IPA Backgrounder

RECONCILIATION
WHAT DOES IT MEAN?

BY GARY JOHNS AND RON BRUNTON

In the last few decades, Aborigines have won freedoms long denied to them. The paternal hands of church and state have largely been removed from their lives. They now have to build a new life out of the ruins of dispossession, and with the full rights and duties of Australian citizenship. Although they are no longer strangers in their own land, their land is not the same as it was. It is immensely more bountiful and it is owned by the whole nation.

This Backgrounder takes a critical look at the Council for Aboriginal Reconciliation's Draft Document. The Document seeks to place the relationship between Aborigines and Torres Strait Islanders and the wider community on a new and more equitable footing. But the Council's approach is unlikely to bring about its commendable vision of 'a united Australia which respects this land of ours; values the Aboriginal and Torres Strait Islander heritage; and provides justice and equity for all'.

The Council for Aboriginal Reconciliation wants Aborigines to have a unique status and the freedom to determine their own destinies somewhat comparable to the freedom they possessed before European settlement. Some aspects of the strategy of self-determination, however, may not help Aboriginal people at all, some may be unacceptable to the nation as a whole, and some may simply invite a new paternalism. If Aborigines are to recover from their long period of suffering, they may have to accept that while governments can place tools in their hands, governments cannot live their lives for them.

November 1999, Vol. 11/4, rrp $12.00 plus p&p

INTRODUCTION

The Draft Document for Aboriginal Reconciliation, published in June 1999 by the Council for Aboriginal Reconciliation, consists of a Declaration for Reconciliation and National Strategies to Advance Reconciliation. The strategies are designed to achieve economic independence, to address disadvantage, to promote recognition of rights, and to sustain the reconciliation process. An appropriate response to the draft document for reconciliation thus entails an analysis of both the Declaration and the Strategies.

The draft Declaration for Reconciliation is the symbolic centrepiece of a broad package of proposals designed to satisfy Aboriginal interests. Its main impact will rest upon its legal form as well as its sentiments. The latter seem clear—the Declaration seeks to grant Aboriginal and Torres Strait Island peoples a 'unique status' and the right to 'determine their own destinies'. If the Declaration attains the status of a treaty or a part of the Constitution, such sentiments might have a considerable impact on the rights and resources of all other Australians. If, however, it simply remains an instrument of reconciliation, in the form of a motion of the Commonwealth Parliament for example, then it is likely to have no more impact than the consent of the body politic will allow at any given time.

SO WIDELY HAS RECONCILIATION BEEN PORTRAYED AS A 'GOOD THING', THAT FUNDAMENTAL QUESTIONS HAVE BEEN LARGELY SET ASIDE

Nevertheless, right from the start there is a serious problem, because the draft Declaration incorporates notions that are quite inconsistent with each other. On the one hand there is a commitment to the universalist notions of equality and human rights, as well as to a 'united Australia'. But the Declaration also promotes the antithesis of these notions; the idea that a racially or culturally defined section of the nation should be given a 'unique status', and be encouraged to move towards separatism should its leaders so decide.

So widely has reconciliation been portrayed as a 'good thing', that fundamental questions have been largely set aside, lest they be taken as evidence of churlishness or ill-will towards Aborigines. Is the purpose of reconciliation to establish a totally new legal relationship between indigenous and non-indigenous Australians or merely to modify the existing situation so that it is fairer? Should the basis on which Aborigines and Torres Strait Islanders make claims on the broader society be any different from that of other Australians, particularly those who have also suffered disadvantage either now or at sometime in the past? Does Australia have to accept the whole package proposed by the Council for Aboriginal Reconciliation in order to be 'reconciled'? Can we dismiss the dangers that a *formal* process of reconciliation, involving measures that seem to compromise the legitimacy of the citizenship of non-Aboriginal people in this country as well as their self-respect, will only exacerbate hostility among the very Australians for whom a commitment to reconciliation is most desirable?[1] Will other Australians be prepared to support indefinitely a section of the population which chooses a way of life that may not be economically or socially sustainable, yet which also expects to have its life chances measured in the same way as everyone else, and whose representatives will denounce Australia if there are any major discrepancies?

RECOVERY FROM THE PAST...

As conceived by the Commonwealth Government when establishing the Council for Aboriginal Reconciliation,[2] the process of reconciliation needs to be understood in the historical context of the broad sweep of reform in Aboriginal policies, or what Charles Rowley called 'recovery'.[3] Rowley posed three questions that underlie the politics of reconciliation:

1. What are the social, economic and political conditions of living that will be acceptable to Aborigines and thereby indicate their recovery?
2. What degree of autonomy is required for them to reach this state of affairs?
3. What kind and what degree of autonomy for Aborigines is politically possible, wise and necessary?[4]

These questions recognize that there may be a gap between what Aboriginal people want and what the rest of the community is prepared to give them. Rowley's questions allow that autonomy as a strategy for recovery may be unwise and even counterproductive. They also imply that limits to the claims

of Aborigines can have three different bases—correct strategy, moral claim, and likelihood of acceptance. Ultimately, the wider Australian community will judge whether recovery has been achieved, or whether the strategy to achieve recovery is appropriate. If the strategy is flawed, the community has a responsibility to end it and to allow Aboriginal citizens to pursue their own interests by the same rules as everyone else.

The issue of persistence can also be added to Rowley's list. How long will the non-indigenous community be held responsible for the distress of the indigenous community? In 1995, one of the present authors put a similar question to the Chief Judge of the Treaty of Waitangi Tribunal in New Zealand, who responded, 'five generations'. This would mean that the process would last until the twenty-second century! The judge's assessment says a great deal about the purpose of much 'first peoples' politics, and its desire to keep the fires of conflict burning. It has more to do with payback than recovery, perpetuating ideas about responsibility that are both unjust and deeply at variance with the values of mainstream Australians—and one assumes, New Zealanders.

ULTIMATELY, THE WIDER AUSTRALIAN COMMUNITY WILL JUDGE WHETHER RECOVERY HAS BEEN ACHIEVED

Those who accept the Chief Judge's assessment should at least acknowledge the paradox that lies at the heart of contemporary attempts to redress destructive practices of the past. There can be little doubt that past wrongs have played a part in creating the social and economic disadvantage which many indigenous people now suffer, although there is considerable scope for honest disagreement about their precise contribution. But at the same time, by always explaining today's problems as the outcome of past injustices, and insisting that it is the responsibility of the government and all other Australians to rectify matters, well-meaning people may be making it easier for many Aborigines to avoid the difficult steps necessary to take control over their own lives. Every time that a public figure states that Aboriginal alcohol abuse or domestic violence or youth suicide or indifference to educational attainment is a legacy of colonialism, they are also telling Aborigines that self-destructive behaviour is somehow excusable, and that the ultimate responsibility for overcoming such behaviour rests with others.

BUT WHAT PAST?

There is also the crucial question of just what past practices have contributed the most towards the problems. Of course to many people the answer is obvious—dispossession from traditional lands, the removal of Aboriginal children from their parents, and so on. But although it is very difficult to obtain appropriate statistics that would enable comparisons between indigenous populations in different circumstances and at different times,[5] there are sufficient grounds for casting some doubts on the conventional wisdom. For instance, a recent study of mortality in the Northern Territory indicated that by far the highest Aboriginal mortality rates for the period 1985–91 occurred in the region which has suffered the least amount of dispossession and interference—East Arnhem.[6]

A number of prominent Aborigines themselves have suggested that in at least some important respects, things have got worse in the last two or three decades, although if the conventional analysis were correct, the opposite should have been occurring. Thus, while cautioning against the tendency to romanticize the past, Noel Pearson recently wrote 'it seems clear that, in a number of key areas our situation has deteriorated over the past thirty years. Probably the key indication of this is the decline in life expectancy'.[7] Endorsing Pearson's criticisms of the destructive effects of welfare on Aborigines, the Mayor of Cooktown Shire Council noted that thirty years ago the communities of Cape York 'had 80 percent employment, viable cattle industries, dairies, market gardens, and now the young people are not even working'.[8]

According to Professor Colin Tatz, Aboriginal suicide was almost unknown about three decades ago. But 'in 1997, the NSW rate for Aboriginal male youth, aged 15 to 24, was 128—or five times the already high national figure of 26.6, the fourth highest in the world'.[9] At the beginning of this decade Tatz also drew attention to the 'crisis of violence to self and to kin' that he discovered during research in 70 Aboriginal communities across the country, raising the question as to why this had occurred when, on the face of things at least, so many gains had occurred:

> There is much more money from public budgets… There is more housing… There is language salvation, language maintenance in many schools, and several literacy centres. Work skills programmes abound, as do Aboriginal enter-

> prises through the Aboriginal Development Commission… We have seen the virtual end of the 'old guard' Native Affairs and Community Service Departments. There is now the reality of land rights in all states bar Western Australia [and he was writing before the High Court's Mabo decision on native title]… There is greater local decision making than ever… There is anti-discrimination legislation… Aboriginal Studies as a subject is taught in schools and in tertiary institutions…[10]

Like many academics who write on these issues, Tatz seeks to explain the crises which afflict many Aboriginal communities largely in terms of the legacy of a history of 'past violations' which had almost completely ended—and had certainly been drastically modified—by the time the problems began to manifest themselves. Tatz's reasons for seeking such an explanation are far from clear, and seem nothing more than the triumph of wishful thinking over proper analysis. And we can fairly ask, given the list of gains he identifies—a list which has expanded in the years since he wrote—what more can mainstream Australia do?

A 'PEOPLE' ANY LONGER?

A major assumption of Aboriginal Reconciliation is that there is an Aboriginal 'people'. But does it really make much sense to talk about the 'peoplehood' of Aborigines?[11]

Certainly the political structure of Aboriginal governance is distinctive.[12] In some remote locations the practice of self-administration for local communities is strong. For example, in Queensland, 31 ATSI Community Councils and two Shire Councils (Aurukun and Mornington) have responsibility for all local government functions. Legislation provides for these councils to govern in accordance with the customs and practices of the communities.[13] On the other hand, Land Councils as regional bodies have been imposed on Aboriginal communities, sometimes with nasty consequences as the Reeves review of the NT *Aboriginal Land Rights Act* showed. Reeves recommended the establishment of Regional Land Councils and by implication the abolition of the present Land Councils.[14] The two large Land Councils are perceived to be bureaucratic, remote, tardy, and uninterested in local Aboriginal problems. They have been accused of duplicity, causing division within Aboriginal communities, disempowering Aboriginal people, ignoring Aboriginal tradition and generally running their own political agendas.[15] Land Councils in NSW came under close scrutiny for corrupt practices in 1997 by the Independent Commission Against Corruption.[16]

The difficulty with the current enthusiasm for regional autonomy is that such autonomy, at least in all practical terms, can only be granted on a distinctive geographic basis, as with the Torres Strait Regional Authority or Norfolk Island. Peter Yu of the Kimberley Land Council, for example, wants not just the right to share in the administration of the region on behalf of all residents, but Aboriginal government of the Kimberley, regardless of the races living there. But here we face another serious problem. If race is not the basis for political autonomy, then the idea of a 'people' becomes fanciful indeed. But if race *does* become the basis for political autonomy, Australia will be going against the very principles on which the past can be fairly criticized, and compromising the bases on which its contemporary multicultural unity is justified. At the very least, reconciliation should mean an acceptance by Aborigines of the historical facts that have led to a single Australian nation, and the social and political consequences that flow from this.

BUT DOES IT REALLY MAKE MUCH SENSE TO TALK ABOUT THE 'PEOPLEHOOD' OF ABORIGINES?

Furthermore, the representative basis of national Aboriginal politics, as conducted through the Aboriginal and Torres Strait Island Commission, is open to challenge. Voter turnout at ATSIC elections has always been low, with less than 1 in 3 eligible people voting. In the most recent ATSIC elections in October 1999, however, this figure has declined even further, with a participation rate of only 22 per cent of the estimated number of Aborigines over 18.[17] This seems to suggest that the great majority of Aborigines have little interest in asserting their political distinctiveness, let alone their autonomy, from the rest of Australia.

The Commonwealth has a three-part administrative definition of an Aboriginal person, which involves ancestry, self-identification and acceptance by an Aboriginal community. This is not the same as the definition in legislation which refers to 'a person of the Aboriginal race of Australia'.[18] The Federal Court has interpreted this sometimes relying on ancestry alone, at other times abandoning it al-

together.[19] There is a sensitivity as to who can play the game of Aboriginal politics, with some Aborigines in the 1996 ATSIC Regional Council elections in Tasmania challenging the Commonwealth's all-embracing administrative definition. On the other hand, when it has suited their interests, other Aborigines have pushed for an even more broad-ranging definition which does not even include ancestry. Thus, during the Royal Commission into Aboriginal Deaths in Custody, certain Aboriginal groups argued that Tony Majurey, 'a Maori who had no Aboriginal descent but had become a member of an Aboriginal community, should be regarded as an Aboriginal within the terms of reference' of the Commission.[20]

Despite the desire of the Reconciliation package that autonomy be the vehicle for recovery, there are grounds for suggesting that Aboriginal people are voting with their hearts for a considerable degree of integration. The 1996 census revealed that 64 per cent of Aboriginal couple families were unions between Aboriginal and non-Aboriginal partners.[21] English was spoken at home by 83.9 per cent of Australia's Aboriginal population, and only 13.3 per cent of Aboriginal people spoke an Aboriginal language.[22] Only 2.06 per cent of the Aboriginal population stated that they followed an Aboriginal traditional religion, while 71.5 per cent reported Christianity as their religion, slightly higher than for the non-Aboriginal population at 70.9 per cent.

The social, cultural and geographic environments in which contemporary Aborigines live are very diverse, although this is not always acknowledged in the prevailing rhetoric about reconciliation. These range from the comparatively rare remote settlements on traditional country, right through to an absolute integration with other Australians in metropolitan areas. This diversity is shown by the following table, which is based on 1996 Census data:

Where Aborigines Live

	Aborigines %	Total Population %
Major Urban	30.3	62.7
Other Urban	42.3	23.3
Rural (pop. 200-999)	10.8	2.5
Other rural	16.6	11.5
Total	100.0	100.0

Source: Australian Bureau of Statistics, *Census of Population and Housing: Aboriginal and Torres Strait Islander People*, 1998, page 5.

The largest concentrations of indigenous people were in Sydney (40,000) and the major urban centres of NSW and Queensland (45,000 and 45,000) and Brisbane (27,000). The percentages of remotely located indigenes to urban indigenes in the States and Territories containing the largest indigenous populations were as follows: 17 per cent NSW, 33 per cent Queensland, 50 per cent WA, 150 per cent NT.

Of course, there is a world of difference between propinquity and integration, but it is difficult to argue for a special kinship with the land if that land is thoroughly urban and absolutely unlike that of the places that generated the special relationship in the first place. The 1994 ABS study showed that 1 in 4 Aborigines did not even recognize a particular area as their 'homeland'—that is, an area of land to which they had ancestral and/or cultural links. Furthermore, 70 per cent of Aborigines were not living on land that they regarded as their homeland. (This includes the 25 per cent who did not recognize a 'homeland'.[23]) No more than 100,000 Aboriginal and Islander people live in areas that may bear some broad relationship to their original land. Given the need to prove an affiliation with lands by means of local ancestry and some continuity in the acknowledgement of traditional laws and customs, far fewer will be able to claim native title or land rights successfully.

NO MORE THAN 100,000 ABORIGINAL AND ISLANDER PEOPLE LIVE IN AREAS THAT MAY BEAR SOME BROAD RELATIONSHIP TO THEIR ORIGINAL LAND

The Council for Aboriginal Reconciliation complains that 'indigenous Australians who are fair-complexioned, for example, are not regarded by others as "real" indigenous people'.[24] (It should be noted that such attitudes are not just confined to white Australians; they are also shared by at least some Aborigines.) It quotes a study of the Aboriginal community of Sydney's south-west to demonstrate the strength of association and close-knit nature of

the community. But if an urban community of any origin chooses to live together, of what particular concern is it to the rest of the community? Why must an Aboriginal community be 'recognized' if it is not obviously recognizable? On the other hand, why should a recognizable Aboriginal community be afforded some extra respect? Is it not best that this respect be earned? If a major part of the definition of an Aboriginal person is acceptance and self-assignment, why is it either essential to have outsiders confirm this process, or indeed conform to that community's definition? If we choose to regard an Aboriginal person in a stereotypical way, then surely we are free to do so, just as an Aborigine is free to regard other people—whether Aboriginal or non-Aboriginal—in a stereotypical way.

THE CLAIM TO 'PEOPLEHOOD' IS A POLITICAL ONE AIMED AT PRESENTING THE APPEARANCE OF GROUP SOLIDARITY NECESSARY FOR GAINING POWER

Using the three-part definition of an Aboriginal person, together with the diversity of social, cultural and geographical circumstances of contemporary Aborigines, the message is one of such heterogeneity as to strain the credibility of the claim to be a separate 'people'. The category of 'Aborigine' in itself is an externally imposed one, and includes within its compass people whose traditional contempt for each other was probably as great as the contempt that whites may once have directed against Aborigines as a whole. The claim to 'peoplehood' is a political one aimed at presenting the appearance of group solidarity necessary for gaining power, but it falls down when it has to be used for disparate purposes such as the election of officials, the governance of regions, the delivery of services, access to entitlements and as an accurate representation of the way people think and live.

TREATY TALK AND RECOGNITION OF LAW AND CUSTOM

The idea of reconciliation largely arose out of the failure of Judith Wright's Aboriginal Treaty Committee (1979–83) to win support for its proposal.[25] The word 'reconciliation' was introduced in 1988 when 14 heads of Australian Christian Churches issued a statement entitled 'Towards Reconciliation in Australian Society'[26] and a grateful Labor government ran with it as a means of keeping the constituency occupied, knowing that no Australian government would ever accept the breach of sovereignty that a treaty implies.

Despite this political reality, there are still people who support the notion of a treaty. For example, the Aboriginal Nations and the Australian Constitution Conference[27] resolved that, 'this land now known as Australia is still owned by the *First Nations of Sovereign Aboriginal People*'. Indeed, Patrick Dodson, former chair of the Council for Aboriginal Reconciliation, in commenting on the Constitutional Preamble stated, 'The Aboriginal people are owners of this country. If they want to put anything in there, put the fact down that we own Australia and that ought to be reflected in any preamble or any constitutional reality'.[28] Clearly, a group of Aboriginal activists believes that 'reconciliation' must include a fundamental reassessment of the legal basis of Australian nationhood. As the people concerned are not politically naïve, the most likely explanation of their motivations can be found in the observation of the black American commentator, Thomas Sowell. Sowell notes that the position and influence of leaders of minority groups often depends on their ability to maintain a sense of resentment within their own constituency by making demands that they know will be rejected by the broader community.[29] Such a motivation is totally at variance with any possibility of 'reconciliation', no matter how broadly defined.

The Reconciliation Council is also keeping the treaty agenda alive with its discussion of a document of reconciliation,[30] and its desire to have indigenous customary law recognized. The Australian Law Reform Commission considered the recognition of Aboriginal customary law in 1977. It concluded that, as a general principle, codification or direct enforcement were not appropriate forms of recognition. It nevertheless continued to play the recognition game, arguing that the extremely serious reservations against the recognition of traditional law such as the problem of unacceptable rules and punishments needed to be brushed aside in the name of recognizing the fundamental human rights of indigenous people. This is the same Commission that recommended that Aboriginal children be excluded from the purview of the Child Support Scheme, and that the payment of spousal maintenance and the adjustment of property rights between spouses not apply to traditional marriages.[31] One

can imagine the number of men who would claim that they have a traditional marriage and the number of woman who would claim they have not!

Frank Brennan points to the unacceptable standards of some customary law in the Murgon case, where a young Aboriginal man was charged by the police for allegedly stabbing to death a publican.[32] Elders tried the man in his absence and without evidence found him guilty and banned him from the community for life! The anthropologist, Kenneth Maddock, further observes that in modern Aboriginal communities frightening outbursts of violence, including against youngsters, can result from attempts to deal with relatively minor infractions through traditional 'tribal business'. It is likely that the dream of recognizing customary law could have horrific consequences for Aborigines. Professor Maddock wryly notes that the consequences would also be distressing for 'those tender-hearted or progressively minded souls who, in states like New South Wales, are against smacking children because it causes irreparable psychological damage'.[33]

In a recent Family Court case concerning the residence (custody) of a child, the Aboriginal father was examined on the traditional ways in which his child was to be raised, which would supposedly be lost if the non-Aboriginal mother maintained the child. Asked what contribution he made to the cultural awareness of the child, he answered 'I let him watch the ABC'.[34] Traditional Aboriginal customs may be invoked to the extent that they are not inconsistent with Australian law. But to move beyond this would be a breach of the rule of law and open the law to scorn, ridicule and outrageous abuse.

CULTURAL STRATEGY

Maintaining the notion that all problems in Aboriginal society are caused by the original sin of invasion, and that Aborigines are always victims of this invasion, ensures that the prospects for a strategy which breaks from the victim/tyrant framework are bleak. If the strength of the political attack is derived from the victim status, to lose victim status, which is presumably the object of recovery, is to lose that source of power.[35] A recent incident at the Brisbane Central railway station indicates a disturbing trend. Three Aboriginal youths accosted a journalist friend of one of the authors, demanding money. 'Give us some money you ----. You owe us, you stole our land!' It is highly unlikely that these youths themselves or their parents had their land stolen. Moreover, their anger at their lot was channelled into a pointless exercise of waiting for the white man to give them something.

The extent to which the Aboriginal people are idealized is also the extent to which the programmes for restoring the ideal are unlikely to produce a path to recovery. Living at the margins 'autonomously' in a self-imposed exile might sound liberating for some, but does it lead to recovery? Given the current celebration of indigenous cultures, there is a marked unwillingness to consider whether aspects of traditional beliefs and practices, such as a sorcery theory of misfortune and disease, or a very high degree of local parochialism, might not be even more disempowering than old-fashioned prejudice directed against Aborigines. And claims about a unique Aboriginal spirituality, or an abiding concern with protecting 'mother earth' and the environment have more to do with the yearnings of a deracinated Western intelligentsia for community, identity, religious certainty and wisdom than with any indigenous reality.[36]

LIVING AT THE MARGINS 'AUTONOMOUSLY' IN A SELF-IMPOSED EXILE MIGHT SOUND LIBERATING FOR SOME, BUT DOES IT LEAD TO RECOVERY?

The Reconciliation Council argues that indigenous culture is an 'asset' that can be exploited for the benefit of the nation.[37] The model is patronizing and, in the end, leads to programmes, described by ATSIC as a cultural industry strategy,[38] the aim of which is to commercialize the work of indigenous artists. Government support for such programmes should not be differentiated from support for any other artist and should be judged on the merits of the work under consideration. We are in danger of being force-fed 'indigenous culture', which leads to people being unwilling to assess indigenous cultural works in terms of the standards applied to others. Ultimately the market will determine the viability of indigenous art. At present it is enjoying some success—although its mainstay is as a tourist add-on—but the bubble of the fascination with indigenous art may well burst and disappoint as a strategy for enduring recovery.

Much of the Council of Aboriginal Reconciliation's discussion of a 'shared history'[39] which suggests honouring the fallen, and recognition of Abo-

riginal and Torres Strait Islander place names (although it concedes that naming practices have been pro-indigenous for over a century) is reasonable. However, 'sharing histories' requires a truthfulness on both sides. It is entirely legitimate to condemn the way in which Aborigines were 'written out' of Australian history in the past, and the way that the wrongs they suffered were largely passed over. But a significant portion of what is now being presented to supposedly redress the balance is also egregiously one-sided, as exemplified, for instance, by major written works designed to support the 'stolen generations', or the case against the Hindmarsh Island bridge.[40]

As Richard Mulgan has observed, most of the people who are active in the reconciliation process do not seem to worry about undermining the legitimacy of non-Aboriginal values and beliefs. He suspects that 'most of the people working and writing in this area do not themselves have any difficulty in accepting a hostile view of their own culture and history', which can be seen as an expression of their 'moral elitism dressed up in the guise of apologetic humility'.[41] On the evidence of the Draft Declaration for Reconciliation, Mulgan's observation certainly applies to the Council for Aboriginal Reconciliation. This declaration contains no acknowledgement that there might be anything worthwhile in the civilization that was brought to Australia by the nation's British and Irish founders, and which developed its own distinctive characteristics as later immigrants and common historical experiences made their mark. The institutions, the values, the knowledge and the arts that have made Australia one of the world's more successful and enviable nations are simply ignored. Reconciliation is only being offered to non-Aboriginal Australians on the condition that they forgo any real sense of pride in their own complex heritage.

ECONOMIC STRATEGY: THE CONTRADICTIONS

There are some real difficulties in a strategy that seeks to recover or maintain an indigenous culture and generate a reasonable standard of living. The established benchmarks of 'the good life' will have to be modified if a chosen life-style impedes economic independence. Remote locations are unlikely, except where minerals are discovered, to provide a secure economic base. The acceptance of cultural difference might imply the acceptance of economic difference. For example, the Council has pondered whether asserting rights to resources for subsistence ahead of commercial and recreational use has validity.[42] Such a move would have serious adverse implications for the welfare of both indigenous and non-indigenous Australians. Some Aboriginal leaders persist in the fantasy that a return to an earlier economy is an option. John Watson, chairman of the Kimberley Land Council wrote recently, 'what needs to be recognized is that Aboriginal people had an extremely viable economy before our lands were occupied by white people late last century'.[43] Which begs the questions, what standard of living did that 'viable' economy sustain, and would it be an acceptable standard for Aboriginal people now? If it would, then a number of the arguments about the marked economic and social disadvantage of Aborigines fall down, for they are based on comparisons with, and standards adopted by, mainstream Australians.

RECONCILIATION IS ONLY BEING OFFERED TO NON-ABORIGINAL AUSTRALIANS ON THE CONDITION THAT THEY FORGO ANY REAL SENSE OF PRIDE IN THEIR OWN COMPLEX HERITAGE

The 1997 review of the Community Development Employment Projects Scheme (work-for-the-dole) in Aboriginal communities stated, 'the importance of CDEP to governments and the 30,000 indigenous Australians involved cannot be overstated. In some localities, CDEP often represents the community itself. Without it, some remote communities would simply not exist'.[44] This demonstrates how artificial some communities are. Similarly, the 'outstation movement' whereby small encampments are established away from the main community in order either to re-establish authority or live a more 'traditional' life on 'country' has considerable difficulties. As the then Labor Minister for Social Security, Neal Blewett observed following a 1992 tour of Arnhem Land,

> I fear the outstation movement … may be another of these romantic re-creations of the noble savage myth that turn out to be illusory and ultimately disappointing… The outstations are absolutely dependent on welfare, and are therefore mendicant settlements, with little promise of future self-sufficiency.[45]

A more enduring and realistic economic strategy recognizes an increasing absorption of the indigenous workforce into paid employment.[46] Unfortunately, the prospects for creating employment in remote communities are poor. The real strategy for employment will be the same as it has been for rural communities for generations, migration to centres of employment. Economic independence and political independence are at loggerheads. The prospects for economic independence rest with leaving remote communities whereas the chances of achieving some form of political independence depend on remaining in remote communities.

LIMITS TO COMPENSATION

What is distinctive about Aboriginal disadvantage?[47] To what extent is the 'mainstream' able to be redefined to accommodate indigenes? Does autonomy extend to the freedom to make errors? If so, at what point should errors go unfixed? Are the historical causes of continuing disadvantage any guide to recovery?[48] Is the claim for special rights to be sustained when Aboriginal people begin to show the same class profile as that of the rest of the community, or indeed if they choose not to be measured by the same criteria?

The electorate must be able to distinguish compensation from redistribution so that it may judge the justice and efficiency of Aboriginal policy. For example, the Land Fund is meant to place non-traditional Aborigines on land, despite the fact that whatever the claims that people may make in order to access these funds, it is hard to accept that there is any special relationship with the land in these cases. The further removed a candidate is from the idealized type of indigenous dweller, the more problematic is the whole rationale for the Land Fund. It smacks of the soldier-settler movement much admired by Bob Santamaria, which was a great failure in the face of economic reality.

Nevertheless, the Land Fund is a one-off arrangement, not to be revisited. While every attempt should be made to ensure the success of the venture as a means of providing an economic base, the ventures should nevertheless be allowed to succeed or fail on their merits.

On the other hand, welfare payments are continuing and are likely to be more closely scrutinized because Aborigines have no greater moral claim for welfare than other Australians. The efficiency of the delivery of services should incorporate elements like cultural sensitivity, but the taxpayer is entitled to judge what works and what does not. The fashion of establishing 'benchmarks'[49] in the delivery of services, especially its focus on outcomes, rests on very dubious assumptions. Welfare provision, which is meant to be *im*permanent for the individual, can be permanent for a group that refuses to leave a particular area or to change a particular lifestyle. The Council asserts the 'Recognition of the right of indigenous Australians to stay on their traditional lands and their right as citizens to basic services.'[50] How basic is basic?

WELFARE PROVISION, WHICH IS MEANT TO BE IMPERMANENT FOR THE INDIVIDUAL, CAN BE PERMANENT FOR A GROUP THAT REFUSES TO LEAVE AN AREA

The assertion that Aborigines have the same rights to services as other Australians is facile. No services are denied to Aboriginal people in a systemic or legal way, save for the fact of location and ignorance. The Council for Aboriginal Reconciliation[51] differentiates 'remote' or 'frontier' communities and all others, which has ramifications for the extent to which cultural differences can be a basis for treating people differently. That is, even if a case can be made out for remote communities, it is highly unlikely it can be made out for any others, especially in terms of delivering self-administered programmes. Even so, remote locations do not lend themselves to the supply of sophisticated services, and the poor nutrition and hygiene record in many communities makes delivering equal outcomes impossible. A forgotten assumption of the welfare state is that the recipient agrees to keep themselves in as good a condition as possible. The delivery of services to Aboriginal communities by indigenous people may make services more effective, but the constant re-supply of facilities and services in the face of their wanton destruction and dismissal is clearly not a part of the normal social contract.

It is not viable to turn remote settlements into cities if they have no economic base. The figure often quoted during the term of the last Labor government that Aboriginal communities required several billion dollars in infrastructure may be accurate, but it is fanciful to think that such expenditure is ever likely to occur, given that it would be most unlikely to produce long-term tangible ben-

efits. If a new contract is to be written with Aboriginal communities, there has to be an element that indicates the conditions under which there will be no further services delivered.

THE ESSENTIALS OF INDIGENOUS RECOVERY ARE IN PLACE

Looking through the enormous number of instruments and programmes in place, particularly post-Mabo/Wik and the enhanced Land Fund, it is hard not to conclude that the job is largely done, and that the rest is now in the hands of indigenous people themselves.

The real elements of reconciliation lie in the implied contract that the Aboriginal leadership want to make with the rest of the Australian electorate. No Australian government will make a contract with some of its own people, for to do so would deny its sovereignty. Moreover, the notion of an Aboriginal people is an artificial construct that does not produce a vehicle for all Aboriginal Australians given that their circumstances and aspirations are so diverse. The only useful part of an implied contract is that it may stimulate a more honest discussion about the limits of the special pleading of Aboriginal people and the need to distinguish the elements of policy that are meant to compensate for historic wrongs and those that are not. Furthermore, welfare provision is not and rarely has been available to any citizens as of right without certain reciprocal obligations and assumptions. Any new deal would have to trade political autonomy for service and economic outcomes. The cultural integrity of indigenous people must be afforded the same protection as is afforded to any other Australian. But there are no particular reasons for stating that it should be promoted by the government or used as a tool to take advantage of an extraordinarily generous and patient Australian community.

The degree of recovery in Aboriginal society will be determined in a policy environment that will change little. The game is all but over, there will no more legal advances, little more funding, a great deal of internal migration and a regard for land as an historic token of a former civilization, not an ongoing one. That is the optimistic scenario. The pessimistic one is described by Roger Sandall: 'the implied retribalization of Aborigines as a "unique" people … the granting of a large measure of autonomy in health and education and the continuation of the systematic educational disablement [of Aborigines] could hardly be a surer recipe for the creation of a permanently dependent, sick, illiterate, unemployable caste at the bottom of Australian society.'[52]

CONCLUSION

The agenda of the Council for Aboriginal Reconciliation will not assist the recovery of Aboriginal people. It does not come to terms with the truth that there cannot be different contracts for different, racially defined, parts of a nation. It does not come to terms with the fact that the most likely hope for saving economically and socially disadvantaged people who are of Aboriginal descent is to encourage them to make the choice to leave the confines of their homelands. Homelands may be regarded as places of memory and perhaps reverence, but not as places to bring up children in the 21st century. Reconciliation should mean that the dominant non-Aboriginal society should allow Aboriginal people to live as they wish, according to the same rules as other citizens. A permanent dependence on the dominant economy will result from the separate entity status sought by the reconciliationists. A large element of reconciliation is the recognition on the part of Aboriginal people that their land was colonized two hundred years ago by a people who fortunately did not attempt the genocide of the original inhabitants and who have brought with them the most respected means of governance devised, a most bountiful economy, the most brilliant intellectual traditions and an openness and tolerance unknown in Aboriginal culture. The real tragedy is that, for most of Australia's history, Aboriginal people faced a different set of rules to the rules which applied to others. Trying to write a different set again is a regression.

Almost by definition, the present Aboriginal leaders were well schooled in the dominant culture and have benefited mightily from it. To deny this would be self-deluding. There is some room for payback in reconciliation, there is some room for compensation, there is some room for personal reflection, but in the end the officially sponsored reconciliation process is no more than another round in an exercise of hide and seek. Hiding from reality and seeking a deal that is not ours to give. This Backgrounder has attempted to stop the game; it demands that people should now make their choices and wear the consequences.

NOTE

This is an expanded version of an article written by Gary Johns for the *Quadrant* Seminar, 'Rousseau vs Reality' and published in *Quadrant* magazine in November 1999.

ABOUT THE AUTHORS

The Hon. Gary Johns is a Senior Fellow of the IPA. Prior to joining the IPA, he was a minister in the Keating Government from 1993 to 1996. Ron Brunton is also a Senior Fellow of the IPA.

ENDNOTES

1 See, for example, Richard Mulgan, 'Citizenship and legitimacy in post-colonial Australia', in Nicholas Peterson & Will Sanders (eds), *Citizenship and Indigenous Australians*, Cambridge University Press, 1998, pages 179–195.

2 *Council for Aboriginal Reconciliation Act 1991 (Cwlth).*

3 C.D. Rowley, *Recovery: The Politics of Aboriginal Reform*, Melbourne, Penguin, 1986, page 67.

4 *Ibid.*, pages 147, 28.

5 See, for example, Australian Bureau of Statistics, *The Health and Welfare of Australia's Aboriginal and Torres Strait Islander Peoples*, 1999, especially pages 9–10, 155–172.

6 A.J. Plant, J.R. Condon & G. Durling, *Northern Territory Health Outcomes, Morbidity and Mortality 1979–1991*, Northern Territory Department of Health & Community Services, Darwin, 1995, page 46.

7 Noel Pearson, *Our Right to Take Responsibility*, Unpublished discussion paper prepared for the Aboriginal leaders and community members of Cape York Peninsula, 1999.

8 Tony Koch, 'Cape York authorities commend Pearson's welfare escape plan', *Courier-Mail*, 27 October 1999.

9 Colin Tatz, 'When suicide can seem to make sense', *Sydney Morning Herald*, 2 August 1999.

10 Colin Tatz, 'Aboriginal violence: a return to pessimism', *Australian Journal of Social Issues*, volume 25, number 4, November 1990, pages 252–253.

11 Note Brennan's dismissal of the application of the internationally legal definition of a 'people' to Australian Aborigines. F. Brennan, *Sharing the Country: The Case for an Agreement between Black and White Australians,* Penguin, Melbourne, 1994.

12 The politics of clans and communities is doubtless alive but these do not lend themselves to a discussion of the brokerage role between indigenous people and the rest of the nation that the new structures are meant to play. See T. Rowse, 'Aborigines Incorporated' in *After Mabo: Interpreting Indigenous Traditions,* Melbourne University Press, Carlton, 1993, pages 54–82.

13 Queensland Government, *Queensland Aboriginal and Torres Strait Islander Economic Development Strategy*, 1998, page 18.

14 J. Reeves, *Building on Land Rights for the Next Generation: The Review of the Aboriginal Land Rights (Northern Territory) Act 1976 Report*, second edition, 1998, page 213.

15 Reeves, *op. cit.*, page 117.

16 Independent Commission Against Corruption, *Preventing Corruption in Aboriginal Land Councils*, Discussion Paper, ICAC, Sydney, 1997.

17 The precise details had not been finalized at the time of writing. But the Australian Electoral Commission states that it received a total of 48,672 ordinary, pre-poll, postal and absentee votes. A few of these might possibly be declared ineligible on the grounds that the voter does not satisfy the criteria of Aboriginality. (Others may also be declared ineligible because the persons concerned are not on the electoral rolls, although clearly such persons should be included in the count of Aborigines wishing to participate in ATSIC elections.) The number of Aborigines over 18 at the time of the election was somewhere around 220,000.

18 J. Gardiner-Garden, 'Identifiable Commonwealth Expenditure on Aboriginal and Torres Strait Islander Affairs', *Current Issues Brief,* No. 18, 1997–98, Department of the Parliamentary Library, 1998, page 7.

19 See discussion in *ibid.*, pages 5–9.

20 J.H. Wootten, *Report of the Inquiry into the Death of Thomas William Murray*, Royal Commission into Aboriginal Deaths in Custody, June 1989. See also D.J. O'Dea, *Regional Report of Inquiry into Individual Deaths in Custody in Western Australia*, volume 1, March 1991.

21 J. Taylor, 'Policy Implications of Indigenous Population Change, 1991–1996', *People and Place*, 5(4), 1997, page 3.

22 The figures were as high as 56.9 per cent in remote regions. Of Australian Indigenous languages, Arrente, from Central Australia, had the largest number of speakers (3,759). This was followed by Dhuwal-Dhwala, from Eastern Arnhemland (3,600) and Walpiri, also from Central Australia (2,628). Australian Bureau of Statistics, *Census of Population and Housing: Aboriginal and Torres Strait Islander People*, 1998, page 77.

23 Australian Bureau of Statistics, *National Aboriginal and Torres Strait Islander Survey 1994 Detailed Findings*, 1995, page 4.

24 Council for Aboriginal Reconciliation, *Addressing the Key Issues for Reconciliation*, AGPS, 1993, page 15.

25 J. Wright, *We Call for a Treaty*, Collins/Fontana, Sydney, 1985, page 284.

26 Quoted in J. Gardiner-Garden, 'From Dispossession to Reconciliation', Department of the Parliamentary Library, *Research Paper* No. 27, 1998, page 16.

27 Proceedings, Old Parliament House, 23–24 May 1997.

28 Radio National, Thursday 12 August 1999.

29 Thomas Sowell, *Preferential Policies: An International Perspective*, Morrow, New York, 1990, page 174.

30 Council for Aboriginal Reconciliation, *Agreeing on a Document: Will the Process of Reconciliation be Advanced by a Document or Documents of Reconciliation?* Key Issues Paper 7, AGPS, 1994.

31 See A. Nicholson, Comments, in *Indigenous Customary Law Forum*, Parliament House, Canberra AGPS, 1996, page 25.

32 Council for Aboriginal Reconciliation, Key Issues Paper 7, 1994, page 32.

33 'Reconciliation through law?, *The Adelaide Review*, July 1999, page 16.

34 Personal observation of someone involved in the case.

35 S. Steele, *A Dream Deferred: The Second Betrayal of Black Freedom in America*, Harper Collins, New York, 1998, page 9.

36 See, for example, Ron Brunton, 'Indigenous people live in harmony with nature…', in Jeff Bennett (ed.) *Tall Green Tales*, IPA Current Issues, September 1995; Tony Swain, 'The Mother Earth Conspiracy: An Australian Episode', *Numen*, volume 38, 1991.

37 Council for Aboriginal Reconciliation, Key Issues Paper No. 2, 1994, pages 9, 16.

38 ATSIC, *National Aboriginal and Torres Strait Islander Cultural Industry Strategy*, AGPS, 1997.

39 Council for Aboriginal Reconciliation, *Sharing Histories: A Sense For All Australians of a Shared Ownership of Their History*, Key Issues Paper No. 4, 1994, page 34.

40 See, for example, Ron Brunton, *Betraying the victims: the 'stolen generations' report*, IPA Backgrounder, vol. 10, no. 1, February 1998; 'Hindmarsh Island and the hoaxing of Australian anthropology', *Quadrant*, May 1999, pages 11–17.

41 Richard Mulgan, 'Citizenship and legitimacy in post-colonial Australia', in Nicholas Peterson & Will Sanders (eds), *Citizenship and Indigenous Australians*, Cambridge University Press, 1998, pages 184–5.

42 Council for Aboriginal Reconciliation, *Understanding Country: The Importance of Land and Sea in Aboriginal and Torres Strait Islander Societies*, Key Issues Paper No. 1, 1994, page 38.

43 G. Crough and C. Christophersen, *Aboriginal People in the Economy of the Kimberley Region*, North Australian Research Unit, ANU, 1993, page viii.

44 I. Spicer, *Independent Review of the Community Development Employment Projects Scheme*, ATSIC, AGPS, 1997, page 1.

45 N. Blewett, *A Cabinet Diary: A Personal Record of the first Keating Government*, Wakefield Press, Adelaide, 1999, page 75.

46 Queensland Government, *op. cit.*, 1998, page 39.

47 Council for Aboriginal Reconciliation, Key Issues Paper 5, 1994, page 27.

48 Council for Aboriginal Reconciliation, Key Issues Paper 5, 1994, pages 13ff.

49 Council for Aboriginal Reconciliation, *Towards a Benchmarking Framework for Service Delivery to Indigenous Australians*, Centre for Aboriginal Economic Policy Research, ANU, 1997.

50 Council for Aboriginal Reconciliation, *Addressing Disadvantage: A Greater Awareness of the Causes of Indigenous Australians' Disadvantage*, Key Issues Paper 5, 1994, page 37.

51 Council for Aboriginal Reconciliation, Key Issues Paper 2, 1994, page 33 and Key Issues Paper 3, 1994, page 4.

52 Roger Sandall, notes for the *Quadrant* Conference, 'Aborigines and Australian Civilisation', Sydney, 21 August 1999.

This Backgrounder published by the Institute of Public Affairs Ltd (A.C.N. 008 627 727)
Head office: Level 2, 410 Collins Street, Melbourne VIC 3000. Tel: (03) 9600 4744; Fax: (03) 9602 4989
E-mail: ipa@ipa.org.au Website: www.ipa.org.au