

A Future for Indigenous Youth?

There are ways of saving young Indigenous Australians from disaster, argues **Bob Beadman**

The disintegration of remote Aboriginal communities has stealthily engulfed a proud people in a pall of listless resignation and self-destruction. I strongly believe that the future of these communities turns on the nation having the courage to fundamentally reconstruct the whole framework of government assistance to them.

It is crucial that we stop the handouts, create mutual obligation requirements, reward initiative but not idleness, and police school attendance just like in the cities. Only when we have fixed the physical and psychological surrounds will young people in particular have a chance of thriving. The following sections describe how this might be done.

Welfare

There is a declining take up rate of available employment by local people in remote communities.

This is because they are not subjected to a work test in relation to benefits, and are thus able to elect not to work. The concept of mutual obligation must be introduced as quickly as possible in the bush, and applied just as rigorously as in urban areas. In order to do that a suitable work test must be devised. Obviously that will be different to urban areas—there are no daily newspapers in the bush, or a wide choice of work, or even of employers.

Bob Beadman is a retired public servant who has held numerous senior roles in both the Northern Territory and federal governments. This article is based on a chapter of the The Menzies Research Centre publication *Do Indigenous Youth Have a Dream?* that was sponsored by Woodside Energy Ltd and written by Mr Beadman. These are his own views.

To start on designing a set of mutual obligation principles for the bush, it would be possible to do quick inventories on each community of who did which job for the years 1973, 1983, 1993 and the present. It will not be that hard, despite what people tell you, to reconstruct a rough enough picture to prove a number of points:

- Thirty years ago most of the jobs were done by local people.
- Many small enterprises have disappeared.
- Contracting (outsourcing) has taken over many former Council jobs, contracts are now won by the big firms from town.

Then you would do a job skills audit, so that all future training inputs were properly targeted, and a job was there at the end of the process, unlike the haphazard approach of recent times. At the same time you would detail all of the contracting work available in the locality, and factor in the potential for savings in welfare outlays in assessing the lowest tender price. In this way the head in the sand approach of awarding the work to a contractor from town while the local people sit under a tree and watch him might be corrected. This will require close cooperation between the Commonwealth and the Northern Territory governments. It may involve the Territory letting a contract at a higher price, to enable, say, a remote community to purchase a grader in order for them to take on a road maintenance contract. As things stand, the Territory may have to lay out an extra \$100,000 to cover the grader, only to watch the Commonwealth save \$500,000 over the life of the contract in welfare outlays, as people take up work and come off benefits. The 'lowest tender' concept takes on a different form when looked at in this way.

Surely it is not beyond the wit of governments, and senior administrators, to think outside the square, look at the big picture, and invest some potential savings in up front resourcing of Aboriginal enterprises. To my mind it is the classic emu approach to award a desert road maintenance contract to a firm from town because the tender was \$100,000 cheaper, when there is a potential to save \$500,000 in welfare outlays.

The Indigenous Housing Authority of the Northern Territory (IHANT) could show some leadership here by making further capital grants

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for new housing conditional on communities developing their own building teams. The country cannot afford the double impost of relocating a contractor from town to do the job, while at the same time paying the locals to do nothing. I think there would be bonuses too in reduced maintenance costs—because you can bet the house will be better cared for when one's sweat went into its construction.

You would then identify those small businesses that were abandoned as welfare benefits replaced work, with a view to reviving them and reducing imports. Again, you would identify the potential jobs, target training accordingly, access the myriad of small business support programmes across both governments for advice and start-up capital, so the job was there as training finished.

Armed with all of this information a modified set of mutual obligation principles, or work test principles, could be easily devised.

And the great Community Development Employment Projects (CDEP) scheme, currently 'employing' about 7,300 participants in the Northern Territory, could be put to good use. It could be the nursery of the work gangs moving into the real economy as these measures bite. For those unfamiliar with CDEP, this is the scheme under which Aborigines work for the equivalent of Job Search Allowance, the only scheme seriously embracing mutual obligation since the Whitlam government's Regional Employment Development Scheme (REDS) of the early 1970s. The problem with this scheme is that the people are counted as employed, and the funds were laundered through the Aboriginal and Torres Strait Islander Commission (not through Centrelink), thus masking the true levels of unemployment and disengagement from the real economy. In this way CDEP has become an end in itself, the participants forgotten, and more enduring solutions not sought.

There is work available in remote areas, and even though we cannot hope for 100% employment we can do a lot better than 100% unemployment, with all the available jobs currently taken by non-Aboriginal people from elsewhere. Expatriate staff, and there would be many over the transition years after the above changes, should be put on a term-limited contract, with a performance objective to train a local replacement. This was always the intention with past schemes, but was allowed to slide. The white staff were never willingly going to write themselves out of a job the local Aboriginal people didn't want anyway.

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Another measure that surfaces regularly is the idea of providing welfare benefits in the form of food vouchers, rather than cash, in some cases. The idea was getting quite a run in the electioneering for the by election on 4 October 2003 for the Legislative Assembly seat of Katherine. This raises complex matters that can unnecessarily complicate the issue, but it must be tackled. I believe we are a neglectful society, not a caring one, if we continue to pay a benefit to a person to drink himself to death while his family starves. This issue is explored further below.

Remote communities have done their own thinking in some cases about the connectivity of cause and effect, and made suggestions about what might constitute one reasonable mutual obligation measure to replace something for nothing. More than once the proposition has been floated to tie Family Allowance Payments to a satisfactory school attendance record. In some cases communities have exercised their authority over matters under their control, like 'no school no pool'. Shouldn't governments back them?

In addition, I have hoped for years that the following measures would have been self-evident:

- Remove the incentive for youth to leave school early and go onto benefits.
- Remove the disincentive for the unemployed to study, by reversing the values of Job Search Allowance, Austudy and Abstudy.
- Remove the disincentive for people on

benefits to earn additional income, by revising the tax and side benefit losses.

- Split the welfare benefit where one member of a family is drinking the benefits for the others, and pay the woman her and the kids share direct.

Land rights

The *Aboriginal Land Rights (Northern Territory) Act* was enacted by the Fraser government in 1976, and was proclaimed to come into effect on Australia Day 1977. The Bill was first introduced by the Whitlam government following Justice Woodward's Royal Commission into the means of conferring rights in land on indigenous people in the Northern Territory. Mindful of the experience of indigenous people in North America relinquishing title to their recently conferred lands within a generation, with governments facing the prospect of having to repeat the exercise for future generations with a more secure title, the Australian Government was determined to ensure the form of title conferred here was secure from the outset.

The problem now, however, is that the title is now stitched up so tightly that it is worthless as a form of security for commercial borrowings, and home ownership is unknown for the high proportion of Aboriginal residents of the Northern Territory who live on Aboriginal land.

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The form of entry controls (which date back many decades prior to land rights, to when the land was first reserved for Aborigines), whilst very effective in providing a buffer from the worst aspects of the encroaching migration of the frontier, also blocked the migration of businesses, right through to the present time. Now, the *Land Rights Act* creates additional barriers to people pulling themselves up out of the quagmire of welfare dependency.

In a country with one of the highest levels of home ownership in the world, we construct a form of title for remote Aborigines that denies them the opportunity to fulfil what for others is the Great Australian Dream.

Collectivism has failed around the world, and the evidence is before our eyes that it hasn't worked here either. Communal home ownership dictated by the *Land Rights Act* is just another manifestation

of the removal of individual responsibility. I'll bet if people were enabled to own their home repairs and maintenance costs would plummet.

Thus, the Act must be amended to:

- Encourage not suppress individuals with the initiative to go into business for themselves.
- Encourage big business to migrate to Aboriginal lands, perhaps by partnering indigenous businesses.
- Lay the way open for home ownership on Aboriginal lands.

Surely this can be done while preserving the original intent—the security of the land title for the next generations. In the past I have argued that it is theoretically possible to get a long term lease over Aboriginal land that is every bit as secure for a business as a long-term lease over Crown land. But it just isn't happening, perhaps because the mind-set alone blocks it. It seems we must change the legislation to change the mind-set.

Governance and regional development

The sudden change in the early 1970s which saw the withdrawal of mission and government people from remote communities, with the overnight transfer of power to Aboriginal Councils in accordance with the new policy approach of self-determination and self management has also contributed to the dysfunction described by Minister John Ah Kit in a statement to the Northern Territory Parliament early last year. There was virtually no transfer of skills at the time, and the collapse of literacy and numeracy since, has meant things have got worse, not better, with the passage of time.

Further, the Territory is littered with 65 small local government councils when Victoria has only 78 for 20 times our population. And the population is scattered over 17% of Australia's land mass. I do not think the extent of the scatter is well known—let me try to further illustrate the point this way. There are:

- 9 Aboriginal townships of between 1,000 and 2,000 people
- 50 communities of between 200 and 999
- 570 communities of less than 200 people

The importance of proper coordination in Aboriginal economic development cannot be

overemphasised. It is important to remember that there are two governments, and countless agencies, all striving for the hearts and minds of people. The visitors book in a remote community is a very interesting read, bearing in mind that each official visitor expects the undivided attention of the council. Noel Pearson put the lack of coordination this way:

Metaphorically (and frequently, literally) the lack of a holistic approach in Aboriginal Affairs can be illustrated by the Aboriginal group being assisted to get a pastoral property going. They have saddles from one Department but they don't have any horses from another. And they can't connect with the Department with the cows.

Aboriginal Affairs is littered with the scenes of horses without saddles, and cows with bridles. Brand new flushing toilets without water. Gymnasiums without equipment. Million dollar hospitals with no doctor.

My own belief is that coordination will not occur until effective local/regional organisations take command, determine their own priorities, and tell governments what will be convenient, and when. I am hopeful that the new regional authorities will have the stamp of authority to be able to do that. And hopefully these new levels of cooperation between governments, and the sharing of responsibility with remote councils, will overcome the problem described by Pearson, and the bugbear of one of my previous lives—the endless separation of funds (especially within the one agency, but also between agencies) into programmes, sub-programmes, sub-programme components, and so on. This had the inevitable result towards the end of the financial year when the central office was trying to achieve full expenditure, that funds might be available for a community's 11th or 12th priority, but none higher up the scale. Try explaining the logic of that to a remote community government council!

Law and order

The issue of whether customary law could be incorporated into Australian law was investigated by the Australian Law Reform Commission

in the 1980s, which basically recommended the adoption of many aspects. The Northern Territory Law Reform Committee examined the issues from another angle in the 1990s and made similar recommendations. So did the enormously expensive Royal Commission into Aboriginal Deaths in Custody. And at the Constitutional Development Conference in Darwin in 1998 the government undertook to implement Aboriginal customary law within five years. That government lost office in 2001, and we never did get to see the detailed plans.

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The opponents of the adoption of customary law point to some allegedly insurmountable barriers:

- the harshness of some corporal punishment measures like thigh spearing (which in a world context seems pretty tame against some other practices like amputation)
- the difficulty of defining who the measures should apply to given the varying degrees of traditionality from one remote community to another
- the perception of having two laws, with racial origin being the determinant.

The opponents say that no civilised society could condone such things. My concern is whether a civilised society can continue to accept what is happening in this country, or whether we can dare to be brave and try something new.

Now I am no lawyer, but wouldn't it be a simple matter to define which procedures were unacceptable and outlaw them at the outset (I imagine UN Conventions would guide us)? As for two laws, we already have various courts like the High Court, Supreme Court, Magistrates Court, Family Law Court, Land and Mining Court, and so on. Each court has a well understood function (at least to the legal profession). Wouldn't it be a simple matter of adding another, called, say, the Community Justice Court? Such courts could be established in communities that were ready and able to take on the role. The Legislative Assembly would enact enabling legislation with a title something

like the *Community Justice Act* as recommended by the Northern Territory Law Reform Committee in 1996. Under that umbrella legislation the government, or the relevant Minister, could formally delegate responsibility over a negotiated set of responsibilities that were within the scope of the enabling Act.

The negotiations would also pin down just who the Community Court would have jurisdiction over. Not all communities would want such power, and some may not be approved by the Minister anyway. And the schemes would likely differ between communities. Forum shopping by offenders would not be permitted. I think once these matters have been worked through with communities that are desperate to try something different (especially with recalcitrant youth over whom they despair), the question of who comes within the scope will clear like a fog.

I am confident enough still to think that such measures will address all three concerns identified earlier.

What is absolutely clear is that incarceration does not operate as a deterrent, particularly for youth. Others have written about how a stint in the Don Dale Juvenile Detention Centre in Darwin is now, sadly, a rite (right?) of passage to manhood for some remote communities. I have written about the attractions of a dry bed, colour TV, three good meals a day, air-conditioning, and a well equipped gymnasium, being a highly attractive alternative to being flood-bound in a remote place for the wet season. I have also pointed out that offending rates soar around November, supporting my contention (perhaps I'm wrong, and it simply represents the onset of the mango madness season). I have argued for boot camps, in the bush, building cattle yards or roads, on hard tucker like salt beef and damper (or catch your own), sleeping in swags, and supervised by hoary old lore men. That might be a deterrent to offending, and it might reduce the gaol populations whilst restoring community pride too. I know communities that want to take on such responsibility.

Substance abuse

The Northern Territory Legislative Assembly Member for MacDonnell, John Elferink, has talked about introducing a private members bill, proposing the police and courts be given a measure

of sanction over habitual drunks. That idea has been picked up by candidates in the by-election for the seat of Katherine, one of whom has pointed out that the *Liquor Act* already provides such a sanction:

Section 122 of the *Liquor Act* is titled Prohibition Orders, and provides that

'(1)(a) a person who, by the habitual or excessive use of liquor, wastes his means, injures or is likely to injure his health, causes or is likely to cause physical injury to himself or to others or endangers or interrupts the peace, welfare or happiness of his or another's family; or

(b) a person who, on more than 3 occasions during the preceding 6 months, has been taken into custody in accordance with Division 4 of Part V11 of the *Police (Administration) Act*.'

may be the subject of a Prohibition Order.

It goes on to say an order may be made by a court in relation to a matter before it, or by a Local Court on application by the Director, and can forbid all persons to sell liquor to the person named in the order or permit that person to be on licensed premises. The Court may order the person for physical and mental assessment and to undertake a specified programme of treatment and rehabilitation. Would it fundamentally offend human rights if such an order specified, in an occasional extreme case, that some or all of the benefits be paid by way of food or clothing vouchers, rather than cash?

The problem is I am unaware of the provision ever having been used. If not, why not? Why not start immediately?

Then there is the issue of anomalous taxing regimes for alcohol products, producing the utterly crazy result where beer is taxed at about seven times the rate of cask wine. Is the wine lobby that strong? Do beer drinkers know that they are subsidising cask wine drinkers? Or is it that governments are now addicted to the big dollars that flow from the ridiculously high beer consumption rates in this country? Governments cannot be too concerned about harm minimisation given the damage that cask wine drinkers are doing to the public, their spouses, and themselves!

A debate has raged all year about the desirability of taxing grog on alcohol content. I have not heard one dissenting voice. Why not just do it?

And how could it be possible that governments, who banned all tobacco advertising, have allowed alcohol products to take over all the billboards, major sporting sponsorship, and even the sporting grounds themselves. Even for international football and cricket matches. I thought that it was as plain as the nose on your face that the downside of alcohol abuse, like road trauma or family violence or homicide, was many more times more serious than the downside of tobacco abuse, like passive smoking. Why the hypocrisy?

Why not ban alcohol advertising too?

Final comment

The story I have told is pretty depressing, and given the seriousness of the current social setting it is easy to have doubts as to whether there is a future for youth. Of course there is. We have certainly been diligent in trialling different approaches over the years, but then being terribly slow to admit failure of any kind. We have been terribly conscientious about the human rights of the individual, but then verging on the culpable in ignoring the harm people might be doing to themselves, their families or communities.

By now the failures are there for all to see, and to be denied by only the very few last stalwarts of the left-leaning. Even those that have been seduced/trapped by the hypnotic attraction of something for nothing are realising that others have a better life than them. Now that the recognition of failure is widening in this way, governments must pay attention. There is a way out.

The way out will require even more courage on the part of governments and their policy advisers than ever before. The way out will involve requiring people to give something, like their labour in exchange for what their neighbour provides, under threat of their benefits being taken away. It is far easier to give than to take away, and we have seen where that got us. We will need to be more conscientious than ever before to have any hope of implementing such changes.

The time for fine tuning, and incremental adjustment, is over.