provided for payroll deduction to support a range of community programs, including health, youth and education initiatives; funeral costs; and emergency transport funds; as well as essentials such as rent and electricity.
13. In a CDEP skills audit undertaken in the Ngaanyatjarra Lands in 2004, more than 20 CDEP jobs/locations were listed for Warburton.
14. These phrases do not appear in the formal speech on the minister's website. They are drawn from an informal transcript of the minister's actual speech as delivered at the RJCP business meeting, which was more wide-ranging and involved significant extemporising.

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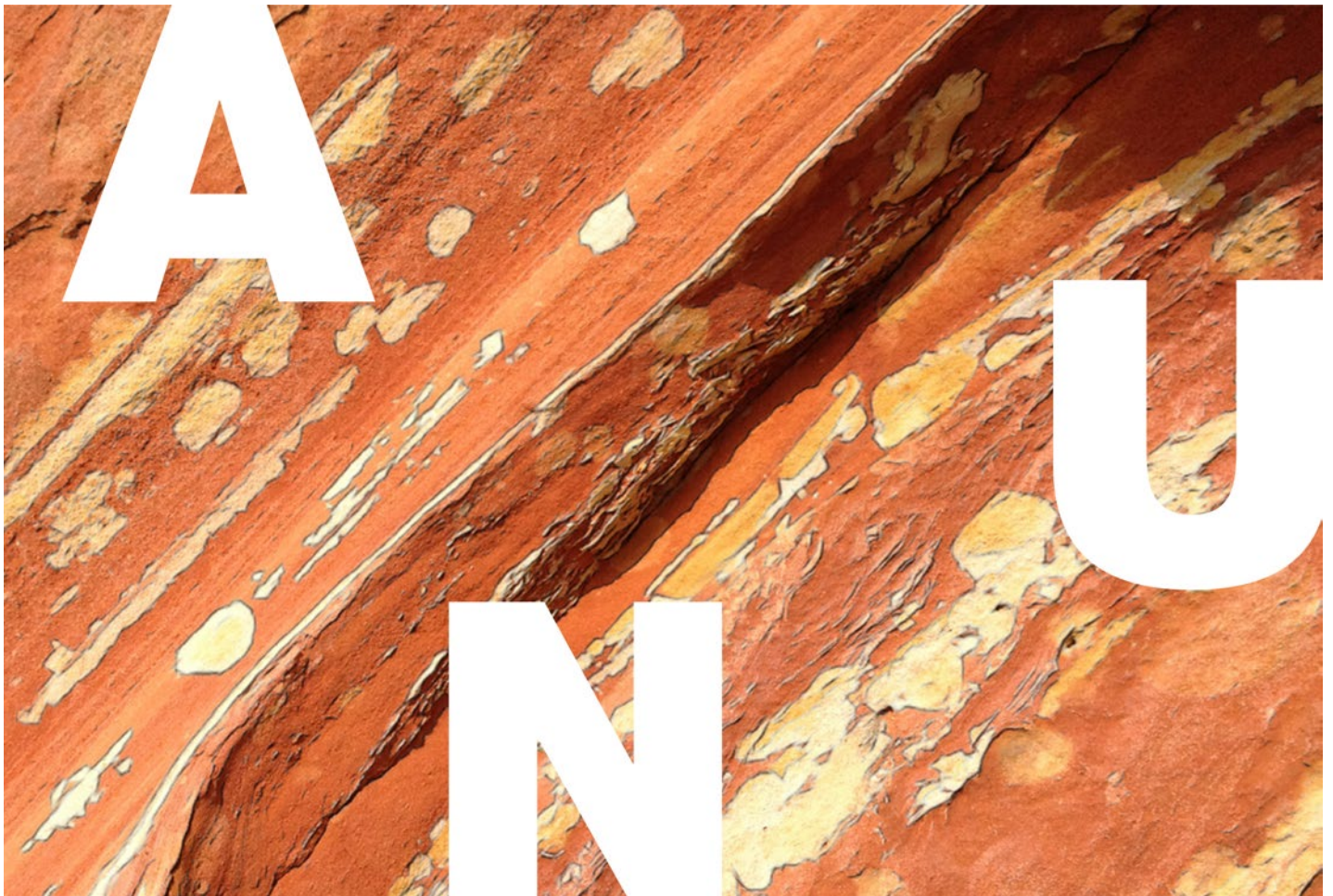
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ACADEMIC PERSPECTIVES ON THE  
FORREST REVIEW: CREATING PARITY  
E. KLEIN

Centre for  
Aboriginal Economic  
Policy Research  
ANU College of  
Arts & Social  
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The Centre for Aboriginal Economic Policy Research (CAEPR) undertakes high-quality, independent research to further the social and economic development and empowerment of Indigenous people throughout Australia. For over 20 years CAEPR has aimed to combine academic and teaching excellence on Indigenous economic and social development and public policy with realism, objectivity and relevance.

CAEPR is located within the Research School of Social Sciences in the College of Arts & Social Sciences, at The Australian National University (ANU). The Centre is funded from a range of sources including the ANU, the Australian Research Council, industry and philanthropic partners, and Australian, State and Territory government departments.

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The Australian National University  
October 2014





# Academic perspectives on The Forrest review: creating parity

Compiled by E. Klein

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## Compilation note

This topical issue has not undergone any external academic review and presents the responses as they were submitted. Individual authors reviewed each other's papers as part of the submission process.

## Introduction

*The Forrest review: creating parity* was released on 1 August 2014. It was commissioned by the Prime Minister, Tony Abbott, on his election in September 2013, in line with a pre-election commitment to examine Indigenous training and employment in Australia. A number of academics met at the Centre for Aboriginal Economic Policy Research (CAEPR) to discuss the recommendations made in the Forrest Review. As a result of these discussions, some of the academics made submissions as part of the next public consultation phase of the process, all critically engaging with the review from specialist disciplinary perspectives and grounded expertise. The views expressed are those of the individuals, as is clearly evident in the diversity of perspectives presented in this Topical Issue.

While the submissions presented in this issue are on the public record, CAEPR academics thought that it would be useful to consolidate these perspectives in one document to ensure their longer-term availability, as a resource for other researchers and for teaching purposes.

This CAEPR Topical Issue is a compilation of 15 submissions. Each faced the challenge of responding briefly, in a stipulated two-page maximum, to the nearly 200 recommendations in the 250-page Forrest Review. Scholars have responded in their own way, retaining intellectual autonomy, while at the same time contributing to the collective exercise.

This Topical Issue provides an overview of a range of issues, shortcomings and challenges identified by individual scholars as requiring urgent attention. A number of submissions highlight the unintended consequences and negative impacts on the lives of relatively vulnerable people that might result from blanket implementation of recommendations in the Forrest Review.

The submissions in this Topical Issue are arranged by thematic focus to best reflect the key emphasis and subject matter of each submission. Thematic areas include the overall direction of the Review, the methodology used, employment and training issues, income management, governance and community engagement, education and remote development. This does not cover all of the Review's recommendations but rather reflects the ambit that this select group of scholars chose as their collective priorities.

## 1 The direction of the review

*Submission by Dr Julie Lahn,  
Research Fellow, CAEPR*

Anthropology teaches us to take symbols seriously. The use of symbols as fundamental vehicles of ideas, emotions and values is a deeply human activity. Symbols make visible the diverse assumptions, interpretations and normative world-views embedded in cultures.

It is impossible to peruse a copy of *The Forrest Review* without being immediately struck by the prominence of its central symbol: the wheel. It appears as a graphic motif on every page of the report. The wheel is elaborated as a model for the report's central recommendations ('the Forrest wheel', p89), a model reproduced at the beginning of every chapter.

The report explains the choice of this symbol explicitly: "The wheel is one of the greatest inventions of man [sic]" (p12). As such, it is emblematic of Forrest's desire to drive 'transformational change' (p114) in Australian approaches to Indigenous disadvantage. Among Western industrialized nations the wheel has an established presence as a symbol of progress and movement; in English 'wheel' forms a ready metaphor for processes or forces that cause particular things to happen or make progress: 'set the wheels in motion', 'keep the wheels turning', 'shoulder to the wheel'.

It's notable that anecdotes about Forrest's personal history and experiences permeate this report, often buttressing points being presented. In that spirit, it is reasonable to observe that as an industrialist and mining magnate, it is perhaps understandable Forrest would instinctively reach for this symbol – he is himself, after all, intimately involved with the 'wheels of industry', a renowned 'wheeler and dealer' and certainly a 'big wheel' in business circles (increasingly also it seems in public policy).

But is the wheel an appropriate central image in a report that seeks to map future directions for Indigenous Australians? It is well known that Aboriginal and Islander people are among numerous Indigenous populations throughout the world who did not make use of the wheel before colonization. Historically, this has formed part of pejorative characterizations of Aboriginal culture and society, where the wheel becomes a technological marker of 'civilizational' progress. Prominent Australian politicians past and present have made use of this trope, notably Tim Fischer and Philip Ruddock (Offord et. al 2014:133; Muecke 2004:156).

At best, championing the wheel as a symbolic motif to communicate one's zeal to transform the lives of Indigenous people suggests a lack of sensitivity or humility. At worst, it points to a lack of openness to alternative metaphors rooted more strongly in Indigenous cultural worldviews. In either case, *The Forrest Report* appears to be the latest in a long line of reports presenting a non-Indigenous vision to be enacted upon Indigenous groups. To mix metaphors, the 'Forrest wheel' seems more emblematic of 'pushing one's own barrow' rather than as a steering wheel with Aboriginal people in the driver's seat.

The report's fundamental shortcoming, consistent with the central position it gives to a non-Indigenous cultural symbol, is the lack of attention given to the manner in which Indigenous groups articulate their own preferred life directions particularly in the face of agendas of development and economic transformation. One Indigenous scholar refers to these as "the external imperatives – those endless sets of conflicting and competing interests – [which] continue to intersect and condition our possibilities for acting in our own best interests" (Nakata 2004:155).

There is abundant research evidence to suggest that local responses to such imperatives are deeply socio-cultural as well as strategic, and cannot be reduced simply to 'mutually exclusive alternatives defined by others' (Blaser 2004:33), such as this report's contrasting of welfare dependency versus involvement in the 'real' or 'mainstream' economy. Rather, Indigenous economic imperatives involve diverse forms of often creative and artful engagement in a manner that seeks both to express and sustain valued aspects of local identity and autonomy and to transform the power asymmetries intrinsic to the lived situation of minority Indigenous populations.

In relation to this general point, the report fails to demonstrate an appreciation of the significance of local cultural and social realities in shaping the existing forms of economic activity in which Aboriginal and Torres Strait Islander people already engage. The report states that: "The accepted social norms for families and communities all across Australia [include that] adults go to work or are meaningfully engaged" (p51). This simple assertion masks a key area of considerable social and cultural complexity. Critically, what constitutes 'meaningful engagement' is likely to vary considerably across a range of Indigenous groups and settings. But it certainly includes efforts to maintain local culture as a profoundly held value deeply implicated in visions of autonomy in defining the meaning of what constitutes a good life

(Peterson 2005:7). Values of this sort operate alongside predominantly market-related perspectives of economic development as promulgated by this report and indeed, by government. How do these shape the participation of individual Aboriginal and Islander people in diverse forms of employment?

The report is generally marred by an under-thinking of the cultural character of economic activity among Indigenous people, including more detailed accounts of motivations and aspirations, in order to identify and make sense of varied modes of Indigenous participation in economic realms.

Critical questions that need to be addressed would include: how is work defined and understood? What notions of work related life-trajectories exist among Aboriginal and Torres Strait Islander people (in urban, rural and remote settings)? What motivations drive contemporary participation in a range of economic spheres? Do specifically Indigenous economic practices exist in a range of given settings? How might these factors be influencing the local implementation of economic and development goals?

Data of this kind would allow critical topics to be addressed that are routinely overlooked in mainstream frameworks of Indigenous development and welfare such as those forming part of the *Overcoming Indigenous Disadvantage* (OID) report produced by the Productivity Commission for the Council of Australian Governments (COAG), or the National Aboriginal and Torres Strait Islander Social Survey. There is an urgent need to address the quantification bias that currently dominates these frameworks, a bias which perpetuates a deficit model of Indigenous development that is often viewed as inimical to a fuller understanding of Indigenous realities, priorities and views in relation to economic activity (Peterson 2005:13; Taylor 2008:117; ACFID 2011).

Many Indigenous people are profoundly aware of the challenge of understanding and mediating the 'complexities of the intersections of different [competing sets of] interests, different histories and traditions, knowledge systems and discourses' and recognize these as a necessary part of 'negotiating our future' (Nakata 2004: 155, 173). What is vital in moving forward is Indigenous participation and partnership rather than externally-driven prescriptions and proscriptions. The report presents little evidence beyond the anecdotal that such participation was elicited. Neither does it provide sufficient detail of community consultation processes to assess whether these were more than perfunctory. Indeed, the wholesale lack of direct quoting of Indigenous

people is shockingly deficient. In light of these major shortcomings, the represented motif of the wheel cannot be seen as a metaphor for progress but instead symbolizes the report's failure to substantially incorporate diverse Indigenous visions for positive change.

*Submission by Emeritus Professor  
Jon Altman, CAEPR*

I provide this submission as an academic and practitioner who has undertaken research on Indigenous policy and development for nearly 40 years. I have chaired policy reviews for governments so realise that the task is challenging, especially in the cluttered and highly politicised policy field that is Indigenous policy today. But I was sceptical from the outset that the Forrest Review would deliver owing to a series of issues that I raised quite transparently in November 2013<sup>1</sup>. It is disappointing indeed that this prediction has proven correct for the following twenty reasons among others:

- 1 The Forrest Review, philosophically, blends 1961 assimilation policy ideas with 21st century neoliberalism focusing on the individual and the family as if policy can be removed from the community and society and operating on the basis of economic rationalism alone.
- 2 The Review irresponsibly over-reaches its terms of reference and so rather than delivering something useful on training and employment, it seeks to reshape the Indigenous policy framework without engaging with the new Indigenous Advancement Strategy that has its own significant shortcomings (Altman 2014).
- 3 The Forrest review is homo-topic, it promulgates an imagined utopia of sameness, which for many Indigenous people is a prospect tantamount to cultural and identity elimination.
- 4 The Review is shrewd, there are no costings, there is no timeline to parity and there are few clear examples of success or sustainable practice, it is very 'problem' and 'deficit' focused.
- 5 The Review is conceptually flawed because it assumes that all Indigenous people operate like *homo economicus*, western rational economic man, influenced by dollar calculations and so amenable to reward and punishment to alter behaviours and norms. It proposes an extreme form of risky social engineering.
- 6 It has little to say about land; 33 per cent of Australia is currently under some form of Indigenous title. Only half a page out of 250 is devoted to alternative forms of making a livelihood that might be welcomed by many Indigenous people owning or living on this land base. The Forrest Review appears at loggerheads with the Joint Select Committee report *Pivot North: Inquiry into the Development of Northern Australia* that over-optimistically sees a robust development future for north Australia and Indigenous labour.
- 7 The Review makes crucial empirical errors as demonstrated by Nicholas Biddle<sup>2</sup>. The underlying assumption of the Review that Indigenous people with similar levels of education as non-Indigenous people would experience similar employment and income outcomes is not supported by empirical evidence and sophisticated statistical analysis.
- 8 The Report is empirically selective and so avoids referencing Bray et al 2012 on the limited evidence of any benefits from New Income Management or recent research on the limited efficacy of SEAM (Justman and Peyton, 2014); and avoids referencing analysis by Mike Dockery (2011) that culture, language, connection to country, participation in self-provisioning actually improves wellbeing according to Indigenous people.
- 9 The Report and its promoters slip into falsehoods, for example, Alan Tudge co-reviewer with Andrew Forrest in addressing the Sydney Institute on 5 August 2014 stated that community social housing is free, to erroneously suggest that this is a disincentive to labour migration.
- 10 The narrative style of the Report is conflicted, sometimes referring to the first person 'I', at other times the second or third person. It seems to have been written by committee—consultants, staff of FMG, staff of DPMC, bankers, Minderoo and others.
- 11 The Review process is problematic; it lacks analysis of submissions except to show that few came from remote Australia. It is unclear how many addressed employment and training issues only? It references just 5 out of a reputed 349 submissions but only 270 are actually available, a number on the DPMC website [including number 1] are blank.
- 12 The Review has a great deal to say about the need for transparency recommending a new CreatingParity website but is hypocritically very opaque: What



did it cost? How were consultations framed and conducted? How were submissions used?

they are being shifted from CDEP to welfare in the name of imagined 'real' development.

13 The Review is keen to destroy any remaining vestiges of the self-determination and ATSIC eras, three times it states that even though people do better on the Community Development Employment Program (CDEP) than the dole they should be on the dole (and in greater poverty) in the name of 'equality' and 'real' jobs.

This is the most unsatisfactory review of an area of Indigenous policy I have seen. Andrew Forrest suggests that the Review should be implemented in its entirety or not at all. In my view the latter is preferable. My sole recommendation would be that the Review is subject to a parliamentary inquiry to properly gauge its conceptual foundations and conduct, acceptability to Indigenous Australians, and the likelihood that it will be of any value based on available empirical information and analysis.

14 The Review focuses almost entirely on remote Australia suggesting that 200 discrete communities should be targeted, even though a recent published evaluation of the National Partnership Agreement on Remote Service Delivery indicates that targeting 29 communities has made little difference.

15 The Report's focus on expensive surveillance of Indigenous Australians assumes all welfare beneficiaries are made up of the undeserving poor—and that disciplining parents, children, labour, the unemployed, and expenditures will magically move them towards imagined parity.

16 The Report assumes that the state can deliver, but ignores evidence that the last five year plan, the NTER Intervention, was an expensive mistake that did not deliver promised parity. The need for community organisations to be properly resourced to deliver services is ignored.

17 The Review promulgates falsehoods about costings suggesting that 'these solutions are not expensive'; and yet it provides no assessment of capital shortfall—schools, hospitals, health clinics and houses; or of human capital shortfalls—poor health, inappropriate education.

18 The Review avoids expert assessment that explicit instruction has to be a part of a wider educational toolkit especially if education is to empower politically-engaged citizens rather than automatons for precarious labour.

19 The Review avoids consideration of structural explanators of disadvantage—a history of neglect and exploitation; discrimination; and differences in norms, values, practices, every day culture.

20 The Review avoids any discussion of the human costs that are currently being wrought on actually existing community and household economies as

## 2 Methodology of the review

*Submission by Dr Nicholas Biddle, CAEPR*

Education is important for getting a job. There is absolutely no doubt about that, with countless academic studies (Peracchi 2006), and popular anecdotes, showing that those with relatively high levels of education are more likely to be employed than those with relatively low levels. Furthermore, wages increase with education, especially at the lower end of the education distribution. This appears to be the case for Aboriginal and Torres Strait Islander (Indigenous) Australians as much as the rest of the population (Biddle and Cameron 2012).

When asked to look at potential pathways to employment equity between Indigenous and non-Indigenous Australians, Twiggy Forrest and his review team are therefore justified in identifying the clear role that education is likely to play. Indeed, right up front on page iii, it is stated that ‘Given the fact that there is no employment gap, or disparity, for first Australians who are educated at the same level as other Australians, the full force of our community leaders and governments must pack behind the achievement of parity in educational outcomes as a national priority.’

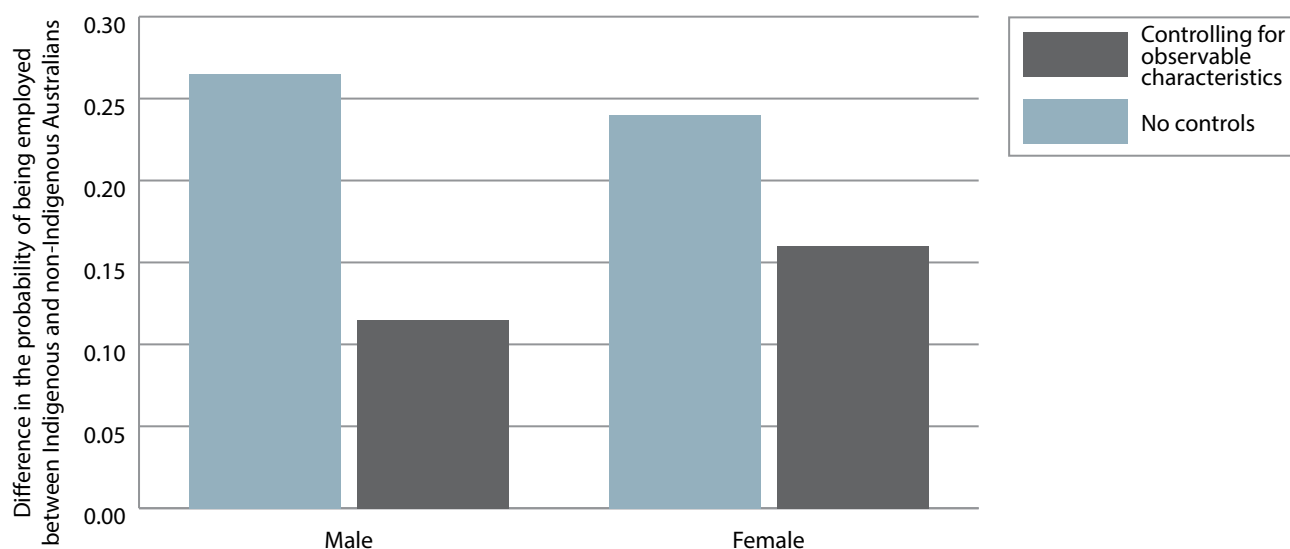
Given the prominence of this quote, it is worth considering what support there is in the data for this assertion. The most robust way to test for the effect of a particular program or action on individual outcomes is to randomly assign the intervention to one group but not another. This is rarely feasible in the context of education. In the absence of such experimental data, perhaps the best way to look at this question is through

an econometric-style regression analysis. Through this technique, we are able to compare the employment outcomes of an Indigenous person with that of a non-Indigenous person with the same level of observable characteristics. That is, if you have two people of the same sex and age, with the same level of education and English language ability, but one Indigenous and one non-Indigenous, are they as likely to be employed as one another?

The short answer to that question is no, unfortunately they are not.

Fig. 1 gives a useful summary with full details available for download<sup>9</sup>. For males and females separately, the first bar (in grey) is the difference between Indigenous and non-Indigenous Australians aged 15 to 64 in the probability of being employed without controlling for any observable characteristics. The second bar (in black) is the difference once age, education attainment (school and post-school) and self-reported English language ability is held constant – that is, comparing like with like. These are known in the literature as marginal effects, and are a standard way to look at differences between two populations. The smaller the bar, the smaller the gap in employment outcomes.

Education and other demographics clearly matter, that is why the black bars are smaller than the grey bars. But, what the census shows is that when you control for education, age, and self reported English language ability and focus on those who were not studying full time, there is a large and statistically significant gap between Indigenous and non-Indigenous Australians in the probability of employment. It is true that the gap reduces,



**FIGURE 1** Differences in employment by education

but there is an employment gap for first Australians who are educated at the same level as other Australians.

These differences matter. While there is certainly scope for debate about the recommendations regarding education (and an urgent need to properly evaluate any that are implemented), no one is seriously arguing that education disparities between Indigenous and non-Indigenous Australians aren't a key determinant of employment disparities. But they are not the only determinant, and this is where full use of the evidence matters.

Getting the evidence wrong leads to less than robust policy recommendations. Saying that there is no disparity in outcomes once education is taken into account puts too much of a burden on the education system and lets other aspects of Australian society off the hook. If education completion is all there is, then we don't need to worry about labour market discrimination (Biddle et al 2013), or the burden of caring responsibilities (Yap and Biddle, 2012) and disability (Biddle, Yap and Gray, 2013). We don't need to look at the criminal justice system and the over-representation of Aboriginal and Torres Strait Islanders in our prisons. It also ignores the very different labour markets that Indigenous Australians have access to, especially those living in remote and very remote regions.

Assuming erroneously that education explains all the gap also leads us to a very instrumental view of what education is about. Getting a job is important, but it is not the only reason why a person goes to school, undertakes a degree or seeks out an apprenticeship or traineeship. Those motivations may be quite different between Indigenous and non-Indigenous Australians and even more importantly within the Indigenous population made up of individuals and groups with diverse aspirations. Ignoring these important intrinsic motivations will make it much more difficult to achieve the levels of education parity that the Forrest Review is calling for.

It is clear that those involved in producing the Forrest Review have a genuine desire to improve the circumstances of Aboriginal and Torres Strait Islander Australians and make sure 'our First Australians' have the same opportunities and advantages as the rest of the population. But, this is much more likely to be achieved if we rely on the best available evidence and use that evidence carefully, cautiously and with the appropriate qualifications.

*Submission by Ms Annick Thomassin,  
PhD candidate, Department of  
Anthropology, McGill University, Canada;  
Graduate Research Officer, CAEPR*

It is striking, when reading the Forrest Review, to see how far it departs from its initial Terms of Reference. To write this response, I have briefly examined 120 of the 270 submissions to the Review publicly available to gauge their possible influence on this departure from the initial brief.<sup>4</sup> This response reflects my personal views.

Many of the submissions examined here went beyond the proposed terms of the Review, many of which did so by promoting holistic and flexible approaches to what are viewed as complex and enduring societal issues. Among other things, questions of wellbeing, housing, school attendance, self-determination as well as cross-cultural training for Indigenous jobseekers or unemployed, employers and employment/training services have been raised. Yet, contrary to the Review which adopts a one-size-fits-all and 'acultural' approach to 'creating parity' and to 'end the disparity between our first Australians and other Australians', the breadth of barriers and suggestions discussed in the various submissions points towards the need to find solutions driven by the diverse socio-cultural, economic, geographic and environmental circumstances of communities based on local initiatives and strength.

While many of the Review's recommendations appear to suggest that culture, while good to preserve, should be confined to outside of work and school hours, weekends and holidays (see for instance recommendation 4.2), a large number of the submissions highlight the need to negotiate ways to accommodate cultural differences within schools and workplaces. It has been noted on many occasions that not only the job-seekers should be given training on work culture and workplace ethics, but that employers and service providers should also be provided with cross-cultural awareness training (2, 120, 121, 126, 140, 205, 331). In addition, many recommendations suggest that workplace should be flexible and employers should develop an awareness of, and work with, the cultural context. As submission 205 stresses, 'workplace must have sufficient understanding of the cultural needs of Indigenous employees'. As many highlight, non-Indigenous employers and service providers may have no or only little cultural knowledge and knowledge of what constitute an appropriate behaviour or way to communicate (294). Awareness of Indigenous employees' and communities' realities is essential to create adaptable workplace settings. This last point, which is linked to sustainable employment and

which was emphasised in numerous submissions, was only mentioned once in the Review (p.180) and, while this also represents an impediment to long-term employment/employees' retention, it was not deemed necessary to address this in the recommendations.

While the Review emphasises the 'dignity of work and meaningful participation' (p.7), a large number of submissions talk about the importance of 'meaningful work' (where the meaning of 'meaningful' is highly variable). Along those lines, a few submissions highlight the need to stop the tokenistic employment of Indigenous people. These submissions notably emphasise the need for employers to offer positions and/or training leading to mid- and senior-management levels not merely entry-level jobs (e.g. 112, 331).

The question of recognition of informal training and experiences (54) was also been raised in a few submissions, emphasising that not all Indigenous people need extra training to be employable. To my knowledge, this is not taken into account in the review.

Some submissions recommend that a scheme similar to CDEP (if not exactly CDEP) be re-visited and reinstated (e.g. 184). While CDEP is also mentioned as part of the problem, it appears that the relevance/importance of the program should be assessed on a case-by-case basis. Schemes such as CDEP can offer important income support for self-employed fishers, for example, and provide wage subsidy support to emerging Indigenous businesses while generating benefits for the community as a whole.

In relation to recommendations 1 and 2 on early childhood and primary school children, the Review does not appear to have taken into consideration the advice in submissions regarding the failure of the education system (e.g. 10). Hence, some submitters emphasise that the gap in school achievement between Indigenous and non-Indigenous students living in remote area is linked to the cross-cultural challenge that the mainstream school environment represents for the Indigenous students who, at a young age, are suddenly asked to thrive in a foreign setting, in a foreign language and do as well as children who do not face these cross-cultural and linguistic challenges. As submission 10 suggests, the focus on truancy won't solve the problem if the education system, which puts much of its effort into NAPLAN, does not change (see also 131). Further, and to paraphrase submission 33, there is plenty of research showing that instruction in one's first language does not hinder a child's development of a second language and plenty of evidence that 'a person who thinks conceptually in one

language is perfectly capable of doing so in another'. Perhaps lessons should be learned from successful bilingual/multicultural education programs. There were suggestions in the submissions that children should learn in an environment that promotes both ways and where parents and Elders have a role to play in schools (e.g. 42).

I am baffled by the Review's strong focus on Indigenous home ownership which is presented as somewhat of a panacea to increase Indigenous people's engagement with the education, training and employment sectors, as a remedy to overcrowding (p.175), and is even described as a form of 'empowerment' (p.52). This focus on home ownership is at odds with most of the submissions that address the issue (e.g. 343, 92, 73) and stress the need for more culturally-appropriate sustainable (318) social and affordable housing to tackle homelessness and overcrowding issues which are linked with low education engagement. While the Review suggests relaxing regulations that threaten people who take on jobs or move to take up employment of losing their public housing as recommended notably in submissions 214 and 350, the Review also suggests 'giving priority in the allocation of social housing to families in employment and meeting social obligations' (Recommendation 17.2.3). One might wonder, given the recognition in the Review that overcrowding or housing problems impede on individual participation in education and employment, how further limiting access to social housing for the unemployed will be of any help.

Home ownership may not solve overcrowding problems as stated in the Review ('In reality, the only home not at risk of overcrowding is a home that is owned' (p.175)), and is based on a family structure that may well not correspond to the multi-family reality of the ground. Submission 92 also points out that 'Policy should not be based on unsubstantiated assumptions about aspirations for home ownership, nor without exploration of a range of practical models that could be made available to meet different needs'.

While the home ownership gap was not a major focus of the submissions, the notion of 'ownership' was nevertheless used widely to signal the importance for Indigenous individuals, communities or organisations of ownership, through their participation in the creation or design, of the programs, solutions, or projects that aim to address training and employment issues. Indigenous individuals' and organisations' participation in the solution has been mentioned through 'Creating Parity'. Yet, this participation is narrowly framed with Indigenous leaders called to use their 'cultural authority' to implement the recommendations of this Review.

In conclusion, it is disappointing that the reviewer has adopted such a mainstream-centric uni-directional strategy to address such complex issues arising from very heterogeneous realities. Very little attention has been paid to recommendations that were not in line with the ideological position of the Review; leaving little space for creative and community-based strategies to emerge, and for Indigenous agency, self-determination, aspirations or alternative development propositions to flourish. As submission 206 emphasises, hand-in-hand with cultural competence is the need to understand the strengths and the potential that Indigenous Australians bring to the workforce.

*Submission by Dr Melissa Lovell, Research Officer, National Centre for Indigenous Studies*

This submission draws on the expertise that I developed during my doctoral research on Indigenous Affairs policy and the Northern Territory Intervention, as well as on my experience as a research officer at NCIS and as a lecturer in political science at the School of Politics and International Relations at the Australian National University.

The Forrest Review reaches well beyond the scope of the original terms of reference for a review of Indigenous jobs and training. The review has been described by PM Tony Abbott as a “visionary” and “watershed” report (Karvelas 2014), and by MP Alan Tudge as a “five year blue print” for the advancement of Aboriginal people (Tudge 2014:10). The review is likely to underpin a substantial restructure of the Indigenous Affairs policy field in areas as diverse as housing, school education, justice and incarceration, job services, vocational training, social security, land tenure and use, public service staffing and funding structures for service provision.

It is of the utmost importance, given the wide-ranging impact of the Forrest Review recommendations, that each of those recommendations is subject to further review and consideration. Andrew Forrest may expect that his measures would be rolled out in their entirety as an inviolable package of reforms (Forrest 2014; 30). However, it is neither appropriate nor prudent for any Government to enter into a wholesale restructure of Indigenous Affairs governance and service delivery without an in-depth evaluation of the likely impact and cost of each of the measures included in the Forrest Review.

The Forrest Review demonstrates that there is a high level of motivation—from the Prime Minister, other members of the Australian Government, and Mr. Forrest—for

improving the lives of Australia’s Indigenous peoples. However, the Government would do well to remember that there are no quick-fixes when it comes to Indigenous Affairs policy. Australia’s history abounds with examples of policy made on-the-run. Indigenous governance (perhaps more than any other policy field) has a tendency to regularly lurch from public obscurity to national crisis, and our rear-view mirror is littered with the debris of policy measures tried and then rapidly dismissed.

Australian governments tend to build new structures in Indigenous Affairs without taking the time, speaking metaphorically of course, to build solid foundations or to consult with either structural engineers or those people who will need to live in these shaky edifices. In this context, we should not be surprised when these ambitious, expensive structures often crumble, and are abandoned before their construction is complete.

The *real work* of policy—in Indigenous Affairs and any other policy field—is less grand, more time-consuming and more exacting than the approach we have typically taken. The process involves a good deal of specialist knowledge, the acknowledgement that different circumstances call for different policy approaches, and the recognition that policy rarely succeeds unless it properly takes into account the views, ambitions and circumstances of those people most affected.

The Forrest Review includes a number of very interesting recommendations, some of which will likely receive wider support from the Australian community—both Indigenous and non-Indigenous. Among the better recommendations are those measures that relate to prioritising early childhood education, developing higher public sector Indigenous employment targets, improving education and training opportunities for people in prison (though options beyond explicit instruction should be explored), and cooperating with the private sector to guarantee jobs and training for Indigenous individuals.

The Government should expect that it will take considerable time and money to comprehensively respond to the more than 200 recommendations of the Forrest review. PM Abbott has already started this process by setting up a Taskforce to help the Government decide which of the package of recommendations should be accepted in the short term and which in the medium term. My recommendations to Mr. Abbott, the Government and that Taskforce are summarised below.



## Recommendations

- 1 That the Taskforce evaluate the merit of each recommendation outlined in the Forrest Review, and recommend against Government implementing the Review as a single package.
- 2 That Government adopt a sober, realistic, and Indigenous consensus-based approach to Indigenous policy reform, and recognise that the complexity of contemporary societies requires the adoption of nuanced and sophisticated approaches to public policy.
- 3 That the aims and objectives of any new policy that emerges from this review process be clearly defined. Furthermore, that evaluation measures are built into policy at the design phase and that policies include mechanisms to receive feedback from stakeholders (especially those people directly affected by government programs).
- 4 That any “blueprint” for policy reform identifies, and then builds upon, former successes in service delivery. That evaluation should be used as a tool to drive incremental and adaptive improvement and to foster social innovation, rather than as a tool to decide which programs get funded.
- 5 That a wide range of Indigenous voices be provided with the opportunity to contribute to policy development, and not just the voices of unelected political actors. Policy needs to be based on input from a broad range of Indigenous people to ensure that policy is sensible, and has a high probability of success.
- 6 Following on from the above recommendation; that Government involve the National Congress of Australia’s First Peoples in the development of long-term strategic initiatives (such as the “five year blueprint” expected to emerge from the Forrest Review). Also, that Government funds the Congress to a level that would allow their involvement in this process to be substantive.

## 3 Employment and training

### *Submission by Lisa Fowkes*

This submission focusses on the Forrest Review’s recommendations in relation to remote employment services. It draws on my experience, over a decade, of working in employment services, and my current research work on the Remote Jobs and Communities Program (“RJCP”).

### *Is RJCP a ‘failure’ (Forrest Report, p51)?*

RJCP started on 1 July 2013. Despite a promised 5 months lead time, the first provider was notified in late April 2013, and the last in June for a July start. Many providers found themselves, on day one of the new contract, without key staff and without essential assets and equipment. Some participants who had been on CDEP turned up to find that there was no work for them to do. In some places (not all) years of building up a program and a work pattern were destroyed as newly contracted providers scrambled.

Experience across employment services transitions is that they lead to a short term decline in performance. In remote areas, transition issues are exacerbated by limited housing and equipment, recruitment challenges, limited capacity to contact people by letter and/or phone. Over 35,000 people had to be moved to the new service from July with little time to explain its new rules. The Forrest Review took submissions in the first six months of a program which was (and is) suffering the consequences of hasty implementation.

It is important, in judging RJCP, not to mistake the problems of implementation for problems of design. While it is frustrating for policy makers to wait for changes to be made, the cost of rapid implementation, particularly in remote Australia, is very high. Many RJCP providers are still struggling to regain the momentum and community support that was lost through an overly hasty transition. Government should be wary of compounding these problems with further, dramatic and centrally driven change. If change is to be made it should be done with community involvement and with providers - and in a staged way so that local conditions and circumstances can be considered.

### *Are there problems in the way that RJCP is structured?*

The report is highly critical of providers, accusing them of being focussed on processes and on pushing people

through meaningless training, rather than focussing on employers. It is, I think, true to say that not enough time is spent in these organisations focussing on employment. From my interviews with, and observations of, RJCP providers, providers spend most of their time and effort on two things (1) administering participation requirements under the Social Security Act and (2) responding to, and inputting data into the Government's IT system.

While these things are contractually required of providers and they continue to take up so much time, there is no point changing the incentives in the system to focus on employment. It is not pursuit of lazy profit that is driving behaviour, it is the need to administer increasingly onerous requirements and Government's desire for complete real time visibility of every transaction on the frontline. In addition to crowding out effort to improve employment outcomes, this work makes it extremely difficult to attract and maintain local Indigenous staff. While over 50% of staff in this program are local Indigenous people, providers report that there could be more if the heavy administrative and IT burden was less, and if the application of penalties to participants was not so central to most roles. People who have exceptional skills and influence are often excluded because they cannot (or will not) spend their days struggling with administrative complexity and cumbersome IT.

Rebalancing towards focus on long term employment and participation will only be achieved through redesign of processes around participant and community needs – this entails less emphasis on monitoring and compliance.

### *Demand for labour*

The Forrest Report has valuable recommendations in relation to encouraging large employers to employ Indigenous people. Mobility packages for those who are willing and able to move are also important – provided that frontline workers in RJCP can be freed up from their compliance work to support participants (and families) who want to do this. But the Report neglects the development of locally based jobs that might enable people to stay in, and contribute to their communities. There is no mention, for example, of the health and community services sector, despite its growth and opportunities that are likely to emerge through the availability, often for the first time, of funding for disability care in remote areas through the National Disability Insurance Scheme. The development of local co-operative or non profit vehicles for Indigenous involvement in this work would make a significant contribution, not only to local employment, but to quality of care in these communities.

In launching the RJCP, Government emphasised the importance of job creation and community investment that would be enabled through the Community Development Fund. RJCP providers worked with local people to identify projects. But this process has been parked and some of those CDF funds reallocated. Many people in communities feel let down by promises broken. Local job creation must be part of any effort to improve employment outcomes in remote communities and to enable people in these communities to build capacity, if they wish, to pursue work elsewhere. CDF remains critical. RJCP providers need to be allowed time to do this work, and provided flexibility in application of resources (eg through altering 'related entity' rules) to develop enterprises that offer paid work opportunities to locals.

### *Young people*

In every place I have visited the need for young people to be able to work has been emphasised, yet teen unemployment is at record levels. Removing income support for young people will only increase pressure on remote communities and families. In remote areas training options are often limited, particularly for those who have struggled to achieve in school classrooms. Every young person should be guaranteed a paid job in the first 1-2 years after school. This might be through a VTEC, through Green Army, or through a new job scheme. But it must be a job – with pay, with responsibilities, with a boss and an outcome. The reinstatement of some form of school-work transition support will be important to ensuring that any measure in this area can succeed.

### *Income support system and application of penalties*

Many providers and participants lack confidence in the system of application of penalties because they believe (rightly or wrongly) that penalties are inconsistently applied by people who know little of what is happening on the ground. But the current push to make providers responsible for these decisions may create bigger problems. Centrelink has developed strategies over many years to manage decisions that can have a profound effect on individuals and families. These include removing breaching decisions from local offices, equipping offices with cameras and duress alarms, and having social workers and psychologists available to assess individual circumstances. These are rarely available in RJCP offices, nor is funding available for this assistance which is – after all – not really about getting people into work. The consequences of poor decisions in this area can be profound. Examples provided to me by workers in the system include families without food, evictions,

violence and humbugging, underage prostitution and suicide. Many workers express concern about their ability to build strong and trusting working relationships with participants if they are required to stop their benefits. Better, surely, to build this as a network focussed on jobs than as a poorly equipped Centrelink.

### ***Training for training's sake***

Current policy settings require RJCP participants on activity tested benefits to do 15-20 hours activity from day one. Adoption of the Forrest Review's recommendation that training must be directly linked to employment would limit the availability to participants of training as an option, either as part of or instead of this activity. Many young people find that the training that they do in these hands on settings is their first experience of success. They are learning to learn. While Language, Literacy and Numeracy training is often unpopular, it can be successfully integrated into wider training – like music, building, pastoral training. Narrow rules around access to training limits choices and suggests a linear career path which has little to do with that that most young people today will experience.

### ***Moving away from a deficit model***

The current system has harsh penalties for failure to participate, but few rewards for those who do, particularly in places with very limited labour markets. Where penalties are applied it often falls on extended family to feed and house the participant, exacerbating poverty and stress on people who may already be struggling. Government should consider reducing penalties so that they more closely resemble the 'small, timely hit to the wallet' that the Forrest Review contemplates. In addition it should add incentives for people who keep showing up to work on community projects, who continue to improve their skills and contribute to community. This might be in the form of an additional weekly payment (eg \$100 pw), plus bonuses for completion of LLN or similar skills training.

### ***Submission by Dr Kirrily Jordan, Research Fellow, CAEPR***

I make this submission in my capacity as an academic researcher with a particular interest in Indigenous Australian employment and experience examining the design and delivery of employment services.

While I applaud some very specific recommendations of the Review (such as the availability of 'locked licences' for those excluded from employment due to unpaid fines

or traffic infringements; and strengthening government procurement targets to support Indigenous businesses) I have significant concerns about much of the Review which I summarise below.

### ***Review quality and impartiality***

The Review is critical of what it represents as a vested interest among employment and welfare service providers in maintaining the status quo in service delivery (p.9). But there is no recognition of the potential conflict of interest in the Review being led by the Chairman of a major corporation who has publicly lobbied for a very particular kind of employment and training service (the 'VTEC' model) for several years prior to the Review being undertaken. While I make no suggestion of impropriety, it is concerning to me in these circumstances that the Review presents the VTEC model as the only model worthy of consideration. For this argument to be convincing it would need to be supported by a careful analysis of existing evidence on the outcomes of various employment programs, as well as a considered reflection on the potential implications of replacing other employment and training services with the VTEC model nationwide. While there are some statistics presented in the Review these make an inappropriate comparison between JSAs and the newly constituted VTECs (which actually provide quite different services), ignore evidence about what works in existing services, and do not constitute the careful and considered analysis required.

As well as relying on an insufficient use of evidence many of the Review's recommendations are confusing and vague. For example, recommendation 12.1 suggests tax-free status for eligible "first Australian commercial enterprises" (p.39). However, the discussion later refers to "tax incentives ... for first Australian *and other business investors*" (p.141, emphasis added) and suggests that "a large company wishing to participate can invest in a company that meets the tight eligibility criteria" (p.149). The Review never further explains what this means, or whether that large company would therefore be eligible for tax incentives. There are several other instances in which recommendations are vague and their implications unclear.

### ***Assumptions underpinning the review***

The Review suggests that economic disadvantage among Indigenous Australians is principally reducible to behavioural problems. According to this view, there are only two alternatives. The first is to enforce behavioural change through sanctions and control of welfare payments, which will force people to move into

employment, thereby ‘taking control of their lives’ and keeping Indigenous cultures strong. The second is to embrace continued passive welfare and the certain destruction of Indigenous cultures.

Setting up the debate in this way is fundamentally flawed. It fails to acknowledge the complex structural factors that are also implicated in the economic disadvantage of many Indigenous Australians, and is grossly inappropriate in implying that all people on income support payments have ‘behavioural problems’ that need redress. It casts culturally-informed priorities that are different from the mainstream (such as living on remote Indigenous lands) as problematic and dysfunctional. And it casts those who criticise punitive behavioural approaches as opting for passive welfare.

This is not an accurate reflection of the debate. It is well established that there are significant problems of drug and alcohol abuse in some remote Indigenous communities and that, wherever it occurs, such abuse can severely curtail employment prospects. However, even if one accepts (as I do) that the provision of income support payments without any requirement for active work on the part of recipients can contribute to these social problems, it does not follow that economic disadvantage can be overcome through a principally punitive approach, or that the measures recommended in this Review are the best ways of supporting behavioural change.

Consideration of ‘incentives’ and ‘sanctions’ should occur, but critically this ought to be done in genuine consultation with a wide range of Indigenous people and communities (especially those that will be most affected by the measures) and it ought to form part of much broader development strategies that are specific to needs in remote, urban and regional locations. For remote areas, it is crucial that these include strategies for job-creation such as support for small businesses and locally-directed community development projects (not just forecast jobs elsewhere, even if some can be ‘guaranteed’). They must also include adequate resourcing for more intensive, tailored and long-term mentoring than is currently available for many people.

### *The proposed VTEC model*

Due to the request for brevity I limit my more detailed comments to the recommendations most relevant to my research area. While there is certainly evidence that training programs providing guaranteed jobs on successful completion can produce good employment outcomes, I have significant concerns about the Review’s

recommendation to replace existing employment services with VTECs (or remote Job Centres constituted along similar lines). The Review suggests that the proposed funding model (based principally on outcome payments for employment retention to 26 weeks) will adequately resource and appropriately incentivise service providers to produce contracted employment results. In support of this, the Review states that when the Federal Government released contracts for the 21 existing VTECs “some 50 interested providers applied and were prepared to take the business risk of having their sole remuneration rely on them achieving a 26-week employment outcome” (p.38).

This in no way suggests that a model replacing JSA and RJCP services with VTECs is practical, desirable or appropriate. It is important to note that the current incarnation of VTECs operate in conjunction with JSA services, rather than replacing them. In addition, they are all located in areas where they can service jobs already guaranteed (presumably under the AEC).

Moving to a model that replaces JSA and RJCP services with VTECs would be fundamentally different to this current (and still experimental) approach, and would be particularly problematic for regions in which there were few prospects for guaranteed jobs and where significant numbers of 26 week employment outcomes were most difficult. The proposal seems divorced from practical realities and raises a number of important questions that are not examined in the Review. For example, what would happen if a VTEC consistently failed to secure guaranteed jobs in their location, or failed to regularly get their clients into 26 week employment outcomes (as is likely in many remote areas)? Would they be prevented from providing training because there are no guaranteed jobs? Would they be defunded because they did not achieve outcomes to 26 weeks? If a new employer emerged who could guarantee jobs for local people, would the VTEC have to be reconstituted and its staff re-employed? If the VTEC was defunded what would happen to its clients, or the other services it is envisaged to provide (including the provision of participation activities and administering compliance for income support recipients)?

In these, and many other respects, the proposed VTEC model seems vague, ill-considered and counter-productive for long-term development strategies based on local engagement. It directly contradicts the Review’s own reflection that providers “need flexibility in funding” (p.197) to provide innovative and locally-responsive employment and training services. Further, it ignores the reality that providers of other publicly-funded employment and training services already seek partnerships with businesses to guarantee jobs.

### **Summary and recommendation**

While some specific recommendations of the Review (particularly in relation to drivers' licences and government procurement targets) should be considered, the Review does not provide sufficient evidence for the bulk of its recommendations. In particular, it is my recommendation that the VTEC model, as proposed in the Review, not be supported.

### **Submission by Dr Boyd Hunter, Senior Fellow, CAEPR**

The Forrest Review (2014) recognises the importance of Indigenous business for closing the employment gap (or 'creating parity') with recommendations to provide tax-free status for new and innovative first Australian commercial enterprises (recommendation 12) and the Commonwealth Government purchasing at least 4% of its goods and services within four years from first Australian businesses with a minimum of 25% Indigenous ownership (and board membership) and significant employment outcomes for first Australians (recommendation 18). I would like to commend the sentiment and ideas behind the focus on creating Indigenous jobs through supporting Indigenous businesses, but I want to highlight a few issues for these proposals in this response.

On the face of it the review is recommending a very low ownership threshold for Indigenous businesses. Historically, Supply Nation has advocated that majority equity be held Indigenous stakeholders for businesses to be eligible for recognition and support as 'Indigenous businesses'. The Review cites some of my research which illustrates the importance of supporting a broader range of 'Indigenous' businesses which provide enhanced employment outcomes for Indigenous Australians (Hunter 2014). A strong case can be made for expanding the definition to recognise businesses with 50% Indigenous equity as such businesses are likely to deliver exceptionally good employment outcomes for Indigenous workers (at a rate about 100 times greater than non-Indigenous businesses). It is important to reflect on the implications of reducing the threshold to 25% equity.

Intuitively, one would expect that there are few businesses with a minimum of 25% Indigenous equity (& not covered by the above definitions), but there is no way to estimate how many businesses would qualify for recognition as Indigenous businesses under the revised criteria. One thing for certain is that very few non-Indigenous businesses (ie, businesses those with less than 50% Indigenous equity) that deliver significant employment outcomes for Indigenous workers. Less

than 0.5% of non-Indigenous businesses have over one third of their workforce identified as Indigenous employees. Therefore on current information reducing the equity threshold to 25% will not necessarily lead to a large increase in the number of businesses identified as Indigenous. Furthermore the increase in demand for Indigenous businesses implied by the implementation of these recommendations means that businesses that are currently recognised as Indigenous should not lose too much business to these new 'Indigenous' businesses.

The inclusion of board membership in the definition of an Indigenous business is more concerning as it greatly enhances the scope for strategic behaviour of what are ostensibly non-Indigenous businesses seeking preferential treatment. The idea of creating preference for Indigenous businesses can be a potentially fraught area of policy as it may create an incentive for 'shadow listings' or false claims, as firms chase work under the guise of identified organisations. Some companies may be tempted to install Indigenous people on their Board, in a nominal rather than a substantive capacity, to secure the proposed benefits of tax free status and government contracts. If a substantial number of 'faux' Indigenous businesses were created, this may displace legitimate Indigenous businesses that can demonstrate substantial equity and control from Indigenous stakeholders.

Another issue is that implementing these recommendations may create an incentive for businesses not to use the merit principle when employing Indigenous workers. Economic policy will be optimal and sustainable if the most productive workers are employed. Of course there are many productive Indigenous workers, but policy needs to ensure that Indigenous workers are sufficiently productive that employers want to employ them as the best person for the job. From an economics perspective the policy may lead to a dynamic inefficiency in the national economy from the misallocation of labour resources. While a good case can be made that this inefficiency should be accepted at a national level as the price to partially redress past injustices, the recommendations may lead to inefficient practices for individual businesses if they lose their competitive edge with respect to other businesses. One of the desirable consequences of market discipline is that it forces businesses to adopt cost efficient practices. Over time, businesses with some 'monopoly power' (including tax advantages conferred by the state) may not discipline their costs, which undermines, or even outweighs, the initial advantages. In a sense, such businesses could be construed as experiencing a form of 'welfare' or government 'dependency'.



While many commentators will not be concerned by such dynamic inefficiencies, market discipline is an important part of the capitalist system. While the tax incentives appear to be aimed at new businesses, it is not clear how long the advantage is to be conferred. Time limiting any tax incentive is desirable lest the incentive encourage inefficiency in the dynamic workings of the business. The tax incentive is best aimed at Indigenous business start-ups to recognise the likely historical disadvantages faced by Indigenous entrepreneurs.

While I wholeheartedly agree with the need to encourage Indigenous business as a practical strategy for 'creating parity' in employment, this submission attempts to highlight some issues for implementation. If the recommendations achieved what they seek to do, there would be a dramatic increase in the number of Indigenous businesses servicing government contracts. Unfortunately, there is likely to be a capacity constraint as there is only a limited supply of Indigenous people with the skills to run an Indigenous business. Recent studies have emphasised financial literacy skills and other skills related to operating and managing a business within various market contexts as key success factors for Indigenous businesses (Morley 2014).

Given the under-representation of Indigenous students in management and commerce departments, I suggest that there is also a need to increase the number of Indigenous students completing business-related course at a tertiary level. On a positive note, there is evidence of substantial recent increases in Indigenous accountancy and other business-related graduates in university data, an increase partly driven by industry initiatives and active professional associations. Notwithstanding, there is likely to be limits to the number of Indigenous people qualified to run a business unless the higher education institutions can facilitate enrolment and completion of Indigenous students in Management and Commerce courses. The relevant point is that building the capacity of potential Indigenous entrepreneurs is important if the implicit goals of increasing the number of genuine Indigenous businesses and garnering Indigenous employment spinoffs are to be achieved.

## 4 Income management

*Submission by Dr Shelley Bielefeld,  
University of Western Sydney*

I make this submission as an academic with a disciplinary background in law whose research focuses on issues of public policy, social justice, human rights and Indigenous peoples. Whilst the Forrest Review has numerous inadequacies, due to the prescribed two page limit, this submission will deal with income management and Recommendation 5 for a 'Healthy Welfare Card'. The Forrest Review is deficient in this respect, for the following reasons:

- 1 Several comments about income management in the Forrest Review show no engagement with pertinent reports in this field. Its claim that the BasicsCard has 'demonstrated ... benefits to welfare recipients', runs counter to several significant reports in this area which have pointed to limited evidence of benefit and some significant shortcomings of income management, none of which are referred to in the Forrest Review (Bray et al, 2012; Equality Rights Alliance, 2011; Australian Indigenous Doctors' Association and Centre for Health Equity Training, Research and Evaluation, 2010; Australian Law Reform Commission, 2011; Parliamentary Joint Committee on Human Rights, 2013). For example, the government commissioned report undertaken by Bray and others in 2012 found 'there is little indication that income management is itself effective in changing parenting behaviour, reducing addiction or improving capacity to manage finances.' The Forrest Review also ignores the human rights compatibility concerns raised about income management in the 2013 Parliamentary Joint Committee on Human Rights Report, namely, the government has provided no evidence that income management is 'a reasonable and proportionate measure' or that it provides 'a justifiable limitation on the rights to social security and the right to privacy and family'.
- 2 Despite the claim in the Forrest Review that the time for paternalism is over, ongoing paternalism in the form of a 'Healthy Welfare Card' is the substance of Recommendation 5, which could affect 2.5 million welfare recipients. This would lead to a cashless system for the vast majority of welfare recipients. However, the 'Healthy Welfare Card' has the same 'deficiency based' philosophical foundation as the income management system it proposes to replace. According to this framework, the cause of socio-

economic vulnerability experienced by welfare recipients is due to their irresponsible spending patterns. This is a misrepresentation of the budgetary capacity of many welfare recipients and engages in simplistic and destructive negative stereotyping. Significantly, it ignores structural causes of poverty and the reality of limited employment opportunities.

- 3 As concerns Indigenous welfare recipients, the 'Healthy Welfare Card' would have negative implications for Indigenous forms of resource distribution based on kinship networks, and therefore impact upon Indigenous cultural values. To the extent to which the scheme would have this effect it could be regarded as assimilatory, and contrary to Australia's international human rights obligations concerning the maintenance of Indigenous peoples' rights to culture (Bielefeld, 2013).
- 4 Indigenous peoples are overrepresented in the welfare system, which means that they would continue to be disproportionately affected by the 'Healthy Welfare Card', just as they are currently overrepresented under income management (Senate Estimates, 2014:1). The history of colonisation, which has involved micromanaging the finances of Indigenous peoples, means that these intrusive forms of governance can trigger trauma for Indigenous peoples (Gibson, 2009), who, unlike other Australian welfare recipients have a history of being given rations instead of cash and having their incomes controlled (at times fraudulently) by third parties.
- 5 The evidence about compulsory income management to date suggests that numerous welfare recipients find this system embarrassing, stigmatising and depressing. It is illogical to suppose that this system, or any retitled equivalent such as the 'Healthy Welfare Card', is going to be conducive to producing autonomous job ready citizens. In fact, income management may produce greater passivity and dependence for some welfare recipients.
- 6 The 'Healthy Welfare Card' is likely to lead to the same problems of stigmatisation of welfare recipients and reduction of their autonomy as the current income management system. Cashless welfare transfers lead to increased social stratification, and can have a significant impact on the social interactions of welfare recipients in society. As Zoe Williams (2013) states, '[w]hen you relegate people to a world without money, you create a true underclass: a group whose privacy and autonomy are worth less than everyone else's, who are stateless in a world made of shops' (cited in Standing, 2014:378).
- 7 Some of the implications of welfare recipients not having cash to pay for goods and services are as follows:
  - a They would be unable to purchase many second-hand goods, which would unjustly force those with the lowest income to purchase new goods at higher prices. For example, purchase of second-hand clothing at markets for cash, purchase of second-hand motor vehicles from private sellers for cash, and purchase of second-hand textbooks for students for cash from private sellers would all be excluded.
  - b Online purchases, which often allow goods to be purchased at more competitive prices, would be curtailed and in some instances prohibited altogether – which would arguably foster unlawful anti-competitive conduct (*Competition and Consumer Act 2010* (Cth) s 45). Restrictions on online purchases could also preclude welfare recipients from obtaining necessary medicinal treatment, for example, Endovan for treating endometriosis, which can only be purchased from the United States.
  - c Some service providers, such as gardening services for example, are often paid in cash, and welfare recipients (especially those with physical disability issues) could be affected by more limited service provision in this area if there was a cashless welfare system.
  - d It would negatively impact upon welfare recipients who live in share house accommodation – as current arrangements frequently involve subtenants paying a proportion of the rent in cash to the head tenant who then has responsibility for paying rent to the landlord/real estate agent. Share house accommodation is necessary in Australia due to the lack of affordable housing for those on low incomes, and if such arrangements were impeded by the 'Healthy Welfare Card' one unintended consequence could be a significant increase in homelessness.
  - e Welfare recipients who are parents could not pay a babysitter in cash to have a few hours respite on occasion, which is arguably something that all parents need.

8 Like compulsory income management, the 'Healthy Welfare Card' is likely to incur significant costs in terms of the bureaucratic infrastructure required to administer it. No figures regarding this were produced in the Forrest Review, which is another deficiency in the Report. However, given the paucity of compelling evidence to date as to the efficacy of income management, it would be financially irresponsible for the government to commit further scarce resources to these sorts of schemes. Instead, the government would do better to invest in evidence based policy.

I make one recommendation, that there be a Parliamentary Inquiry into the Forrest Review, to engage in the robust and transparent analysis warranted by the seriousness of the Healthy Welfare Card proposal.

*Submission by J Rob Bray,  
Research Fellow, CAEPR*

**Preface:** In making these comments I would note that I am one of the researchers undertaking the evaluation of "New Income Management" in the Northern Territory. At the time of writing this submission, while we have delivered a draft final report to the Department of Social Services, we have not yet lodged a final report (but expect to do so in the last week of September 2014) and this submission is being made without reference to material which will be in that report. I would strongly recommend that the initial report of the evaluation (July 2012) and the final report be taken account of in any considerations.

**Key focus:** Given the two page limit for comments, my focus will be on Recommendation 5 "Healthy Welfare Card". The report appears to have both instrumental and aspirational goals for this measure. The main instrumental goal is to prevent the spending of any welfare payments on alcohol, gambling and illicit drugs. This objective is then supplemented by a range of aspirational goals, including "confine welfare ... spending to essential goods and services" (p104), it would be a "card [that] directs spending to purchases that sustain and support a healthy lifestyle" (p107) and enable people to "concentrate on what they need to do to get a job"(p13). This proposal raises several questions – some of which I seek to discuss below.

**Will it effectively limit spending on proscribed items?** The extent to which people can circumvent the BasicsCard is discussed in the Final Report of the evaluation and this should be consulted on this. A further issue, in particular in Indigenous communities, is the

extent to which much spending is communal and the existence of demand sharing. Reducing one group's access to cash and certain products can be expected to result in much greater pressure being placed on the available cash of others in the community and their ability to purchase these items.

**Can income support recipients live in a cashless world?** The report suggests "we are becoming a cashless society and this is the way we should manage welfare"(p104) The question is whether this vision is a reasonable representation of the actual lives people live. Some examples serve to illustrate this:

- Rent often needs to be paid in cash. This arises from a number of circumstances. The first is simply where the landlord requires cash rent (and is certainly not an EFTPOS merchant), secondly where an individual does not wish their landlord to know they are on income support (as some are unwilling to rent properties to this group) and hence any direct transfer such as Centrepay or a specialist app is not a substitute for cash. Finally there are group households where individuals make a contribution in cash to the total cost of the rent. It is unclear how either the welfare card or for rent deductions can adequately replace cash in the above situations.
- Many people make second hand purchases from other people for cash, as well as paying for minor services – such as work on a car informally in cash. This is important for those on low incomes.
- Many less formal shopping arrangements – for example farmers' markets, largely operate on cash. Internet purchases either use PayPal or in some cases EFTPOS cards, extending of the card to internet purchases would raise many difficulties in enforcement (and limiting people to Australian sites raises a further set of issues), yet excluding these purchases will become increasingly problematic.
- Banning any access to cash seems to be particularly problematic for families with children. Does it mean in these families that children will be unable to purchase anything from the school canteen, unable to participate in sausage sizzles and similar other school based activities, and of course their parents excluded from buying the inevitable chocolate frogs and other fund raising ventures that schools engage in. In addition for many families the payment of cash pocket money is an essential part of the socialising of children, teaching them about rewards, about saving and about decision making in spending.

**Is it likely to be a 'healthy welfare card'?** One of the aspirational goals is that it will lead to healthier lifestyles and consumptions. There is no argument in the report as to why this would occur, and little evidence in the real world to suggest that it would. Again this is an issue which will in part be addressed in the forthcoming evaluation report on Income Management. The only reason for considering that the card would change the composition of welfare spending is the degree to which it operates as a binding constraint – and effectively this is only with regard to alcohol drugs and gambling – it leaves all other expenditure, whether healthy or otherwise (sugar based soft drinks, junk food, etc) unconstrained, so why would any change in consumption be anticipated? (Or indeed is the intention to actually have a much wider range of items excluded as hinted in the language of “confine ... spending to essential goods and services”(p104) and “exclusion of particular products which do not add to the health of communities”(p106). Imposing any such additional limitations introduces further complexity and inflexibility.) Consistent with the argument of honesty in the branding of policies inherent in the proposal to rename NewStart to Unemployment Support, there are few grounds to name any cashless welfare system as 'healthy' nor to expect any major change in consumption for most people on the basis that they are being paid via a card rather than in cash.

**Is the card likely to be as costless as suggested?**

Despite many references to discussions with banking and other players there is no costing of the proposal. There are several grounds for considering that it is likely to be considerably more costly from both the perspective of the individual in receipt of income support, and in its overall implementation.

Firstly it would appear that in most cases people will require multiple bank accounts as there is no obvious way that the welfare funds can be quarantined from private funds in a single account in terms. This quarantining would be needed to separate the spending which is made on the 'welfare card' and the person's spending on a private debit card, or cash withdrawals. (Alternatively if the card was somehow a stored value rather than debit card in a single account, this seems technically difficult and it how would people operating on a single account know what their welfare account balance is versus their private balance? The use of multiple separate accounts is intimated in the report in discussion on the cards being linked to a “locked savings account” (p107). There is no discussion of the question of fees for these multiple accounts and who is going to meet the cost of maintaining the accounts. Someone will also need to pay for the cost of account queries from ATM machines.

Secondly the use of a debit card may make some purchases more costly for people. Typically merchants are permitted to impose minimum purchase limits and impose surcharges for EFTPOS transactions relative to cash. Is it proposed to ban these as there seem to be no grounds to mandate that people on income support have no choice but to pay these costs where others have the option to pay in cash.

Thirdly the restriction of all spending to a single card requires infrastructure which can rapidly and costlessly (for the individual) replace cards in the event of theft or loss. The speed of replacement is high priority given that people will not have any alternative means of purchase available to them (nor can they borrow from others since they will not have cash access to repay the debt. The provision of this service, especially in remote areas, or to groups such as the homeless is likely to be costly.

**Is it a proportionate response to problems?** At the broadest level this question is whether the extent of current abuse is such as to warrant placing some 2.5 million Australians on this initiative with its associated imposition of costs and inflexibility, limitations on individual choice and constraints on normal family and other behaviours. There seems to be very little argument for this, and certainly no case presented in the report. While the report argues the costs of current income management arrangements make it 'unsuitable for broader application' perhaps the challenge is to think differently and consider ,not a broader application, but rather a narrower application targeted to those who have a need for such a policy intervention. Secondly the only legal product proposed to be excluded is alcohol, the question of proportionality here is whether the incidence of abuse of alcohol by some people on income support payments warrants banning all people who are reliant upon these payments from consuming alcohol. Certainly the available data suggests that most people who consume alcohol do so responsibly.

**Conclusion:** It is unclear just how effective this policy would be in terms of its instrumental goal, while the policy lacks the means to achieve its aspirational goals. It is a policy which will impose significant limitations and costs on a large proportion of the Australian population and hence not only does its effectiveness and cost need to be queried but also its proportionality.

The review opines that what we currently have is “an irresponsible social experiment”(p104). It can alternatively be suggested that the payment of transfers as cash to individuals is a policy which is based upon a belief in individual autonomy and self-determination and that a

person and not a state, company or charity is best placed to make decisions about their welfare. It is a policy which addresses the failure of past experiments, in Indigenous policies with regard to mission and station rations, and more broadly soup kitchens, workhouses and church and other charity vouchers.

## 5 Governance and community development

*Submission by Dr Janet Hunt,  
Deputy Director, CAEPR*

- 1 Overall, the Review regrettably takes a deficit approach to the situation rather than a strengths-based one. The latter would have explored where ATSI people are currently employed; would have systematically explored some successful sectors or organizations & what strategies they used to recruit, train & retain ATSI staff, and it would have explored why some regions have much higher levels of ATSI employment than others to understand why rather stark differences exist. Instead it made one-size-fits-all assumptions about incentives and disincentives to apply across the very diverse circumstances of urban, regional and remote Australia.
- 2 The Review focuses almost entirely on the private sector to the neglect of the public sector (where 23% of Indigenous people are currently employed) and the not for profit (NFP) sector, as employers. Whilst the private sector is certainly the largest employer overall, the NFP sector provides at least 8.5 per cent of Australia's employment, especially in industries such as health, education, disability and aged services, all areas important to Indigenous people, especially women, and in which they are already represented, making increasing their presence easier, particularly in regional and remote regions as well as urban areas. This is not to mention the Aboriginal controlled sectors, such as health that alone employs over 3,200 Indigenous people, and indicates a national Indigenous health workforce shortage of 6,887 Indigenous people by 2015 to meet Health Ministers' targets (Alford, 2014). Furthermore, the Review totally neglects to discuss which private industry sectors are growing and might provide significant new employment opportunities in the next 5-25 years. These omissions seem to be major gaps in the Review, reducing its strategic value.
- 3 The Review takes a perspective that blames individual Aboriginal people for their unemployed status, rather than adopting a more structural analysis of the problem. It oversimplifies a complex situation. For example it ignores how economic restructuring has impacted on Aboriginal men previously employed in rural industries and manufacturing, both of which are declining. Specific strategies are needed to deal with these phenomena. The Review also fails to identify issues



such as poor health and disability and in the case of women, high fertility and younger age of birthing, compared to non-Indigenous women. Their unpaid care work starts much earlier in the life course and is considerably greater than that of their non-Indigenous counterparts (Yap & Biddle 2012). To engage more Aboriginal women into the labour force will require a mix of relevant social policies, such as more affordable, accessible and culturally acceptable child care, aged and disability care etc, nothing of which is mentioned in the Review.

### ***Governance, empowerment and generation of economic activity***

Two pages is totally insufficient to respond to a 245 page report with 27 major recommendation areas and many more specific recommendations, so I have decided to focus particularly on the section in Chapter 8 on Governance and the Empowered Communities group model. I strongly support the concept of building strong local governance and leadership which is at the heart of this chapter as research indicates that strengthening local and regional governance in Indigenous communities is central to driving change. But a model is once again being proposed to apply across all communities. My research indicates that governance structures can be developed or strengthened best when they serve the aspirations of Indigenous people themselves, and when they are designed by them to meet the particular circumstances of their region. The governance model needs to work towards goals agreed by Aboriginal people, not imposed on them by others. The model proposed by the Review suggests that only by accepting externally imposed conditions and norms, will such governance structures gain support from government. This model is designed to effectively shift responsibility for implementing the government's proposed welfare reform model onto Aboriginal leaders in their own communities. Such a model is most unlikely to work. This is not because Indigenous leaders don't want to see change in their own communities, but because they will have their own positive approaches to making changes, and it is these that ought to be supported by governments.

The group of 8 Empowered Communities is referenced as the model to follow. Whilst they are strong organizations with very good leadership, they began in each case by working positively with their own communities and building up the governance they needed. They have not generally taken a punitive approach to change; rather they have supported their people by developing opportunities for them, and then providing training

and employment, to enable them to grasp those opportunities. Their models are in fact quite diverse, but what is common is that they have each responded in an appropriate way to the challenges in their own regions. In most cases they have also developed their organization and their leadership over many years. Thus while the Review is correct that investment in local governance and leadership is an essential condition for positive change in communities, it will fail if it simply tries to set up local Elders / Local Responsibilities Boards to effectively start policing communities immediately.

Whilst the idea of Aboriginal people having strategic oversight of local service delivery is also laudable, the NSW Government attempted something similar with its 40 Partnership Communities until 2011. This had some success, but there were also problems largely to do with attempting to impose a governance model that was predetermined. It was also difficult to get government departments to coordinate through the Partnership Community Governance structures. Lessons learned from this experience are extremely relevant, and should be obtained from the NSW Government. The second area of responsibility suggested is to set & enforce rules and consequences for matters such as work, schooling & other social norms. The Review suggests the application of national rules and sanctions that they would simply have to enforce. This is most unlikely to work.

We know that *what does work* is to support leaders to generate economic opportunities in their localities that would change the situation for the long-term. This is what a few positive examples mentioned in the Report are doing (eg Myuma, Darkinjung, Shepparton/Gambina). Funds spent on expensive, punitive approaches (such as compulsory income management or something similar) that have little evidence of success (Bray et al 2012) would be better spent developing real livelihood and employment options for people to give them an incentive to develop skills and become economically active. Empowering Indigenous leaders to generate change is right, but they must have legitimacy in their communities and telling them exactly how to create the changes in their locality is a major error. They have their own goals and approaches which we need to support and partner with in a spirit of respect and collaboration, and through enabling them to access good advice.

We need an Aboriginal Development organization with skilled people & good resourcing that can facilitate this across the country. We must get away from the punitive approach, and shift to a strengths-based approach, which can help build Indigenous confidence and self-esteem, develop skills and opportunities and this means

undertaking social and economic development initiatives. Investing in this now will bring significant returns in the long term.

A few final notes:

**On incarceration:** a shift to a Justice Reinvestment policy approach could make a great difference to the numbers of Aboriginal people in jail, and again would provide positive alternatives to crime and jail for them.

**On driver licences:** the absence of these is a major barrier to regional employment opportunities, and measures to enable people to gain/regain driver licences for employment (not just off-road) would be helpful.

**In remote regions:** the concept of a diverse livelihood rather than standard employment might provide a better policy framework as some Indigenous people may have no desire to enter the global market economy.

*Submission by Dr Elise Klein, CAEPR*

#### **Purpose**

1 This two page document outlines some of my concerns regarding Andrew Forrest's Review of Indigenous Training and Employment Programmes. As the length of submissions can only be two pages, I will limit my concerns to the domain of Indigenous empowerment and inclusive policy development.

#### **Background**

2 I write this report drawing on over ten years experience working on development issues in Australia and internationally. I have a doctorate of Philosophy for the Department of International Development at the University of Oxford, and now I am a post-doctoral research fellow at the Centre for Aboriginal Economic Policy Research at the Australian National University. I have worked in various Indigenous organisations in North West Victoria and in the East Kimberley and a community development organisation in Mali for over 10 years.

#### **Key concerns of the Forrest review**

3 To begin, the diverse and multidimensional nature of Indigenous agency is overlooked and misplaced by an assumption that Indigenous agency is negative, dysfunctional and needing intervention. The most notable locations of such rhetoric can be found in the Review's arguments justifying the Healthy

Welfare Card, the descriptions of dysfunction in communities and the proposition of what success for Indigenous people should look like. The starting point of 'deficient aboriginal agency' sets the report up to justify two major oversights. Firstly, the *largely paternalistic recommendations*, for example, income management, engineering of social norms, and the shaming of those that fall short of the reform agenda through the monitoring of 'success' on the world wide web. Secondly, the Review *avoids grappling with and integrating the diverse range of views held by Indigenous people* that should have been characteristic of rigorous methodology and inclusive consultation. It is of particular interest that the Review only quotes 5 of the reported 349 written submissions. The 5 submissions quoted compliment the ideological views throughout the Review, yet many of those not engaged with stand in stark opposition, illustrating the select nature of the process. Further still, it isn't clear how extensive or participatory the consultation was with people who are illiterate and unable to present written submissions, and who will be most vulnerable to the targeted recommendations.

4 As a result, the methodology which was employed in the consultation and development phase of the Review excludes most Indigenous people in the decision making process regarding policies that will directly affect their lives. This is a failure of the Review as the policy making process has intrinsic and instrumental significance for people's ability to control their own self-determination. As self-determination is at the heart of Indigenous justice in Australia, it should be paramount in the creation of Indigenous policy.

5 Further still, the exclusion of Indigenous agency goes against best development practice and scholarship. (For example see Linda Tuhiwai Smith (1999), Amartya Sen (1999), Robert Chambers (1997), Sabina Alkire & Severine Deneulin (2009), also project manuals within the United Nations Development Program, the OECD and the World Bank). Central to this body of research, is the notion that policy development is a process, not a destination. Agency and deliberation must be central. In the words of Sen (1999) "The people have to be seen... as being actively involved – given the opportunity – in shaping their own destiny, and not just as passive recipients of the fruits of cunning development programs" (53). Unfortunately, through the overlooking and of Indigenous agency, the Review has completely disempowered Indigenous people in forming these

- policy recommendations. It is thus questionable that the implementation of the recommendations proposed in the Forrest Review will be valued by much of the Indigenous population, possibly creating resistance and further distain.
- 6 The problems just outlined above stem from the imagining of 'Indigenous people' as a homogenous group. Engaging with a selected few Indigenous individuals and organisations with the assumption they speak on behalf of or know better than the wider population, is problematic. The Review's discussion and recommendations do not distinguish between remote, regional and urban Indigenous people let alone intricate elements of Indigenous diversity. It is also evident that the few organisations and individuals whose views did inform the report, do not necessarily engage with the wider concerns of Indigenous people. For example, the 5 key requirements and related sanctions of the 'Empowered Communities' model, (getting kids in school, being in a job or training, not engaging in crime, respecting housing and looking after the elderly), are all highly contentious to the wider Indigenous population. Yet the Empowered Communities model is suggested by the Review as 'leading the way for Indigenous people to end disparity themselves'. Counter to popular opinion, there is very limited deliberation and participation of Indigenous people in the Empowered Communities model. According to Phillip Martin (2008), an employee of the Cape York Partnerships, the community engagement phase undertaken before the Cape York Welfare Reform Trial proposed to the Queensland Government in 2007, was a process more to convince local people of the merit of pre-conceived policies and principles rather than to inform the policies themselves and allow deliberation and agency within such discussions. Moreover, in the 2012 scoping study report for Living Change, a program put forward by the Wunan Foundation in the Kimberley as part of Empowered Communities, the 5 community requirements were discussed with only 2.35% of the Halls Creek Indigenous community members. Such a low engagement rate makes it hard to justify the claims of 'community support and participation' made in the scoping study. Further still, of this 2.35%, 29.4% of participants disagreed with the full model to impose the 5 key requirements and related sanctions (39). This limited consultation has significant implications regarding the claims of Indigenous led development; as limited testing of their relevance, alignment to people's aspirations and values, and fairness of the 5 requirements within the communities, is mainly overlooked.
- 7 There is also reluctance in the Forrest Review to engage with the plethora of peer reviewed research on Indigenous training and employment programmes. Not only did the Review misquote various pieces of research (for example the references to Biddle's research), it also overlooks the corpus of long standing, peer reviewed scholarship. Instead, the Review privileges the unscrutinised application of personal experience as the foremost evidence. One clear example of the poor research applied is the recommendation of the 'Healthy Welfare Card,' a form of income management with specific conditionalities on what people can spend their entitlements on. This recommendation and underlying assumptions overlook credible research such as Bray et al. (2012) *Evaluating New Income Management in the Northern Territory: First Evaluation Report* commissioned by the Australian Government, which has shown that income management enforced on Indigenous people in the Northern Territory has had little positive impact.
- Recommendations**
- 8 Public deliberation and broad Indigenous agency needs to be central in the creation of Indigenous policy. A concerted effort should engage directly and meaningfully with the broad range of Indigenous actors, not just an unrepresentative and unelected few. Through such public deliberation on employment and training, a new vision will emerge, one fully born from views of a larger cross section of people. Policy actors have to be courageous in this, it means fully honouring and trusting in people's agency and ability to develop a self-determining pathway, and not one transposed from elite and disconnected actors. The role of the Review Committee must be a facilitator in this, not an imposed director.
- 9 Inclusive and meaningful engagement in the policy making process of is not a misnomer. It is indeed very possible and I would encourage the critical examination of *Participatory Budget* formation used in Brazil and the participatory processes underpinning the rewriting of the Bolivian constitution to include *Buen Vivir*.
- 10 Given the above assessment, I recommend the Forrest Review is rejected as a legitimate review of indigenous employment and training and suggest a federal enquiry to review. I am happy to discuss further any of the points raised in this all too brief submission.

## 6 Remote development

### *Submission by Dr Bill Arthur, CAEPR*

The following submission is informed by my experience in Indigenous matters since the 1980s: in the field in the Kimberley and Torres Strait, from policy research at CAEPR and AIATSIS, as a senior bureaucrat with the Department of Employment and Training in Western Australia and as a consultant to the Australian Government.

This submission focuses on remote Indigenous communities (as distinct from outstations). I support the general notion that the lives of Indigenous people in remote communities would benefit from higher rates of employment and levels of education, as officially measured. However, I feel that the Review understates the difficulties in achieving this situation in remote communities whose unique characteristics include (tho' are not limited to) the following:

- They are principally constructs of government administration not on the dictates of the capitalist labour market
- They are far from centres of industrial activity and are likely to always be so
- They have operated under a modified welfare system for at least two generations, where the mainstream rules for eligibility are reduced or absent
- They have never experienced sanctions associated with those normally applied to make parents send their children to school
- Their official socio-economic statistics have remained obstinately low, and seem unlikely to improve through human capital and job-matching strategies, and caring for country programs
- They are mostly found in regions where land rights and native title legislation have been most successful. Implicit in these pieces of legislation is the government's acceptance that people will stay in these regions and not relocate to find work. This situation seems to contradict the normal dictates of the capitalist system as it applies more generally. (That is to say, for administrative purposes the government has located people in communities far from labour markets, and has also enacted legislation that encourages them to stay there.)

The characteristics of such locations demand a greater emphasis on the strategy of 'economic development' than is suggested by the Review. There never has been a

comprehensive strategy for the economic development of remote Indigenous communities, which has undoubtedly contributed to their obstinately low socio-economic status. A remote economic development policy would give attention to the process of 'capacity development' in addition to more mainstream types of training.

This strategy should have the long-term aim of 'industrialising' communities by initiating relevant community-owned businesses. Key features of community businesses are that they can more easily accommodate cultural requirements, and allow workers to stay on or near their country. One possible example would be a type of community-owned business that would interact with nearby (e.g. mining) and distant industries to produce bit-parts for these industries. Capacity development, education and training would articulate with these businesses. The strategy would not displace any other types of sustainable employment, such as in community governance; NGOs; and land-care. This strategy is akin to establishing a cottage industry and, given the unique characteristics of remote communities, would require long-term subsidies.

The process for this change could include the following stages:

- Construct a typology of remote communities
- Select a number (4 to 6) of pilot communities and conduct an audit of the realistic job potential in the sectors of each community and within its surrounding labour-catchment, including in any mining or manufacturing industries, land-care type work, military installations, community governance etc. The audit would estimate, in employment terms, the likely possible contribution of each sector within the community and its catchment area. This would indicate the required contribution by community-businesses.
- Carry out socio-economic research to determine the type of community-owned businesses necessary to employ a workforce; the cost of establishing these and the long-term subsidy to support them into the future.
- Develop a capacity-building system to allow people to manage community-businesses.

### *The welfare support system*

Hand in hand with the above strategy it would be necessary to identify, and then remove or modify, any disincentives to taking up employment which might exist in present the modified welfare system. This would aim to

gradually bring the welfare system more into line with that which exists in non-remote places. This would *not* include imposing sanctions on people in addition to those that apply in non-remote areas. As noted above, the normal sanctions have never been applied. Gradually moving closer to the welfare system operating for non-Indigenous citizens is less onerous and more likely to succeed than is imposing additional and ethnically-based sanctions.

### ***The military***

The interaction between the military and Indigenous people is not mentioned in the Review and receives little attention in the Develop the North report. The military structure is well adapted to provide training and employment in the remote environment. Some attention should be given to expanding the present interaction between Indigenous people and the military.

### ***Submission by Dr Seán Kerins, Research Fellow, CAEPR***

#### ***A disingenuous consultation process***

It is hard to make sense of Mr Andrew Forrest's review of Indigenous Training and Employment Programs. On the one hand the Government is calling for submissions on The Review, while on the other, Mr Forrest told us at the launch of his review that: "There will be a temptation to pull a spark plug out, maybe pull a flyer wheel off, or even a cylinder, but of course the engine then won't work". In other words his review must be taken in its entirety.

Not only does the review go way beyond its terms of reference (from employment and training to land reform), it gives Indigenous people little time to consider and respond to the review. It is hard to see how Indigenous peoples living in remote regions of Australia will be able to digest a dense 250 page report, with no abridged plain English version or community facilitated (with experienced translators) Q&A sessions, in such a short timeframe.

These deficits, along with the 'take it or leave it' consultation approach, amount to a disingenuous consultation process. Such unsound consultation practice flies in the face of international common law principles concerning consultation, especially consultation with Indigenous peoples (see *Land Air Water Association v Waikato Regional Council (A110/2001)*, and *Wellington International Airport v Air NZ [1991] 1 NZLR 671 (CA)*).

The consultation process is also highly inconsistent with the implementation, in a spirit of partnership and mutual respect, of the United Nations Declaration on the Rights of Indigenous Peoples.

#### ***Empowering people in remote communities***

Despite Indigenous Australians owning roughly 30 per cent of the continent, under a variety of land tenure regimes, and there being about 1200 small discrete Indigenous communities with a total population of about 100,000 people, or about 20 per cent of the total estimated Indigenous population scattered across these lands throughout the remote regions of Australia, Mr Forrest devotes little more than half a page of his review to their circumstances and aspirations.

This is of concern, considering that for the past 20 years many of Australia's Indigenous peoples in remote regions have been playing an essential role working to halt, or mitigate, drastic environmental change. Many have been protecting biodiversity, battling species decline, the invasion of exotic species (feral animals and weeds), changed fire regimes, along with the negative environmental impacts caused by mining and energy resource extraction through a variety of community-based natural resource management enterprises. These enterprises have created meaningful long-term employment in some very remote and challenging regions, while also strengthening social capital by supporting people who have been inactive back into the wider activities of the community. Importantly, many have also been developing cultural/eco-tourism enterprises, building governance organisations, as well as trialling innovative collaborations with the private sector and the market.

One community-based enterprise at the forefront of this work is Warddeken Land Management Limited. Warddeken is based on the dissected sandstone country of the west Arnhem Land Plateau managing the Warddeken Indigenous Protected Area, a region of international biodiversity and cultural significance encompassing over 13,000 square kilometres of land. Warddeken, along with their Indigenous and non-Indigenous partners were instrumental in developing the West Arnhem Land Fire Abatement project. This intercultural project is contracted for 17 years to abate at least 100,000 tonnes of carbon equivalent greenhouse gases per year to off-set emissions from a liquefied natural gas plant based on the outskirts of Darwin operated by the energy giant ConocoPhillips. From 2006 ConocoPhillips have contributed annual funding into the project of about \$1.2 million per year to off-set



green-house gas emissions from their gas plant. This project has exceeded the initial target of abating 100,000 tonnes of carbon equivalent greenhouse gases per year. Since 2006 the project has abated an average of 140,000 tonnes.

With the right policy framework and investment from both the public and private sector many more Indigenous community-based enterprises, which link Indigenous property, skills and knowledge with both private and government sectors, could develop, especially across the remote regions of Australia. Despite this enormous potential, the Forrest Review ignores such initiatives and focuses instead on orbiting Indigenous people out of their communities and away from their lands. Further, Forrest seeks to dismantle Indigenous owned land tenure by individualising title in the false hope that individual title will bring economic wealth to Indigenous people in remote regions.

#### ***Create more fee-for-service opportunities***

Many Indigenous people in remote regions have undertaken further education and vocational training through various accredited training institutions to obtain Certificates IV in a variety of conservation and natural resource management courses. Many have pursued training in this area, not for 'trainings sake', but to be in a better position to effectively participate in community-based enterprises and fee-for-service work that occurs in the regions where they live.

Indigenous people have clearly demonstrated that they have been able to draw on their knowledge of country and training to participate in fee-for-service work, such as working Australian Quarantine and Inspection Service through its Northern Australia Quarantine Strategy to actively manage biosecurity.

The recent *'Pivot North, Inquiry into the Development of Northern Australia: Final Report'* by the Joint Select Committee on Northern Australia recommends that the number of Australian Quarantine and Inspection Service officers be significantly increased in Northern Australia (Recommendation 24). This provides a significant opportunity for government to build on the successful program operated by AQIS and employ a greater number of Indigenous people to manage biosecurity.

Other government departments need to follow AQIS's lead and introduce more fee-for-service work opportunities for Indigenous Australians living in remote regions to participate in other sectors, for example, customs, fisheries compliance, search and rescue, and environmental monitoring.

## **7 Education**

### ***Submission by Dr Inge Kral, Research Fellow, CAEPR***

This submission draws on my extensive on-the-ground experience as an educator in remote Indigenous schools and adult education institutions for nearly two decades and my expertise as an academic researcher in the fields of Indigenous education, literacy and youth learning.

While it is indisputable that the quality of life for many Indigenous Australians needs to be improved in my opinion the Forrest Review contributes little to providing a blueprint for further action. I say this for the following reasons:

- 1 **It is not evidence-based.** There is minimal evidence that the writers have made use of the extensive literature and research available in the area of Indigenous education and training, and more specifically in the field of language, literacy and learning.
- 2 **Conclusions are drawn that reveal ideological bias rather than critical research.** The lack of rigour in the evidence base reveals that the authors sought to emphasise a pre-determined position. The authors have not engaged with the findings from wide-ranging research in the field, as a result the recommendations in the Forrest Review have little salience and are not credible.
- 3 **What success looks like.** The Report situates a pre-determined position on 'success' according to mainstream norms which places Indigenous people in a deficit position. In the use of simple, over-arching negative generalisations in relation to parenting practices, individual goals and aspirations, and how time is used in communities and the quality of teaching in schools, the authors deny the nuanced complexity that exists across individuals, families and communities in urban, regional and remote Australia.

Specifically I address my concerns as follows:

#### ***Improving educational outcomes***

**Literacy and learning.** By focusing only on 'explicit instruction' as the preferred methodology in remote schools the Review is not giving credit to the fact that most teachers have always incorporated aspects of 'explicit instruction' methodology into their teaching

practice – ‘explicit instruction’ is merely common sense good teaching. This factor notwithstanding, the Review does not draw attention to other literature providing a *critical* assessment of the explicit instruction approach. The fundamental issue *not* addressed in the Review is that being literate and being able to engage with literacy beyond school involves more than having individual technical literacy skills. As many scholars have argued schools can never provide all that is required for life. Even under the best of circumstances school age children and adolescents—even those who attend school regularly—may only spend about 18.5% of their waking hours in formal education. In line with much innovative education research around the globe what we need to be doing in Indigenous education in Australia is considering how to implement a wide range of learning experiences *in addition to* classroom-based instruction. For instance, supporting: i) family literacy programs; ii) public libraries in remote communities; iii) after-school homework programs; iv) youth centres and computer rooms that support digital literacy training and activities; and v) other sites for lifelong learning. Moreover, and importantly, even in mainstream Anglo-Australian contexts where children speak English as a first language, have attended school regularly, come from literate families and have participated in all the middle class extras of out-of-school learning, *we still have not achieved universal adult literacy*. So why do we have unrealisable expectations of full parity in NAPLAN?

**NAPLAN.** Achieving parity in NAPLAN will involve much more than simply focusing only on schools and enforceable plans requiring that schools use the explicit instruction method or take punitive action if children do not attend school. The Review is severely remiss in its omission of any informed discussion re. the literacy learning requirements for those students who commence school *not speaking* English as their mother tongue. As research notes (Wigglesworth, Simpson and Loakes 2011) the NAPLAN test, while being suitable for most groups of SAE (Standard Australian English) speakers, is linguistically and culturally unsuitable for Indigenous children, especially for those living in remote communities. NAPLAN is an inappropriate instrument for testing literacy competence in the remote Indigenous context. What is needed in these schools is a deeper understanding of the complexity of language and literacy instruction in this setting and more professional development. While most teachers have native speaker proficiency they are not being trained to teach Standard Australian English. These teachers need specialist linguistic knowledge and they are not getting the support required to teach their non-English speaking students. All too often language is misconstrued as literacy, that

is, students are expected to launch into literacy learning in English without first getting the foundational teaching in English as a second language. Furthermore, and worryingly, anecdotal evidence from remote community schools indicates that teachers ‘teach to the test’ rather than teaching the broad range of skills and knowledge required to learn English language and literacy.

**Indigenous employment.** In the early school years having Aboriginal teachers who are language speakers and have some linguistic knowledge would be an invaluable investment in ensuring that a greater number of students achieve in the NAPLAN assessments. Yet in the Forrest Review there is an unstated assumption that the high-performing teachers will be non-Indigenous. The Review does not recommend a training pathway for *Indigenous* assistant teachers, teachers and principals, despite the fact that education is an obvious employment area in remote communities. As an aside, it is a well-known fact that school attendance in remote communities was higher during the bilingual education era when children accompanied their parents and grandparents who were employed in the bilingual education program and in the literature production centres based at schools.

**Stopping distractions to education.** All Aboriginal parents want the best life for their children. Ensuring that children come of age with a strong cultural identity is also a necessity in guaranteeing that Aboriginal children will have a successful life. A recent study has looked at the top 10-25% of Indigenous NAPLAN Year 5 tests and found that those who do well have a strong sense of their cultural identity. The learning taking place in ceremonial business is of critical importance in ensuring the formation of a strong cultural identity and holds together the social organisation and governance structures that underpin remote societies.

**Training.** Lastly the Review seems to display little insight into the reality of the school to work transition for youth in remote Indigenous communities. Most institutional adult education initiatives in the remote sector have failed to achieve projected outcomes for a variety of reasons. Yet the Review did not assess the range of training options available and the pros and cons of a variety of initiatives. While the VTEC model may work in some regions there is no guarantee that it will achieve success in other locations. A multi-pronged approach is needed to meeting the learning needs of youth, especially because many come to adult education with low levels of English language, literacy and numeracy competence. For many young adults the attainment of a Certificate I or II qualification is a major achievement which may not translate into mainstream employability,

but it is the reality. Furthermore to only fund training (Recommendation 13.1) when it is fully recognised by employers and linked to a guaranteed job runs counter to common sense in a setting where there are insufficient jobs. Learning and education is about more than training for employment, it is also about contributing to the development of a community of active parents and citizens, and creating the foundation for good governance structures for the future.

## Notes

1. <http://www.crikey.com.au/2013/11/12/abbotts-review-into-indigenous-employment-lacks-legitimacy/>.
2. <http://thenumbercruncher.org/2014/08/20/employment-and-education-a-query-for-the-forrest-review/>.
3. See note 2.
4. The review received 349 submissions in total. 79 of these were submitted in confidence. When referring to specific submissions, I have used the numbers attributed to them on the Review's web page: <https://indigenousjobsandtrainingreview.dpmc.gov.au/get-involved/public-submissions>.
5. <http://www.abs.gov.au/ausstats/abs@.nsf/Lookup/4102.0Main+Features20Nov+2013#INTRODUCTION>.
6. Voluntary income management is a different matter, but overall there is a crying need for financial literacy and access to financial services.
7. The Scoping study shows the sampling size of the study as 134 people (pg. 33) of a wider Indigenous population of 5700 (pg. 1).

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## **Submission to the Inquiry into the Social Security Amendment (Community Development Program) Bill 2015**

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### **Summary**

The Social Security Amendment (Community Development Program) Bill 2015 (henceforth the CDP Bill) looks to address two interlinked problems perceived by government in current labour market program arrangements for remote regions. From 2013–2015 this program was called the Remote Jobs and Communities Program (RJCP) in which over 80 per cent of participants were Indigenous Australians. From late 2014 RJCP was reformed into the Community Development Program (CDP). The CDP Bill looks to introduce further reform to be implemented from 1 July 2016 in four trial regions out of the 60 currently covered by CDP.

The first main problem identified by government is that both the RJCP, and now CDP, are not generating adequate mainstream employment and training outcomes as measured by statistical metrics.

The second is an extraordinarily high rate of breaching quantified by the government itself at 12 times the national rate for those people who are unemployed and receiving conditional income support. These high breach rates are further entrenching Indigenous poverty but also clearly reflect an unwillingness to comply with stricter rules around ‘no show, no pay’ that have been introduced to discipline participants.

To deal with these problems the Turnbull government is proposing to change the social security law to create a new ‘remote income support’ payments system. This system looks to borrow some of the positive elements of an earlier Indigenous-specific program, the Community Development Employment Projects (CDEP) scheme that began in 1977 and was abolished as an element of RJCP reform in 2013.

It is proposed that trials are conducted in four regions with 2000 CDP participants out of the total of 37,000 in 60 regions. The proposed system will test new payment and activity arrangements; alter job seeker compliance rules to reduce breaching; and introduce new income thresholds aiming to reduce poverty traps with the assumption this will drive up employment rates.

Yet the proposed CDP Bill is deeply flawed and it could perpetuate, or even exacerbate, the vulnerability and poverty of people living in remote areas, the very issues the Bill is trying to address. In other words, it risks increasing disengagement from the CDP and, of greatest concern, intensifying deep poverty associated with a high reliance on already inadequate income support payments in remote Australia.

In this submission I begin by briefly outlining my own research background and the policy positions on complex development issues, especially CDEP, that I have taken over the past four decades. I then do four things:

- 1 I provide a synoptic policy history to track the reform pathway over the past decade that has seen the move from CDEP in its original form (1977–2005) to new forms of

CDEP (2005–2013) and then RJCP (2013–2015) and finally to CDP (2015 to the present). This history is essential to gain some understanding of what anthropologist Tess Lea has referred to as the ‘policy ecology’ of the latest set of proposals that are looking to revive elements of the CDEP scheme, implicitly acknowledging its relative success, even as it has finally been eliminated after 40 years.

- 2 I then outline the latest experimental proposal incorporated in the CDP Bill that has been developed over the past 12 months by the Commonwealth bureaucracy.
- 3 I identify a range of conceptual and technical problems with the CDP Bill’s proposed experimental system that are likely to exacerbate currently identified issues that need urgent remedial action. Much of the problem here is that those who have devised the CDP Bill either do not understand or are wilfully ignoring those elements of the CDEP scheme that are supposedly being re-introduced.
- 4 Finally I provide a set of five recommendations that will chart possible ways forward that will reduce the likelihood of yet another expensive failure in experimental Indigenous policy for remote Australia.

## **Background**

I want to begin by providing a little background about my personal entanglements researching Indigenous labour market and development issues in remote Australia and my attempts to influence policy in this complex area. I do so to establish my bona fides but also to be transparent about my policy positioning especially in relation to the CDEP scheme on which the CDP Bill purports to draw.

My academic background is in economics and anthropology and since I came to Australia in 1976 I have undertaken research about remote Indigenous Australia. From 1990 to 2010, I was the foundation director of the Centre for Aboriginal Economic Policy Research at the Australian National University. I am currently employed at the Alfred Deakin Institute for Citizenship and Globalisation (effective 1 February 2016) and remain as an emeritus professor with ANU.

Over the years I have undertaken a great deal of research on Indigenous labour market issues. An annotated bibliography of my writings can be found at <http://caepr.anu.edu.au/Publications/WP/2014WP96.php> with one section focused just on the CDEP scheme.

Most recently I have been a Chief Investigator on an Australian Research Council (ARC) Discovery Project ‘From welfare to work, or work to welfare?: Will reform of the Community Development Employment Program help close the employment gap?’. This project is nearing completion with findings to be published in 2016 in a monograph titled *Better than welfare? Work and livelihood for Indigenous Australians after CDEP* edited by Kirrily Jordan.

Over many years now I have championed CDEP as the most effective institution devised so far by the Australian government for dealing with enormous and diverse Indigenous labour surplus challenges across remote Australia.

This advocacy has been based on sustained empirical and conceptual research over many years.

At a conceptual level, when I was working as an economist at the University of Melbourne in 1976 and 1977, CDEP was just being piloted. Along with my colleague John Nieuwenhuysen, we devised a model that demonstrated the inherent potentiality of the CDEP scheme to maximise the utility of participants who preferred part-time work owing to the flexibility and community-control that underpinned the scheme. This model and associated discussion was published in the book *The Economic Status of Australian Aborigines* (1979).

At an empirical level, I have undertaken substantial research to collect primary data on the workings of the CDEP scheme mainly in western Arnhem Land but also in other remote regions. In particular I have collaborated with the Bawinanga Aboriginal Corporation—historically the largest and most successful CDEP organisation in remote Australia. Long-term field-based empirical observations have allowed me to document just how effective CDEP was in generating employment opportunity where available, providing income support and underwriting community commercial and social enterprises. This was especially the case in situations where CDEP was administered by well-resourced organisations with adequate institutional capacity.

I have also undertaken empirical analysis using secondary sources like the five-yearly census and special surveys like the National Aboriginal and Torres Strait Islander Social Survey and the Labour Force Survey. This research invariably showed that CDEP improved outcomes for participants when compared to either the unemployed or those not in the labour force in terms of extra hours worked, extra income earned, and—importantly for many—opportunity to participate in non-market productive activity and cultural prerogatives and family obligations (participation in which improved subjective assessment of wellbeing as documented by economist Michael Dockery).

It was this research that led me to the conclusion that CDEP was probably the most effective Indigenous-specific institution devised by government since the late 1970s.

Subsequently, from 2004 I have become an outspoken critic of decisions by successive Australian governments to incrementally reform CDEP over a decade-long period to its demise from 1 July 2015. This critique was based on research that showed the CDEP institution worked well and was being unfairly judged (rather than evaluated) but also because I believed that it was being replaced by inferior institutional forms.

Unfortunately, this view has proven correct, especially in remote Australia, as the government's own assessment now demonstrates. In January 2015 I was highly critical of Senator Scullion's proposals for CDP on a number of grounds, but especially because the new program required able-bodied participants aged 18–49 years to work for 25 hours per week for their Newstart Allowance equivalents at arguably discriminatory hourly rates well below award rates.

Over the years I have advised governments of all political persuasions, agencies (such as the Aboriginal and Torres Strait Islander Commission and before that the Department of Aboriginal Affairs and after that the Commonwealth Department of Employment in various manifestations) and Indigenous community organisations (especially the Bawinanga Aboriginal Corporation) on how to improve CDEP; and I have made a number of submissions to government inquiries. This advice has invariably focused on options to enhance the effectiveness of CDEP and as a general rule it has been ignored.



I want to highlight two policy interventions attempted because I will return to them in my recommendations.

First, in 1987 I was invited by the then Australian Council for Education and Training to undertake a consultancy to explore options for the delivery of income support to remote homelands and outstations. In a report *The Economic Viability of Aboriginal Homelands and Outstations* (1989) co-authored with Luke Taylor, I recommended a Guaranteed Basic Income for Outstations scheme with residential conditionality that was never seriously considered.

In recent years there has been a growing global interest in unconditional Basic Income schemes, an interest informed by recognition that with technological change and population growth there is a global over-supply of labour and that the goal of full-employment is no longer realistic—especially for those employed casually and precariously and those only marginally attached to labour markets. There is considerable material on basic income trials internationally on the site Basic Income Earth Network (<http://www.basicincome.org/>) of which I am a member.

In 2015 my interest in unconditional basic income, that was a feature of some CDEP schemes, was revived in a collaborative project involving Guy Standing. I have recently contributed a chapter 'Basic income for remote Indigenous Australia: prospects for a livelihoods approach in neoliberal times' to a book *Basic Income in Australia and New Zealand: Perspectives from Neoliberal Frontiers* to be published in March 2016.

Second, in late 2010, I collaborated as policy adviser to the Aboriginal Peak Organisations of the Northern Territory (APONT) to propose a new program—the Community Employment and Enterprise Development Scheme (CEEDS)—to the Australian government. This proposal was made as the CDEP scheme was being reformed and it provided an alternative especially tailored to the needs of remote Indigenous communities. The proposal was provided to the government in early 2011 as well as to the then Opposition (now government) and was again forwarded to the Department of Prime Minister and Cabinet as recently as in May 2015 as the CDP Bill was being developed.

To the best of my knowledge neither the government nor opposition have formally responded to the CEEDS proposal, either positively or negatively.

My latest attempt to influence policy occurred on 14 May 2015 when I participated as an invited guest at an unusual meeting in Parliament House, Canberra between Senator Scullion and members of the Opposition and government officials. I made my views quite clear on the inadequacies of the proposed CDP reforms and documented these after the meeting. To avoid any perception that I might be conflicted in providing this submission, I want to make it quite clear that I can see none of my suggestions incorporated in the CDP Bill that is the subject of the current Inquiry.

#### **A synoptic policy history: From CDEP to RJCP to CDP**

There are many ways that the policy history that has culminated in the CDP can be told. I want to do this briefly here recognising that this is but one of many possible interpretations depending in part on one's disciplinary perspective. (A detailed policy history from the perspective of political science and public policy on the rise and fall of the CDEP scheme to 2013 has been provided by William Sanders in 'Coombs' bastard child: The troubled life of the CDEP Scheme', *Australian Journal of Public Administration*.)

I provide this synopsis for two reasons.

First, while the CDP and its immediate predecessor the RJCP fall under the ministerial ambit of the Minister for Indigenous Affairs, they have been promoted since establishment as labour market programs for remote Australia, not Indigenous Australians. This distinction though appears largely cosmetic as over 80 per cent of participants are Indigenous and the program rationale looks to target the pathways to employment and the perceived work-readiness deficiencies of Indigenous people. This seems to me to be a contradiction, even pretence, and so I will focus my commentary on remote living Indigenous people who are not formally employed.

Second, and somewhat paradoxically, the establishment of the RJCP grew in large measure from a prolonged critique of the CDEP scheme that was reformed to extinction. Subsequently, RJCP was criticised by Minister Scullion and replaced by the CDP, with most changes focusing on compliance. Now in the CDP Bill we see attempts to revive elements of the CDEP scheme (beyond its name—CDEP and CDP are hard to distinguish in spoken English) just six months after its abolition. But even as this is being mooted it strikes me that what made the CDEP scheme both successful and popular is poorly understood especially by the current generation of bureaucrats charged with the latest round of experimental proposals.

So to reiterate what has been documented on numerous occasions in the published literature, the CDEP scheme was established on a pilot basis in 1976–77 to address a combination of two linked developments. In the early 1970s unemployment benefits (and other income support payments) began to be introduced to remote Indigenous people as Australian citizens. But this was an inappropriate institution for the context, that is, there were very few mainstream jobs at these places, so the social democratic rationale to assist the unemployed temporarily until employment was secured was empirically unsound given the limited demand for labour.

And so a new more appropriate institution, the CDEP scheme, was devised with the assistance of HC Coombs. Its piloting was negotiated with a small number of remote communities. The CDEP scheme was a form of mutual obligation program that engaged participants in a range of community development, service delivery and enterprise development projects, while also providing income support to participants where there were no employment possibilities (bearing in mind that the social security income support safety net for the aged, people with disabilities and sole parents operated alongside the scheme). Its key features were that it was funded from block grants that were calculated with a notional link to welfare entitlements. A social compact for payment was struck between participants and their community organisations not the Australian government.

This new institution proved very popular and it grew rapidly especially from the late 1980s as an element of the Hawke government's Aboriginal Employment Development Policy (that aimed to eliminate the disparity in employment rates between Indigenous and non-Indigenous Australians by the year 2000). The CDEP scheme assisted this national goal because participants were classified as employed as indeed they were according to International Labour Organization convention used by the Australian Bureau of Statistics. The scheme was popular with many Aboriginal communities because of its inherent flexibility that worked far better than rigid welfare. This was demonstrated time and again in

research undertaken by myself and others. By 2005 over 35,000 Indigenous people participated in the scheme that was administered by 265 community-based organisations.

From 2004 the Howard government began a reform process that progressively undermined the scheme's effectiveness. The reasons for this are linked to a complex set of explanatory factors, some of which made sense at the time, some of which were spurious and mainly ideological. Like much in Indigenous policy the 'reform' of the CDEP scheme is open to vigorous debate; here is my analysis.

From the late 1990s there were two tropes that were increasingly capturing the policy imagination. One was that a progressive and culturally over-tolerant liberal consensus was harming rather than improving Indigenous prospects in remote Australia. The other was that the CDEP scheme provided Indigenous participants a sheltered niche that precluded the taking of mainstream employment during boom times.

The former trope was popularised and given moral authority by the writings and influence of Noel Pearson, Marcia Langton and the Cape York Institute and was predicated on a conflation of CDEP with welfare. This false logic went something like this, and I simplify considerably. Welfare dependence and inactivity leads to individual and community dysfunction. The CDEP scheme is a form of welfare. Therefore CDEP also leads to individual and community dysfunction. These connections were asserted but never empirically demonstrated. The proponents of these arguments refused to acknowledge that the CDEP scheme was a government program with only notional links to welfare.

Another associated critique of CDEP especially favoured by Langton after her Charles Perkins Oration lecture of 2002 was based on the observation already made by Will Sanders and myself in 1991 that CDEP labour could be deployed to substitute for legitimate social services expenditures by all levels of government. Unfortunately, this problem was sheeted home by Langton to the CDEP institution and not federal, state and local governments who exploited this possibility, this was an unfair form of responsibility shifting by Langton that is not too dissimilar from the cost shifting that does occur in many contexts.

The solution to this problem was not to abolish CDEP, but to hold governments accountable for equitably meeting the citizenship entitlements of remote-living Aboriginal people on the basis of need. Sadly as a result of the reform process and the disappearance of the CDEP scheme the situation today is far worse because mandatory 'work for the dole' rules in remote Australia see people undertake such work for governments for below award rates.

The second trope was fuelled by early 21<sup>st</sup> century neoliberal triumphalism and the long boom that saw the income of employed Australians rise rapidly. An emerging view in policy circles was that individual shortcomings and not structural factors were the cause of Indigenous disadvantage. This trope was given moral authority by the naturalisation of the question that was difficult to dispute: Shouldn't Indigenous people share equitably in this explosion of national wealth?

It was during this period that terms like the 'real' economy and 'real' jobs became ubiquitous in policy discussions in Canberra, although neither was rigorously defined. These are particularly inappropriate for the circumstances of many remote Indigenous communities that are service towns underwritten by the public sector with limited production of goods and services either for export or local consumption.

Many other factors contributed to the snowballing demands of the powerful—politicians, bureaucrats, right-wing think tanks and the conservative media—for the abolition of the CDEP scheme; such calls did not emanate from ATSIC or from participants in the scheme or their representative organisations. These included mutual obligation welfare reform in the aftermath of the McClure Review of 2000 that sought to rewrite the social compact between income support beneficiaries and the state; the deep suspicion and then abolition of ATSIC and the resultant short-term transfer of the CDEP scheme to the employment portfolio (where its community development aspect that is now coming back in vogue was forgotten as bureaucrats judged the scheme myopically as a mainstream employment program only); and the National Apology and the setting of National Indigenous Reform Agreement targets by the Rudd government and an associated perception that the CDEP scheme was not contributing to the goal to halve the employment gap by 2018.

There was great optimism in 2008 that the resources boom would generate a great deal of employment for Indigenous people; not long before the Global Financial Crisis the Australian government endorsed the Australian Employment Covenant that aimed to generate 50,000 jobs for Indigenous people initially within two years.

A rare correlation of all these factors saw a relatively successful scheme incrementally dismantled, first in non-remote Australia in 2006 (where it was argued by the employment portfolio that there was excess demand for labour), and then for remote Australia. Initially the CDEP scheme was abolished in the Northern Territory in 2007 as a part of the Northern Territory Emergency Response Intervention. CDEP was reinstated for a short time in the Northern Territory and then as part of wider reforms from 2009 divided into two streams (community development and employment and training) and two categories of participants (those grandfathered on wages and categorised as employed and those who were only eligible for welfare payments and categorised as unemployed). These divisions made little sense, especially to participants and administering organisations.

In 2013, in its dying days the Gillard government introduced RJCP to 60 remote regions with service providers selected on a competitive basis. This saw 20 for-profit providers gaining five year contracts with just four securing contracts for 20 regions; there were between 35,000 and 37,000 participants. Those grandfathered on CDEP now numbering about 4,000 were to be retained on wages until mid-2017, while all others judged to have full-time work capacity were required to participate in some form of activity for around 20 hours a week—training, or work-for-the-dole activities, or referral to other services like drug and alcohol counselling—to receive welfare payments.

Just 18 months later the Abbott government changed the RJCP into the CDP—a reform process that I termed ‘incoherent and inadequate’ when announced in December 2014. This is mainly because having labelled RJCP as disconnected from the unique social and labour market conditions of remote Australia, an even more disconnected and draconian regime was proposed that would require 30,000 participants aged 18–49 years to work 5 hours a day 5 days a week for their dole at pay well below award rates.

As a part of this reform processes the commitment to grandfather existing CDEP participants to 1 July 2017 was dishonoured and foreshortened to 1 July 2015; this decision was based on recommendations in the 2014 Forrest review of Indigenous jobs and training (*Creating Parity*) that called for hastening the abolition of CDEP on equity grounds (CDEP waged participants were earning more than those on RJCP working for the dole) even

though it acknowledged there were some advantages in the payment of CDEP wages over unemployment benefits.

Remote employment services were relabelled CDP on 1 July 2015 even as a different form of CDP, what could be defined as 'CDP Mark 2' was being developed. To simplify, let me differentiate between CDP1 that has operated since 1 July 2015 and CDP2, the subject of this Inquiry that seeks amendment to the Social Security Act to allow it to begin on 1 July 2016.

In launching CDP1 on 3 June 2015 Senator Scullion's media release was titled 'Remote employment programme to improve communities'. Like Jenny Macklin's CDEP of 2009 this was to be a program with two aims: to ensure that unemployed people engaged in meaningful activities to make their communities better places to live; and to put job seekers on a pathway to real jobs. Paradoxically, while using the acronym CDP to refer back to CDEP, the E for Employment has been eliminated so that the program sounds as if it is primarily about community development.

In launching the proposed CDP2 reforms just six months later with a media release 'CDP reforms to drive employment outcomes' and also in the Second Reading Speech when the CDP Bill was tabled (both dated 2 December 2015), the Minister suggests that CDP1 has already been a success—with success being measured by an increase of placement into 'work-like' activities by 50 per cent over the number placed in activities before the reform, not the achievement of full-time employment, so-called 'real jobs'. At the same time it is noted in the Second Reading Speech and Explanatory Memorandum that the CDP caseload which represents only 5 per cent of all job seekers accounts for over 60 per cent of all reported No Show No Pay 'failures' or penalised breaches.

Before turning to look at the specifics of what is being proposed in CDP2, the CDP Bill, I want to make some over-arching observations.

In the post-ATSIC period since 2004, Australian governments have become used to tampering with Indigenous-specific institutions like CDEP irrespective of the consequences. And governments have also become used to 'experimenting' without any real accountability if experiments work or not, owing to the limited political power of Indigenous people living remotely. Such rapid fire change in program architecture is not just expensive, but inevitably makes it difficult if not impossible for the supposed beneficiaries of such reform to understand what is going on, and why compliance rules are constantly being changed by outsiders. Such rapid change also makes prospects for sensible program evaluation extremely difficult.

One big experimental goal that has been around for three decades now, to eliminate the disparity between Indigenous and non-Indigenous employment outcomes, is failing spectacularly. This goal was first articulated by the Hawke government in 1986 in the aftermath of the Miller Inquiry into Aboriginal Employment and Training Programs (1985) and was incorporated as an outcomes measure in the Aboriginal Employment Development Policy in 1987. It was re-articulated by the Rudd government in 2008 although the earlier failed target was reduced to half closing the employment gap, which is to reduce rather than eliminate employment disparity.

Report after report since 2008 when the Rudd government invented this target has shown that this gap is not closing. The latest report from the Productivity Commission to COAG



(*National Indigenous Reform Agreement Performance Assessment 2013–14*) released to the public on 2 December 2015, on the very day that Minister Scullion was tabling the CDP Bill, shows using official statistics that not only is the employment gap not closing, it is widening, and it might not close in the foreseeable future. The Productivity Commission makes this assessment using the latest available comparative employment data for 2012–13. It shows a massive 38 percentage point disparity in employment outcomes between Indigenous and other Australians in very remote Australia and provides a compelling case that since 2012–13 this situation might have worsened owing to the abolition of CDEP and structural, cyclical and geographic factors that I will return to below.

While the Productivity Commission recommends rationalisation of extensive and overlapping reporting on Indigenous outcomes and disadvantage, it is telling that in late 2015 it is limited to using 2012–13 information on comparative labour force outcomes. Similarly it is noteworthy that the Department of Employment reports Labour Market Assistance Outcomes (LMAO) on a regular basis for all programs except RJCP/CDP for which no employment or other data are released systematically (see <https://www.employment.gov.au/labour-market-assistance-outcomes-reports> ).

In my view there is a need for far more regular and transparent reporting on the Indigenous employment situation as occurred for a time with the annual Labour Force Survey with an Indigenous identifier to 2011 and should occur with LMAO.

More importantly the Productivity Commission calls for a much greater emphasis on policy evaluation: knowing what works and why, is recommended as the key to designing policies that achieve positive outcomes. Yet one senses that there is a spiralling cycle of more and more policy and program change as one government after another blames predecessors for an inability to make any inroads on employment and wealth disparities. While not saying so explicitly, it is almost as if given the particularities of remote Indigenous Australia we are using the wrong instruments (official statistics) to measure the wrong metric (the level of mainstream employment rather than quality of livelihood and wellbeing). The very rapidity of change leaves no time for proper evaluation of success or failure; this provides policy space for governments to make risky proposals for experimental change such as those in the CDP Bill.

### **The latest proposal for an experimental CDP system**

Even as the Abbott government reformed RJCP into CDP in 2015 the need for further reforms were identified. In his Second Reading Speech Senator Scullion refers to what he terms problems of two broad forms, one set linked to compliance arrangements, the other to the taking up of any available work. And so a new set of experimental arrangements are proposed for trial that will place up to 2,000 participants outside the national compliance system and subject them to a new ‘remote income support payments’ regime in four ‘remote income support regions’ selected by the Minister.

Senator Scullion refers to compliance arrangements failing providers and their communities, but it is actually the participants who are being breached that the arrangements are failing most as they lose income. According to the Minister this is in part due to the national compliance framework being designed to re-engage job seekers in non-remote Australia in their mutual obligations and this system being less effective when applied in remote Australia.

What the Minister seems to be overlooking here is that this was his very complaint with the RJCP that ‘failed local communities because it wasn’t geared to the unique social and labour market circumstances of remote communities’ (Media release 6 December 2014), a failure that he set out to redress just over a year ago with CDP.

Analysis by Lisa Fowkes from the ANU provided to this Inquiry (submission 1) shows soaring breach rates up to the introduction of CDP. Since then no official data have been released except for the startling statistics in the Explanatory Memorandum. Arguably given the intention to use breaching as a financial stick to ensure compliance, the CDP framework is not less effective but too effective when applied in remote Australia: many participants seem to be more willing to embrace breaching than embrace mutual obligation work-for-the-dole activities with the regularity and intensity of the five-hours-a-day, five-days-a-week that is now required.

While providers and the Department of Human Services have proven themselves willing to apply breaching at ever increasing rates, there is no evidence that this has led to any change in job seeker ‘behaviour’. Instead it has seen more people losing income support payments with reports from some providers that many are deciding to disengage from employment assistance altogether.

The proposed solution to the extraordinary levels of breaching—at 12 times the national rate as reported in the Explanatory Memorandum—is to make the link between attending activities and receiving income support more immediate and clearer on the assumption that it is lack of clarity not dissatisfaction with CDP requirements that is the issue. This will be done by devolving responsibility for administering the payments and a new compliance regime to locally-based CDP providers. It is anticipated that a combination of greater knowledge of local circumstances and personalities and a stronger link between the occurrences of ‘no show’ with the imposition of ‘no pay’ (reduced in terms of time lag from five weeks to one week) will reduce breach rates and conversely improve engagement. Indeed the Explanatory Memorandum (p. 8) suggests that flexible arrangements will be introduced allowing providers to implement attendance monitoring and pay adjustment to the hour ‘hence lessening the financial burden [of non-compliance] on the job seeker while maintaining the behavioural impact’.

An important element of the changed arrangements for the new remote income support payments is that they will be made weekly rather than the standard fortnightly so as to both provide the means to immediately experience the impact of non-compliance and to assist families with budgeting. The Explanatory Memorandum (pp. 6–7) refers to a ‘flood and famine’ cycle whereby income can vary significantly from fortnight to fortnight; it is suggested that this can make budgeting harder, leading to disputes and violence. It is noted that ‘in very remote Australia hospitalisation rates from assault are 15 times higher than in major cities’. In so far as an attempt is made to causally link the 15 times higher hospitalisation rate to the 12 times higher breach rate, a reduction in breaching should result in a reduction in hospitalisation.

The proposed solution to an apparent reluctance to take up available work in remote communities is to set new income thresholds. This proposal is looking to replicate one of the unique features of the CDEP scheme that saw a high proportion of participants work more than 15 hours a week: initially CDEP operated without any income threshold whatsoever, although over time this was reduced to a limit set by the national minimum wage. While

there were variations, in general participants in the CDEP scheme worked a base 15 hours paid at award rates and could then earn what was widely referred to as 'top up' from extra hours worked either in waged employment or in self-employment most clearly evident in the production of art for sale. As an example, analysis of data from the National Aboriginal and Torres Strait Islander Social Survey 2002 that I undertook with colleagues Matthew Gray and Robert Levitus showed that in remote and very remote Australia, CDEP participants earned an average \$100 more per week than the unemployed and that 89 per cent worked more than the minimum required 15 hours per week.

Under current CDP arrangements participants are paid Newstart Allowance for 25 hours participation per week, with this income support payment being reduced (tapering down) if more than \$52 per week is earned from additional work. The new proposal will allow eligible CDP participants to earn up to \$650 a week before the income taper starts to reduce their base remote income support payment. It is foreseen that these new income thresholds will drive up employment through the reduction, but not the elimination of what economists call 'poverty traps'.

While the new arrangements propose a greater role for community-based providers in administering CDP, they also propose a new and unusually direct role for the Minister in two broad areas.

First, the Minister will determine, by legislative instrument, the remote income support regions in which these measures will operate. In making this determination a set of criteria are outlined in the Explanatory Memorandum (such as social and economic disadvantage as measured by unemployment levels, welfare dependence and education), but in the CDP Bill any other criteria is allowed. It is also anticipated that phase in, initially to four regions, will occur on the basis of community and provider willingness and readiness to participate. What is not clear is on which of these many criteria regions will be selected and whether the most or least disadvantaged will be targeted for trials.

It is also proposed that the trials are conducted by locally-based providers 'who know and understand the job seeker and the community' (EM, p. 8) which suggests that selection will be limited to four of the 27 regions where Indigenous not-for-profit organisations currently operate, rather than say the 20 where private for-profit organisations operate (the balance is made up of non-Indigenous not-for-profits, local governments and joint ventures).

Second, it is proposed that participation in a broad range of activities that are useful to the community and job seekers will constitute compliance with activity requirements. However, it will be the Minister—not the community or provider—who will determine what constitutes eligible activities although provision is made for consultation (EM, pp. 7–8).

### **Conceptual and technical shortcomings in the CDP Bill**

It is my view that the CDP Bill's proposed experimental system is likely to further exacerbate the problems identified in both the earlier RJCP and the current CDP that need urgent remedial action. This is due to an apparent inability of policy makers to properly conceptualise the challenge of delivering a workable labour market program in remote Indigenous Australia. This is apparent in three broad areas.

First, those making policy appear to fundamentally misunderstand the nature of labour markets in remote Australia, especially in situations where the majority of the population is Indigenous.

Second, there is a tenacious adherence to a model that looks to use financial incentives and disincentives, reward and punishment, to modify the behaviour of individuals to better suit mainstream labour markets, despite evidence that such an approach is failing.

Finally in looking to re-introduce elements of the CDEP scheme, those who have devised the CDP Bill either do not understand or are wilfully ignoring how the scheme operated.

I want to say something about these three conceptual shortcomings before highlighting the unworkability of a series of proposed technical solutions in the CDP Bill.

Both ministerial statements and the Explanatory Memorandum cling to the view that the ultimate and utopian solution to the development challenges facing remote Indigenous communities is full-time employment for all, in private and public sector jobs and in commercially-viable businesses. While the 60 remote regions spread across much of continental Australia are diverse, most lack a productive market-oriented component. That is, they are unusual service regions supported by the public sector and transfer payments and productive engagement with market capitalism is limited. This means the goal of orienting all surplus labour to eventual engagement with market capitalism is inappropriate as the conceptual frame for employment programs. What is more appropriate is a shift to considering community development activities as productive in and of themselves, rather than as a pathway to imagined mainstream employment for all residents of these regions.

The extent of the misframing of the challenge is starkly highlighted by the Productivity Commission in its performance assessment 2013–14 of the National Indigenous Reform Agreement.

As already noted, using official data from 2012–13 the Productivity Commission shows that employment gaps are greatest in remote Australia and likely to grow. The Commission focuses on what economists term the demand-side—the demand for labour is far too low to absorb the supply of labour. A major cause of this mismatch is what it terms geographic influences, or remoteness; Indigenous people live in remote regions away from concentrations of mainstream economic activity (setting aside the issue of low Indigenous employment rates in non-remote Australia) because of colonial history and contemporary ownership under Australian law of their ancestral lands.

According to the Commission the employment consequences of this locational reality are likely to be exacerbated in the immediate future by two factors: structural employment changes and a downturn in the business cycle.

The former will see a growing demand for highly skilled workers especially in professional and managerial roles and a declining demand for low skilled work. This not only disadvantages Indigenous people but also sees such jobs in remote Australia increasingly occupied by non-Indigenous people, as well as Indigenous, people from outside. And so we see the highest levels of Indigenous *unemployment* alongside the highest levels of non-Indigenous *employment*, with non-Indigenous people moving to remote regions for jobs. Populist pleas for all local jobs to go to local people articulated by influential Indigenous political actors like Warren Mundine and academics like Marcia Langton overlook this structural reality.

The latter recognises the fluctuating macroeconomic environment and its impact on demand for labour. As the resources boom ends and Australia's long period of economic growth stalls, remote Indigenous Australia is vulnerable to a decline in demand for labour

especially in the mining sector—where many Indigenous workers have been recently employed and are likely to be the first dismissed. While mining work has not made much of an overall impact on employment levels in remote Indigenous Australia, any loss of private sector work will have economic repercussions.

The Productivity Commission's assessment is realistic, but it is not new or even comprehensive as it does not include cultural or historical factors in its analysis. But as it originates from an independent body charged with advising the Australian government it might prove influential with time.

In the present, it marks a total disconnect from the government's aspirational goals to reduce employment disparity even as it is expanding; and from the underlying aspirational rationale of the CDP Bill to either shift Indigenous people to full-time mainstream employment or to modify their behaviour to ensure that they are properly trained and disciplined subjects ready to take up imagined jobs when they emerge.

I will not focus too much on the behavioural model that has become central to the operations of Australian mutual obligation welfare to work programs except to note that it is clearly not working, as demonstrated by the government's own statistics on breaching. In many situations this is because if the state withdraws the safety net as punishment/disincentive there is another more reliable safety net of familial care that operates.

Mixing up correlation with causality the Explanatory Memorandum looks to link high welfare dependence with community and family dysfunction; and it then identifies fluctuating family income due to breaching as exacerbating the problem. If that is truly the case then it might be sensible to eliminate a system that puts basic subsistence at risk when people fail to meet centrally-determined program requirements that have not been negotiated with them and that they frequently do not understand. This is especially the case in situations where people had been participating in the CDEP scheme for decades.

Focusing on the modifying the behaviour of individuals who are unemployed as the elixir to the limited demand for labour in remote regions identified by the Productivity Commission seems to me to unduly focus on individual agency over complex structural issues. It also fails to consider if the assumptions underpinning the deployment of such a system—inspired by a governmental interpretation of western behavioural psychology and economics—is applicable in the Indigenous context. Richard Thaler's latest book *Misbehaving: The Making of Behavioural Economics* (2015) seeks to clarify that behavioural models are not about human beings being rational automatons but rather inclined to behave unpredictably. The systems being implemented and proposed are simplistically assuming forms of western rationality whereas responses especially in cross-cultural contexts, often deviate from such expectations.

The new proposal seems to have overlooked key features of CDEP scheme success that are apparently informing elements of the new CDP Bill.

First, it was community organisations who decided what constitutes work and how myriad versions of the 'no work, no pay' (now 'no show, no pay') rule would work. Indeed in some situations like at outstations, CDEP wages were paid as a guaranteed basic income on the assumption that people worked at least 15 hours a week to survive—such payments constituted a local form of safety net for participants.

Second, while CDEP participation was initially community-wide, it developed into a voluntary opt-in program and there was no requirement that CDEP organisations employ all working-age people in the community, while people with disabilities, caring responsibilities and other health problems could be paid by Centrelink. But all work under CDEP from one hour up was at award rates and all participants were classified as employed not unemployed. This eliminated the opprobrium and indignity of employing people at discriminatory and unacceptable below-award rates and the opprobrium of being constantly referred to in dominant national narratives as unemployed and undeserving.

Third, community-control and the linking of administrative and capital resourcing on a formula basis to the number of participants gave CDEP organisations a degree of autonomy, flexibility and enhanced capacity. Furthermore if the application of locally-implemented 'no work, no pay' rules resulted in a local surplus of CDEP scheme funds these could be redeployed to generate more jobs and enterprise.

A combination of these features meant that CDEP scheme funding facilitated the maximisation of expenditure within communities generating local multiplier effects. This is in marked contrast to current processes of breaching that are not just reducing the income available to already impoverished families and individuals but are also reducing community income and so jeopardising the viability of often marginal local commercial and social enterprises. It needs to be emphasised also that as breaching reduces total income flow into communities this loss of income further reduces local employment and development opportunities and increases poverty.

Instead of properly addressing structural challenges and properly implementing positive features of the CDEP scheme, the CDP Bill looks for technical solutions to what are wrongly identified as technical design problems and perpetuates misguided and paternalistic attempts to modify the behaviour of individuals deemed to challenge norms that they might not recognise or observe. Even at face value many of these proposed solutions appear likely to fail owing to convoluted design logic or else they raise more questions than they answer.

Let me cluster my specific criticisms under three broad headings borrowing from the Bill's supporting documentation: improved job seeker compliance arrangements, new income thresholds to drive employment and new ministerial oversighting.

#### *Improved job seeker compliance arrangements*

It is argued by the Minister that the CDP Bill will simplify compliance arrangements for remote income support recipients, but it is difficult to see how this will happen. For a start the new category 'remote income support recipient' will be created and treated differently from other recipients of welfare. And while monitoring will be devolved to community-based providers in remote income support regions, they will also be charged with the burdensome task of panoptic micro-management of participation to the hour rather than to the day. So in the name of a simplified regulatory regime, providers will actually be entrusted with a more complicated regulatory framework. Each provider will be monitoring an average 500 job seekers not just for their participation for remote income support payments (25 hours by the hour per week for Newstart equivalent payments) but also for their movements between regions and for a complex set of acceptable reasons (like ceremony leave) for non-attendance. While in theory any additional work that a job seeker might undertake will be reportable to the Department of Human Services by the employer,



in reality it is likely that locally-based providers will be asked to manage interactions between job seekers and employers.

Some providers have already raised concerns they are spending so long on compliance that they do not have the time or resources to deliver quality activities and/or seek out employment opportunities by developing relationships with employers. The proposed regulatory regime will further divert scarce resources and provider capacity from the task of developing activities that are valued and desired by job seekers to excessive monitoring of 'no show, no pay' rules down to the hour. At the same time an incentive is created to penalise 'no show' because it is proposed that a community investment fund be established that will allow funds withheld as a result of penalties to be put back into communities to assist local economic and community development initiatives (EM, p. 9). This will be delivered for some unspecified reason through the Commonwealth Indigenous Advancement Strategy whose grant-making activities have been heavily criticised and are the subject of another Senate Inquiry due to report on 3 March 2016.

This framework creates a number of moral hazards for providers. At present the fees paid by government are dependent on taking action against people who do not show up, even if they believe that this is counter to the interest of the individual, already a moral issue. To what extent will they implement a regulatory framework that will result in greatly enhanced workload? How do they balance the need for locally-determined regulation with the external regulatory demands that will inevitably arise; or with the creation of locally valued forms of work? The risk is that with greater administrative and compliance workloads, providers will be less rather than more able to support positive outcomes for participants, both in terms of productive CDP activities and engagement in paid work.

#### *New income thresholds to drive employment*

In his Second Reading speech Minister Scullion notes that he is frequently reminded by both community leaders and job providers of the positive elements of the CDEP scheme. One of these elements was that CDEP scheme participants could earn additional income up to an amount approximating the national minimum wage without losing their 15 hour CDEP base payment (roughly equivalent to their income support entitlement). For the participant the base payment was a safety net from which additional work could be undertaken on a flexible basis as determined by seasonal factors, ceremonial commitment, family responsibilities or personal health status. The beauty of the way that the CDEP scheme dealt with additional income was its simplicity, the problem was that once an amount above the national minimum wage was earned all CDEP scheme payments were foregone and participants were deemed to have exited the scheme. This could be problematic for those like artists, who had fluctuating annual incomes.

The CDP Bill's attempt to replicate this arrangement is convoluted and complex, indeed in an effort to eliminate one poverty trap, another is created. The new proposal as I understand it is that after working 25 hours for their remote income support payment, job seekers will be at liberty to work extra hours part-time or casually or in self-employment with no loss of income support payment. However, if they do not work the requisite 25 hours per week for their income support payment (Newstart) some of their base payment will be docked. The new proposal will suit those who want to work 25 hours per week for the dole (at about \$10 per hour) and then work additional hours at award rates. But it will not suit those who only want to work part time or those who want to work at award rates—for them there will be a trade-off that constitutes a new form of poverty trap.

Part of the solution to this newly-proposed poverty trap is to treat remote job seekers as citizens rather than denizens (second class citizens) and pay their remote income support payment at award rates, as under the CDEP scheme, for 15 hours a week.

Another, as already noted, will be to discontinue the narrative of utopian full employment at places where there are few or no jobs. People will not be coerced or incentivated into jobs that are non-existent, but as CDEP success showed they will take up both jobs and activities that align with their aspirations if they have the potential to work for local organisations and to negotiate the nature of the work. Both allowed people their dignity.

Importantly, the stipulation that all abled-bodied individuals work 25 hours a week is likely to flood local labour markets with workers whose 'wages' will be paid by the Australian government at below award rates. In some situations this will result in fewer employment opportunities as employers cash in on a source of labour that is free for them. In other situations it appears that people will not work for below-award rates and so alongside high Indigenous unemployment one sees the importation of contract workers and backpackers who take up local jobs at award rates and work long hours for a limited time: they work, hard, save a lot, and contribute little to community economies.

The CDP Bill looks to address a problem with both RJCP, and now CDP, that job seekers have no incentive to work more than about three extra hours per week before the social security taper bites and effectively taxes their extra income at more than 50 cents in the dollar. But it does this in a flawed manner that cannot be compared with the CDEP scheme where many people were better off than under the current proposal. Just as RJCP failed in comparison with the CDEP scheme so will CDP, both as currently configured and as proposed in the CDP Bill. It is proposed to entrench a system where remote-living people must engage in 'work-like' activities 25 hours for the dole, more hours than other Australian citizens, for an amount well below minimum wages.

#### *New ministerial oversighting in the name of community empowerment*

A key feature of the CDEP scheme was community-control. A stylised CDEP organisation had an Indigenous board of directors who, in collaboration with management, established the policies and regulatory framework for operations. CDEP scheme participants were generally the members of these organisations.

The CDP Bill is looking to enhance such localisation and community engagement with the selection of community-based providers in income support regions. But it seems that in the name of community empowerment enhanced ministerial and bureaucratic oversighting is being proposed.

For a start it will be the Minister who selects the trial regions although it is unclear, as noted above, if he will select those with the most or the least well developed labour markets. Ministers too face moral hazard and adverse selection challenges. Outcomes might be most forthcoming in the regions with greatest opportunity, but need and equity considerations might suggest that those worst off should be selected.

In any case it is obvious that given the diversity across the 60 regions it is important to know the nature of job seeker aspirations and skills and the employment as well as non-employment (Informal or non-market) work possibilities in each. An instrument, the Community Action Plan, was initially established as an element of CDEP reform in 2009 to assess prospects community-by-community, and then as an element of RJCP but it proved

inadequate—plans were produced to pro forma templates, lacked credible local information and were not genuinely community driven. This mechanism was abolished by Senator Scullion in December 2014.

One of the crucial roles played by CDEP scheme organisations was to develop business plans in consultations with participants that would determine what constituted CDEP work to be remunerated and in what circumstances. This provided a high degree of flexibility to accommodate a diversity of local aspirations and priorities. Such local planning is essential. In the CDP Bill it is proposed that the Minister will determine the broad range of activities that people can participate in to meet their activity requirements. This power not only flies in the face of community empowerment, but gives excessive control power to the Minister without appropriate checks and balances.

### **Recommendations**

There are two positive aspects to the CDP Bill and its scrutiny by the current Senate Inquiry. First, after boldly reforming the RJCP with the CDP in late 2014, the messaging around the need for further reform is that the employment programs that have mainly replaced the CDEP scheme, but also the provision of employment services more generally in remote Australia, are failing. As the Productivity Commission has shown they are certainly failing to reduce any disparity between Indigenous and non-Indigenous employment levels; and they are failing the establishment of alternate economies for livelihood and wellbeing in remote Australia.

Second, the CDP Bill makes it clear that there is a need for a community development and employment program tailored for remote (Indigenous) Australia that sits outside the social security system that is devised for the majority of jobseekers who live in non-remote Australia. These are the unique social and labour market conditions of remote Australia that Senator Scullion referred to in December 2014.

Given such recognitions, how is it that the Australian government's policy making machinery produced a proposal for trial that is so inadequate? One possibility noted by the National Commission of Audit in 2014 is that those charged with developing policy within the Department of Prime Minister and Cabinet lack the capacity and grounding in remote Australia for the task on hand. Another possibility is that the bureaucratic machinery located close to the Prime Minister is too keen to serve him rather than provide the frank and fearless advice needed to develop realistic programs that might not close statistical gaps but might better serve those looking to eke out some form of livelihood in remote Indigenous Australia.

I end by providing a set of just five recommendations that will chart a possible way forward that can reduce the likelihood of yet another expensive failure in experimental Indigenous policy for remote Australia.

- 1 The CDP Bill should be withdrawn in its entirety and sent back to the Department of Prime Minister and Cabinet to do some serious policy work in accord with the purported government objective, as articulated by Minister Scullion, of revisiting some of the positive features of the CDEP scheme. In accord with the call by the Productivity Commission for a change of approach, this exercise should be based on a far greater emphasis on policy evaluation available in a significant body of research over many

- years about what worked and why in the now abolished CDEP scheme; and an honest and transparent consideration of what is working, or not, in the current CDP.
- 2 If the government is committed to some employment program trials and continued experimentation then this should be undertaken to a coherent framework that is not as riven with contradictions and unworkable proposals as the current CDP Bill. One straightforward possibility would be for the Australian government and its machinery to properly consider the proposal for a revamped CDEP scheme in the Community Employment and Enterprise Development Scheme (CEEDS) model developed by the Aboriginal Peak Organisations of the Northern Territory in 2011. All the hard policy work has been done for government in this proposal that has not, as yet, been properly considered.
  - 3 An avenue for innovative experimentation is to engage with global thinking and some carefully evaluated trials of unconditional basic income schemes. There is an emerging body of research by internationally recognised thought leaders like Guy Standing (*A Precariat Charter: From Denizens to Citizens*, 2014) and James Ferguson (*Give a Man a Fish: Reflections on the New Politics of Distribution*, 2015) that in situations of extreme labour surplus empowering income support programs are far more productive than punitive workfare.
  - 4 A nation whose leadership has recently committed almost *ad nauseam* to ‘innovation’ should also seek innovation in complex areas of employment and social policy. As reluctant as I am to propose yet more experimentation it is sorely needed given the failure of the current policy framework to deliver either jobs or improved livelihood and wellbeing. However, any experimentation be it a proper return to the CDEP scheme and/or a basic income scheme, must include transparent governance mechanisms that give local organisations and participants voice; and they must be properly evaluated to performance criteria that are stipulated both by participants and the government; that is, in two-way performance evaluation.
  - 5 Finally, given the reference in the CDP Bill to the Indigenous Advancement Strategy playing a role in the delivery of a new community investment fund, it seems appropriate that the finalisation of this Committee’s report is delayed until the report by the Finance and Public Administration References Committee on the Commonwealth Indigenous Advancement Strategy Tendering Processes is available on 3 March 2016.