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# **ABORIGINAL ACTIVISM AND THE STOLEN GENERATIONS: THE STORY OF SNAICC**

Thesis submitted for the degree of Doctor of Philosophy,  
National Centre for Australian Studies, Monash University.

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## ABSTRACT

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Knowledge of the removal of Aboriginal children from their families and communities in Australia is increasingly entering the public domain. Less well-known is Aboriginal resistance to the laws, policies and practices which aimed to assimilate Aboriginal children into mainstream society. Much of the resistance and activism has been generated by the state and territory Aboriginal and Islander child care agencies. These groups combined in the early 1980s to federate under the banner of the Secretariat of National Aboriginal and Islander Child Care (SNAICC), which continues to advocate for the rights of Indigenous (mainly Aboriginal) children and families.

This thesis tells the story of SNAICC and the people who represent it. Drawing primarily on oral testimony from people involved with SNAICC and on SNAICC documentation, the account is constructed around a contest with the state for the rights of Aboriginal children, families and communities. The thesis presents findings on the development of the state and territory agencies and SNAICC, and analyses the struggle for change including relationships with funding bodies. Particular emphasis is given to SNAICC's main quest—to keep Indigenous children in their own communities. The thesis examines the importance of projects and events initiated by SNAICC, and analyses SNAICC's role in relation to the Human Rights and Equal Opportunity Commission's National Inquiry into the Separation of Aboriginal and Torres Strait Islander Children from Their Families. The international activism of SNAICC is explored.

Widening the context of SNAICC's story, the thesis assesses the influence of social policies and historical factors. It draws its theoretical underpinnings from social movement theory, identity politics and citizenship. Methodological issues highlight the role of the non-Indigenous researcher.

The thesis concludes by examining SNAICC's 'unfinished business' in its quest for justice for Aboriginal children including demands for national legislation, for a reversal of the over-representation of Aboriginal children in the child welfare and juvenile justice systems and for the implementation of recommendations of the National Inquiry. The final chapter reflects on the policy context, the future of SNAICC and considers the question of whether my research can contribute to bringing about change to policy and practice.



## STATEMENT

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This thesis contains no material which has been accepted for the award of any other degree or diploma in any university or other institution. To the best of my knowledge, the thesis contains no material previously published or written by another person, except where due reference is made in the text of the thesis.





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## CHAPTER 1 INTRODUCING THE STORY

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Change has to come from within the Aboriginal community and as far as I am concerned SNAICC is leaps and bounds ahead. I don't know of any other national Aboriginal organisation that is accomplishing the work that they are doing.<sup>1</sup>

The Secretariat of National Aboriginal and Islander Child Care (SNAICC) is a national peak organisation, representing Aboriginal and Islander children's services which operate in every Australian state and territory. SNAICC's major quest has been to ensure that Indigenous children and families are not subjected to discriminatory and culturally inappropriate practices in both the child welfare and juvenile justice systems, with the main emphasis on child welfare. With this broad goal in mind, SNAICC has lobbied governments, worked to gain the support of bureaucracies and non-government organisations, sought international recognition and publicised the plight of Indigenous children. Specific areas of attention have included the pursuit of national legislation for Aboriginal child welfare, the elimination of abusive child welfare legislation and practices, the maintenance of Indigenous children in their own families and communities and the enforcement of relevant United Nations agreements.

SNAICC played a pivotal role in the establishment of the Human Rights and Equal Opportunity Commission (HREOC) National Inquiry into the Separation of Aboriginal and Torres Strait Islander Children from their Families, colloquially known as the Stolen Generation(s) Inquiry. This Inquiry produced the *Bringing Them Home* report in 1997. Its influence in facilitating the Inquiry is one of SNAICC's most significant achievements. SNAICC's most active quest has been to address the continuing over-representation of Indigenous children in the child welfare and juvenile justice systems. Its approach has been a holistic one, and, as the story unfolds, the range of activities and issues with which the Organisation has been involved will become evident.

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<sup>1</sup> Interview with Christine King, 17 Nov. 97.

## In the beginning

In 1983, after lengthy negotiations, SNAICC secured funding from the Federal Office of Child Care.<sup>2</sup> The Organisation had been established two years previously, when its Aims and Objectives were formulated at its inaugural 1981 Conference. Former Executive Officer of SNAICC, Nigel D'Souza, sees the year of 1982 as pivotal in the formal establishment of the Organisation, when SNAICC held a national conference in Canberra,<sup>3</sup> and its Aims and Objectives ratified. However, to understand the formation of SNAICC, one must appreciate both the long history of Aboriginal activism and the development of public policy around Indigenous issues.

The First Australian Conference on Adoption, held in Sydney in 1976, highlighted the problems associated with the large number of Indigenous children being placed with non-Indigenous families. The First Aboriginal Child Survival Seminar in Melbourne in 1979 brought together Indigenous people from every state to discuss concerns on child welfare issues on a national basis. This seminar flagged the notion of the formation of a national organisation to address these concerns.<sup>4</sup>

The early SNAICC conferences set the scene for establishing the scope of the Organisation and for shaping the agenda it was to embrace for the rest of the century. The 1983 Conference followed the election of the Hawke Labor Government. In its manifesto, the Australian Labor Party (ALP), had made a commitment to Aboriginal child care agencies to implement their principles 'regarding the care, custody and control of children and the provision of necessary resources to facilitate the development of community-controlled child care agencies/services within the Aboriginal and Islander community'.<sup>5</sup> The 1983 Conference made its demands for justice for Aboriginal children and families in the context of the ALP Government's recognition of the principles of self-determination, and called for funding and consultation.<sup>6</sup>

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<sup>2</sup> The Office of Child Care was located within the Department of Social Security.

<sup>3</sup> N. D'Souza, *Indigenous Child Welfare or Institutionalised Colonialism?* unpublished MA (Social Policy) thesis, RMIT, Melbourne, 1994, p. 87.

<sup>4</sup> D'Souza, *Indigenous Child Welfare*, 1994, p. 143.

<sup>5</sup> Cited in D'Souza, *Indigenous Child Welfare*, 1994, p. 146.

<sup>6</sup> D'Souza, *Indigenous Child Welfare*, 1994, p. 146.

Marjorie Thorpe recalls a national meeting set up by the Office of Child Care which brought together all the Aboriginal child care agencies in existence at that time, 'eight or nine at a rough guess'. The meeting was held in Sydney and Marjorie Thorpe, who was the Director of the Victorian Aboriginal Child Care Agency, comments on the vision of that forum:

From that meeting we decided as a group of Aboriginal child care agencies to get SNAICC operating as a body whose responsibility was to fight for recognition and resources for more Aboriginal child care agencies to be established, for more resources, for uniform policy, national child care legislation, to stop what was happening and to put more resources on the ground in Aboriginal communities to deal with the problems we were facing (interview 27 Aug. 97).

The origins of SNAICC are evident long before the conferences and meetings which led to its formal establishment. Long-time SNAICC Chairperson, Brian Butler, recalls the many people who, before the establishment of formal organisations, struggled to achieve recognition of Aboriginal and Islander child care issues: 'like Olga Fudge in South Australia and Gladdie Elphick in South Australia. People in Tasmania who worked tirelessly without any recognition. Flinders Island—Lois Farley is one who comes to mind' (interview 1 July 97). Some of these people are no longer alive, but their work was pivotal, and their memories live on in the ongoing struggles of the Organisation.

Alongside the formal activities of SNAICC there exists an alternative account of Indigenous child welfare advocacy told outside the organisational structures, the meeting rooms and community activities. The politicisation of Aboriginal child welfare issues is particularly evident in the arts through song, stories, paintings and poetry. Among those who stand out for their contributions are singers/songwriters Archie Roach, Bobby Randall and Peter Rotumah; poets Kath Walker and Lionel Fogarty; writers Sally Morgan and Barbara Cummings; and artists Isobel Coe and Heather Shearer. All of these people have been commentators on Indigenous children and some have been significant players in SNAICC. Indigenous actor, Bob Maza, talks about the power of the theatre as a tool for politicising Aboriginal and Islander



Australians.<sup>7</sup> Brian Butler refers to those who were instrumental in drawing attention to the situation confronting Indigenous people:

Of course you've got Kath Walker who saw the way to gain recognition for the plight of the families and children was through her poetry and theatre. Jack Davis from Western Australia did the same sort of thing. People who through their music tried to draw recognition to the plight of children such as Archie Roach and Bobby McLeod and even in the Northern Territory, Herbie Laughton with his music tried to keep and hold people together in a way that has been strong and united people through their music (interview 1 July 97).

Although this work is outside the scope of SNAICC's story, its influence in drawing attention to the issues confronting Indigenous children and families has been profound and is therefore acknowledged.

### The context of the story

My research into SNAICC's story commenced in 1997, at a time which can be seen as a turning point in Indigenous affairs in this country. The so-called 'Hanson' factor,<sup>8</sup> with its perception that Indigenous Australians received benefits over and above other community members, was at its peak. A High Court decision in the Northern Territory (known as the Kruger case) ruled against the Aboriginal plaintiffs who had challenged the Northern Territory *Aboriginals Ordinance* 1918-1953, which had permitted the removal of children.<sup>9</sup> Opposition to and subsequent dilution of Native Title claims was mounting, dividing the non-Indigenous community. Increasing international attention was being directed to Indigenous issues in Australia, particularly in human rights forums.

At the same time, Aboriginal organisations were experiencing the impact of severe funding cutbacks in 1996 to the Aboriginal and Torres Strait Islander Commission, a body introduced by the Hawke Labor Government in 1990, and vaunted by that Government as a more democratic structure for Indigenous people. Both the funding restrictions and manner of governance became increasingly criticised by Indigenous groups, particularly the appointment by Government of an elected Chairperson, rather than one selected by ATSIC representatives. Prime

<sup>7</sup> C. Taylor, 'The Maza Message', *The Weekend Australian*, 2-3 Jan. 1999, p. 15.

<sup>8</sup> This refers to the policies of Pauline Hanson, a founding member of the One Nation Party and a member of the Federal Parliament from 1996-1998. The policies of One Nation have been seen to endorse anti-immigration and anti-Aboriginal sentiments.

<sup>9</sup> L. Tingle, 'High Court setback for "stolen generation"', *The Age*, 1 August 1997, p. A6.

Minister John Howard's accusations of the wasting of Government funds were deemed to be without foundation.<sup>10</sup> The return to Coalition rule in 1996<sup>11</sup> was seen as the driving factor behind funding cutbacks, which combined with the Coalition's rejection of self-determining approaches and a return to a welfarist discourse framed around ameliorating the disadvantage faced by Aboriginal people.

The public was becoming increasingly aware of the plight of Indigenous people. One only had to take a cursory glance at newspaper reports to observe that the situation of Indigenous people in this country remained unacceptable, falling well below acceptable human rights standards.<sup>12</sup> Many Aboriginal people in Australia continue to live in conditions associated with a 'fourth world' existence,<sup>13</sup> an existence manifest by conditions of poverty, ill-health, unemployment, poor housing and discrimination. Australia has been listed as being in breach of adherence to international human rights standards in its dealings with Indigenous peoples,<sup>14</sup> and the situation has changed little since Robert Haupt wrote in 1987:

In short, an Aborigine is more likely than a white in Australia to be in one or more of the following states: sick, unemployed, poor, imprisoned or dead.<sup>15</sup>

On a more positive note, the Reconciliation movement had reached a peak, with the Australian Reconciliation Conference held in May 1997, at which the *Bringing Them Home* report was launched. The Council for Aboriginal Reconciliation began meeting in 1992, with the aim of 'building bridges for a better understanding between Aboriginal and Torres Strait Islander Peoples and the wider Australian community'.<sup>16</sup> Despite a range of positive community initiatives which have arisen from

<sup>10</sup> E. Adams, 'Howard's approach to Aboriginal Affairs in 1996: An Analysis', *Justice for Indigenous Australians*, no. 4, Melbourne, January/February 1997, p. 1.

<sup>11</sup> The coalition refers to the Liberal and National Parties. This coalition replaced the previous Federal Labor (ALP) Government.

<sup>12</sup> R. Doyle & L. Freedman, 'Aboriginal Disadvantage in a White Fellas System', *Currents: Readings in Race Relations*, vol. 8, no. 2, Urban Alliance on Race Relations, Toronto, 1994, p. 22.

<sup>13</sup> J. Reid & D. Lupton, 'Introduction', in eds. J. Reid & P. Trompf, *The Health of Aboriginal Australia*, Harcourt Brace Jovanovich, Sydney, 1991. (These authors refer to fourth world populations as those characterised by their experience of being colonised or of being a minority in relation to a dominant, encompassing state, with attempts by dominant governments to assimilate them.)

<sup>14</sup> B. J. Hocking, & B. A. Hocking, B. A. 'A Comparative View of Indigenous Citizenship Issues', *Citizenship Studies*, no. 1, 1998, p. 122.

<sup>15</sup> R. Haupt, 'The Aboriginal condition: The brute facts', *The Age*, 9 November 1987, p. 6.

<sup>16</sup> Council for Aboriginal Reconciliation, *Reconciliation and its Key Issues*, Australian Government Publishing Service, n.d. c. 1990s, p. 1.

the reconciliation process, not all hold the view that this goal is possible in the current political climate. Chairperson of the Council for Aboriginal Reconciliation, Evelyn Scott, has spoken of how Indigenous Australians are still battling on many fronts, including racism, which she sees as 'alive and well'.<sup>17</sup> Australian Governor-General, Sir William Deane, a strong advocate for Indigenous rights, predicts 'a long and torturous path to reconciliation'. He states that it is difficult not to be discouraged and depressed about the lack of progress.<sup>18</sup>

Against this backdrop, SNAICC convened the Second Aboriginal and Torres Strait Islander Child Survival Conference in Townsville in June 1997. This Conference provided the opportunity for SNAICC members to reflect on achievements and barriers since the formation of the Organisation, and to develop strategies for future activities.

### **Framing the story**

This thesis presents the struggles of people throughout Australia for the rights of Indigenous children and families, and their links to SNAICC. It documents the battles which occurred against policies and practices of Federal, state and territory governments, in endeavours to ensure that those policies and practices which applied to Indigenous children and families accorded with Aboriginal and Islander culture, wishes and aspirations. The story gives recognition to the many individuals who have made a contribution to Indigenous child and family welfare and to SNAICC's quest for change. The narratives of those interviewed are central to the presentation of SNAICC's story.

I have made extensive use of written documentation, derived from the array of meeting minutes, resolutions, policy documents, media releases and newsletters which are filed in the SNAICC office. Also drawn on are relevant policy reports and literature. In the incorporation of 'the written word', I have exercised care not to allow this to take precedence over the verbal accounts, in keeping with the oral tradition in Indigenous transmission of history. This approach will be elaborated in Chapter 4.

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<sup>17</sup> Cited in J. MacDonald, 'Grim view on reconciliation', *The Age*, 5 January, 1999, p. 3.

<sup>18</sup> MacDonald, J. & Gordon, M. 'Deane bleak on reconciliation', *The Age*, 25 May 1999, p. 1.

The story is framed by my conceptualisation of SNAICC as an activist organisation, and part of a wider struggle for Indigenous rights in Australia. This approach is consistent with what has become known in sociological literature as social movements, in keeping with the definition of Carniol:

Social movements see unequal power relations and unequal material resources as the source of the problem. Social movements and their alternative services are indeed subversive. They are in conflict with the services and objectives of conventional social agencies. But most important, instead of helping to legitimate society's undemocratic structures and institutions they are committed to exposing and fundamentally challenging them.<sup>19</sup>

The emergence of identity politics provides a foundation for the theoretical underpinning which underlies the emergence of Aboriginal organisations. Social movements, driven by identity politics, have created new subjects of knowledge and new knowledges, with the dominant knowledges in public culture criticised as reflecting the standpoint and interest, for example, of white Europeans.<sup>20</sup>

I have applied theoretical concepts about citizenship to my analysis. Citizenship theory has seen a revival in the academic discourse of the 1990s, expanding on Marshall's conceptualisations (1950) which focused on civil, political and social rights. Despite legal provisions relating to equality before the law, Indigenous peoples throughout the world assert that their relationship with nation states continues to reflect the historical situations of disempowerment and dispossession.<sup>21</sup> The politics of exclusion has been a recurring theme in the interviews conducted for this thesis.

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<sup>19</sup> B. Carniol, *Case Critical: Challenging Social Work in Canada*, 2nd edition, Between the Lines, Toronto, 1990, p. 128.

<sup>20</sup> S. Seidman, *Contested Knowledge: Social Theory in a Postmodern Era*, Blackwell, Massachusetts, 1994, p. 235.

<sup>21</sup> J. Dennis, 'Local Indigenous Rights in a Global Environment', *Forum*, no. 4, Centre for Citizenship and Human Rights, Deakin University, Geelong, p. 9.

## Remembering the past

The story of SNAICC is being told within the context of what has become known in recent times in Australia as 'the stolen generation'.<sup>22</sup> For analytical purposes the stolen generation can be perceived as divided into segments although, as the above quotation by Dennis implies, there is a continuum between the past and the present. The term 'stolen generation' is most commonly used to refer to the historical processes which resulted in the removal of Aboriginal children from their families and communities throughout Australia, in line with government assimilation policies, or, as some commentators now argue, genocidal policies.<sup>23</sup> This aspect of stolen generation history has been documented in *Bringing Them Home*, the 1997 report of the National Inquiry into the Separation of Aboriginal and Torres Strait Islander Children from their Families. The 'inquiry's brief applied to children who had been separated by 'compulsion, duress, or undue influence'.<sup>24</sup> The removal of Indigenous children has been a feature of the race relations landscape from early white settlement under a variety of policy discourses, including protection and segregation. Assimilationist intent reached a peak after the Second World War, and began to be challenged in the 1960s which reflected changes occurring in Australian society.<sup>25</sup> These changes included the beginnings of non-British migration and changes in church mission policies.<sup>26</sup> The long-term practice of removal of Aboriginal children however, challenges the single generational notion depicted in the commonly used term, 'stolen generation' as a number of generations of removal occurred, and, as will be demonstrated, remains enshrined in continuing practices.

<sup>22</sup> Although the term 'stolen generation' has been used by SNAICC for some time and is believed to have been coined by Peter Read in 1981, it is only in recent years that it has been incorporated into popular discourse in Australia.

<sup>23</sup> For example L. Freedman & L. Stark 'When the White System Doesn't Work', in eds. W. Weeks & J. Wilson, *Issues Facing Australian Families: Human Services Respond*, 2nd edition, Longman Australia, Melbourne, 1995, p. 319; A. Haebich, *Submission to the Human Rights and Equal Opportunity Commission into the Removal of Aboriginal Children*, May 1996; and Human Rights and Equal Opportunity Commission (HREOC), *Bringing Them Home: Report of the National Inquiry into the Separation of Aboriginal and Torres Strait Islander Children from their Families*, HREOC, Sydney, 1997.

<sup>24</sup> HREOC, *Bringing Them Home*, 1997, p. 5.

<sup>25</sup> Freedman, *The Pursuit of Aboriginal Control*, 1989, p. 45.

<sup>26</sup> R. Broome, *Aboriginal Australians: Black Response to White Dominance 1788-1980*, George Allen & Unwin, Sydney, 1982, p. 173.

The activities with which SNAICC has been most closely associated since its formation, contemporary policies and practices, will be to the forefront of my analysis. However, SNAICC's concerns have spanned the earlier periods of child removal, highlighted by its involvement with the HREOC National Inquiry. SNAICC's approach is consistent with the views of a variety of Indigenous organisations which stress the importance of recognising the past. The need for such recognition has also been expressed by a number of accounts of Aboriginal history which similarly argue the importance of knowing the past to understanding the present.<sup>27</sup> Frow refers to the historical relativism that seals past and present in their separate and internally homogeneous temporalities.<sup>28</sup> Past and present however, cannot be seen as dichotomous entities but as a continuum.<sup>29</sup> Brian Butler comments that 'we do not and cannot split or separate our history into compartments, neither can it be thrown away. This would be like throwing part of us away'.<sup>30</sup> As the account of SNAICC's development unfolds, the viewpoints of the participants will demonstrate how stolen generation themes across historical dimensions, contribute to a holistic view of the Organisation and its struggles. Penny Taylor reminds us of the importance of remembering the past:

Those who forget the past are condemned to repeat it.  
Whoever controls the past controls the future.<sup>31</sup>

Recounting the story of SNAICC requires a brief background to the history of Indigenous child welfare in this country. It is this history, outlined in Chapter 2, which has been significant in underpinning the endeavours of SNAICC. Furthermore, those interviewed have referred to historical processes, either broadly or in relation to their own families or communities, when discussing the formation of the Organisation. Their visions of the past and the links to the present are documented in subsequent chapters.

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<sup>27</sup> For example C.D Rowley, *The Destruction of Aboriginal Society: Aboriginal Policy and Practice*, vol. 1, ANU Press, Canberra, 1970; A. McGrath, *Contested Ground: Australian Aborigines Under the British Crown*, Allen & Unwin, Sydney, 1995; and P. Taylor, *Telling It Like It Is: A Guide to Making Aboriginal and Torres Strait Islander History*, Australian Institute of Aboriginal and Torres Strait Islander Studies, Canberra, 1996.

<sup>28</sup> J. Frow, 'A Politics of Stolen Time', *Meanjin*, vol. 57, no. 2, 1998, p. 361.

<sup>29</sup> Frow, 'A Politics of Stolen Time', 1998, p. 361.

<sup>30</sup> B. Butler, 'Aboriginal Children: Back to Origins', *Family Matters*, issue no. 35, Australian Institute of Family Studies, Melbourne, 1993, p. 11.

<sup>31</sup> Taylor, *Telling It Like It Is*, 1996, p. 2.

Telling SNAICC's story is a way of linking the past with the present. As Penny Taylor notes:

History may be about the past, but it is also about the relationship between the past, the present and the future.

History is the stories that people tell the next generation to explain who they are, where they come from, and why they are there. It is therefore about *identity*.

History is stories about the achievements and survival of our culture, important events in our past, our heroes and heroines, our leaders, the role models that we pass on to our children. It is therefore about *pride* and *self esteem*.

History is also about battles that we have lost, things that went wrong and why, the hardships experienced by our people and how they overcame them to survive into the present. It is therefore about *learning from the past*.

History gives us evidence of land ownership and past injustice. It assists us in the fight to reclaim our rights. It is therefore about *justice*.<sup>32</sup>

In the report of the Royal Commission into Aboriginal Deaths in Custody<sup>33</sup> reference was made to the importance of recognising the past, asserting that from history many things flow which are of central importance to the over-representation of Aboriginal people in custody. These include systematic disempowerment of Aboriginal people, dependence on government and decisions made about them and imposed upon them.<sup>34</sup>

Factors which contribute to the social, political and economic position of Aboriginal people today have much of their basis in historical policies and practices.<sup>35</sup> A succession of welfare policies influence policy development in relation to Aboriginal people.<sup>36</sup> Aboriginal child care agencies throughout Australia came into existence because of the history

<sup>32</sup> Taylor, *Telling It Like It Is*, 1996, p. 2.

<sup>33</sup> The Royal Commission was established to investigate the deaths of ninety-nine Aboriginal and Torres Strait Islander people who died in the custody of prison, police or juvenile detention institutions between 1 January 1980 and 31 May 1989.

<sup>34</sup> Royal Commission into Aboriginal Deaths in Custody, *National Report: Overview and Recommendations*, Australian Government Publishing Service, Canberra, 1991, p. 8.

<sup>35</sup> Freedman, *The Pursuit of Aboriginal Control*, 1989, pp. 23-24.

<sup>36</sup> M. Crick, 'Aboriginal Self-management Organisations, Cultural Identity and the Modification of Exchange', *Canberra Anthropology*, vol. 4, 1981, p. 59.

of 'welfare' intrusion or interference in the lives of Aboriginal families and children.<sup>37</sup> As noted by Read:

White people have never been able to leave Aborigines alone. Missionaries, teachers and government officials have all believed the best way to make black people behave like whites was to get hold of the children who had not yet learned Aboriginal lifeways.<sup>38</sup>

In addition to the formal, usually white, interpretations of the past, Aboriginal narrative presents its own 'insider' interpretations. In her autobiography, Labumore (Elsie Roughsey), born on Goonana Mission in Mornington Island talks about the way the colonial process devastated her people:

Finally ... crept in a white man, with all its different hard life, with the laws of Government, that drove away all our good ways of living. I wondered so much about all this.<sup>39</sup>

MumShirl<sup>40</sup>, in her autobiography, speaks of the invasion of Australia:

When the white people first came to this country, the country of the Aboriginal people, they started to kill us. Many were shot, poisoned, and hunted down. This very direct way of killing us is not part of my story, because it mainly happened before I was born, but it is part of the history of me, and of every Aboriginal person in Australia, and of every white person in Australia whether they are descended from the first whites who came and killed us, or whether they have just arrived on a boat yesterday, because if the killing had not been done, then they would not be able to land here today. Certainly if the first white people had not come, or had come peacefully and gently joined their new ways with our ways instead of killing us off all over the place, it would be a very different country here today.<sup>41</sup>

SNAICC's story contributes to recounting the past through the narratives of Indigenous people. It challenges the traditional histories emanating from the academy, and is part of the growing acknowledgment by historians and others of the Indigenous conception of oral story-telling as a primary way of transmitting knowledge. Author Carmel Bird comments that the 'evils of the past always come back to haunt us and to deny the past is to cast a dark shadow, to cripple the future, infecting it with the nature of those

<sup>37</sup> SNAICC report to Senator D. Grimes, 21 April 1986.

<sup>38</sup> P. Read, *The Stolen Generations: The Removal of Aboriginal People in NSW 1883 to 1969*

NSW Ministry of Aboriginal Affairs, Sydney, Occasional paper, no. 1, 1981, p. 20.

<sup>39</sup> Labumore (Elsie Roughsey), *An Aboriginal Mother Tells of the Old and the New*, McPhee Gribble, Melbourne, 1984, p. 1.

<sup>40</sup> Also known as Shirley Smith.

<sup>41</sup> MumShirl, *MumShirl: An Autobiography*, Heinemann Educational, Melbourne, 1987, pp. 12-13.



evils'.<sup>42</sup> The denial of the past by mainstream Australia, particularly in the political arena, has contributed to the limited capacity of SNAICC to influence changes to the rights of Indigenous children and families.

### **Before there was SNAICC: Early activism**

Before the formation of SNAICC and, indeed, before the formation of the Aboriginal and Islander child welfare agencies there were many individuals with an activist role in the field of Indigenous child welfare. As Brian Butler pointed out in 1997:

This didn't just happen since 1978 with ACCAs<sup>43</sup>, or when SNAICC was born. All ACCAs and SNAICC did was carry on from what our grandmothers and grandparents had already started years before ... In those days they didn't have a telephone to go to, they didn't have the mail services, they didn't even have anyone to talk to when their children were being taken away. And when they did speak to somebody, it was somebody in a government department who was a part of the whole process of taking the children away anyway, so there was no-one who they could talk to (interview 1 July 97).

Some of the early endeavours to confront past policies and practices have been documented in Aboriginal autobiographical writing. One of the best known accounts was written by Marjorie Tucker about her mother's attempts to rescue her and her sisters from the New South Wales authorities. The poignant account of her mother running and weeping over a long distance, is a moving narrative of the hopeless task of an individual challenging an institutionalised system designed to remove children from their origins:

I heard years later how after watching us go out of her life, she wandered away from the police station three miles along the road leading out of the town to Moonahculla. She was worn out, with no food or money, her apron still on. She wandered off the road to rest in the long grass under a tree. That is where old Uncle and Aunt found her the next day ... They found our mother still moaning and crying. They heard the sounds and thought it was an animal in pain ... Mother was half-demented and ill. They gave her water and tried to feed her, but she couldn't eat. She was not interested in anything for weeks, and wouldn't let Geraldine out of her sight. She slowly got better, but I

<sup>42</sup> C. Bird, *The Stolen Children: Their Stories*, Random House, Sydney, 1987, p. 2.

<sup>43</sup> Aboriginal child care agencies.

believe for months after, at the sight of a policeman's white helmet coming round the bend of the river, she would grab her little girl and escape into the bush, as did all the Aboriginal people who had children.<sup>44</sup>

In *Don't Take Your Love to Town* Ruby Langford tells of the resistance of her father to her school headmaster's suggestion that she go to teacher's college with support from the Aborigines' Protection Board. Ruby cites her father as saying that if she went to teacher's college it would be under her own steam and not through the protection board as 'all the protection they've done so far is take people from their land and split up families'.<sup>45</sup>

MumShirl laments the fact that there has not been more autobiographical writing. In her own autobiography, she comments:

Writing a book like this brings so many things into my mind, and also a lot of sorrow. It is such a terrible shame that Aboriginal people haven't been able to get educated before this, and it is not just education; it is also time and backing. You see, there could have been lots of books written about Aboriginal people, how they survived, and how great they are and were.<sup>46</sup>

Indigenous activism in Australia has a long history which has only been recently recognised. One of the most important early protests occurred when William Ferguson and J.T. Patten, in 1938, signed a manifesto calling for the abolition of the Aborigines Protection Board in New South Wales, along with the repeal of all existing legislation dealing with Aborigines.<sup>47</sup> The establishment of a Tent Embassy in 1972, in the grounds of what is now the old Parliament House in Canberra, received widespread publicity and press coverage, and the Embassy became a permanent structure. Hundreds of Aboriginal people had occupied the Embassy in shifts, night and day for six months, with the police continually tearing down the tent only to see it resurrected.<sup>48</sup> The first Aboriginal protests had occurred at this site in 1927, during the opening of the Federal Parliament House, when it was reported that two senior Aboriginal men made personal protests against the construction of

<sup>44</sup> M. Tucker, *If Everyone Cared: Autobiography of Margaret Tucker*, Ure Smith, Sydney, 1997, p. 94.

<sup>45</sup> R. Langford, *Don't Take Your Love to Town*, Penguin Books, Melbourne, 1988, p. 38.

<sup>46</sup> MumShirl, *MumShirl*, 1987, p. 56.

<sup>47</sup> N. Parbury, *Survival: A History of Aboriginal Life in New South Wales*, Ministry of Aboriginal Affairs, Sydney, 1986.

<sup>48</sup> J. Huggins, *Sister Girl: The Writings of Aboriginal Activist and Historian*, University of Queensland Press, Brisbane, 1998, p. 140.

Parliament House on grounds to which they laid claim.<sup>49</sup> Charles Perkins' Freedom Ride of 1965 was another example of organised protest, where a group of Aboriginal people and their supporters hired a bus, placed a banner across the front, and drove from Sydney to New South Wales country towns to demand civil rights for Aboriginal people.<sup>50</sup> Nationwide protests against the celebration of 200 years of colonisation occurred in 1988, culminating in a march in Sydney. Following the directions of its 1987 conference in Alice Springs, SNAICC participated in the 'Invasion Day' activities.<sup>51</sup>

Aboriginal activism became entrenched in a variety of organisational structures which developed in the first instance to address the specific needs of Indigenous communities. The first Aboriginal community service non-government organisation to be established was the Aboriginal Legal Service in Redfern, Sydney, in 1971, followed soon after by the Redfern Aboriginal Medical Service. Both these organisations were created in the belief that Aboriginal people have distinct needs and that mainstream organisations were neglecting these needs.<sup>52</sup> National peak bodies began to emerge and most still operate. They include the National Aboriginal and Islander Community Controlled Health Organisation (NAICCHO) and the National Aboriginal and Islander Legal Service (NAILS) and, of course, SNAICC.

In 1997 there were over one thousand Indigenous-controlled organisations existing at local, regional, state/territory and national levels, covering virtually all fields of service delivery covered by governments as well as those dealing specifically with matters unique to the Aboriginal community such as Lands Councils.<sup>53</sup> The Royal Commission into Aboriginal Deaths in Custody stressed the importance of Aboriginal organisations as playing 'a tremendous part in raising the status of Aboriginal people in their own eyes and in the eyes of non-Aboriginal society'.<sup>54</sup>

<sup>49</sup> Australian Heritage Commission, *Aboriginal Embassy Site*, Information Leaflet, n.d., c. mid 1990s.

<sup>50</sup> Details of the Freedom Ride are included in the autobiography of Charles Perkins, *A Bastard Like Me*, Ure Smith, Sydney, 1975.

<sup>51</sup> D'Souza, *Indigenous Child Welfare*, 1994, p. 148.

<sup>52</sup> SNAICC, *Newsletter*, April 1995, p. 4.

<sup>53</sup> SNAICC *Newsletter*, April, 1995.

<sup>54</sup> Royal Commission into Aboriginal Deaths in Custody, *National Report*, 1991, p. 23.

SNAICC has referred to the notions of liberation which were attached to the setting up of Indigenous services.<sup>55</sup> This is consistent with Coomb's assertion that Aboriginal political initiative was being significantly exercised through the Aboriginal organisations.<sup>56</sup> Although they may have the outward appearance of community service non-government organisations, Aboriginal organisations:

... carry and express the political aspirations of Aboriginal people as well as professing objectives that seek to alleviate identified disadvantage. They play a significant role in community development. They bear the indelible mark of kinship and social structure of the communities they serve which in turn influences their accountability channels especially in relation to this social and kinship structure. Employment practices are different. They display the disadvantage that exists among Aboriginal people through their inability to provide adequate pay and conditions for their workers; they are resource starved and at the same time have inordinate demands placed on them. They often exist as a sector within a sector that is under-resourced and under-skilled and therefore unable to provide a standard of service that is commensurate with the demands placed on them.<sup>57</sup>

The first Aboriginal Child Care Agency was set up in Victoria in 1976 by Aboriginal people working at the Victorian Aboriginal Legal Service (VALS). The VALS staff had noted the links between their adult clients and the history of removal as children.<sup>58</sup> Most placements of Aboriginal children were with non-Aboriginal families and institutions, and it was argued that white social workers were responsible for racist and inappropriate decision making about Aboriginal children who came to the notice of state welfare departments.<sup>59</sup> Breakdown of these placements was a frequent occurrence, particularly when children reached adolescence. Marjorie Thorpe (interview 27 Aug. 97) recalls the observation of well-known Aboriginal activist Mollie Dyer that '90% of those people going to the Legal Service had been removed from their families'. This observation helped draw the attention of policy-makers to

<sup>55</sup> SNAICC, 'Submission to the Industry Commission Inquiry', cited in SNAICC *Newsletter*, April 1995, p. 5.

<sup>56</sup> H.C. Coombs, 'A Decade of Progress?' in *Kulinma: Listening to Aboriginal Australians*, ANU Press, Canberra, 1978.

<sup>57</sup> SNAICC, 'Submission to the Industry Commission Inquiry', cited in SNAICC *Newsletter*, April 1995, p. 7.

<sup>58</sup> E. Sommerlad, 'Homes for Blacks: Aboriginal Community and Adoption', in ed. C. Picton, *Proceedings of First Australian Conference on Adoption*, The Committee of the First Australian Conference on Adoption, Sydney, 1976.

<sup>59</sup> Sommerlad, 'Homes for Blacks', 1976.

the situation confronting Aboriginal children and families. Similar evidence in other jurisdictions spurred on the development of the Aboriginal and Islander child care agencies.

### My story

As a non-Indigenous researcher commissioned to explore and document SNAICC's story, I have had to come to terms with a range of historical, ideological, methodological and representation issues. Undertaking this project has been a continuation of a journey for me which began in the late 1970s, when I first 'encountered' Indigenous people while working as a social worker in the Mallee Region of Victoria. Confronting the reality of Indigenous experience revealed to me the disturbing over-representation of Aboriginal children in the system in which I worked—child welfare and juvenile justice. In the region where I was employed, approximately one-third of statutory clients were Aboriginal children, although their representation in the total regional population was less than 2%. Through this concern, and the concerns I heard from Indigenous people, I found myself on a path to understanding and, in conjunction with Indigenous groups, working collaboratively to redress past wrongs.

My early social work practice experience has shaped the last twenty years of my practice, policy, activist and research endeavours. From my very first social work 'home visit' when I experienced confusion at the actions of an Aboriginal mother who hid her children from view as I parked the official vehicle and walked up the driveway, I have been driven by this quest. I have become increasingly aware of how the lack of understanding of Aboriginal culture and aspirations in mainstream society, including from within my own profession of social work, has damaged European-Aboriginal relations in this country. Like many white Australians who grew up in the monocultural suburbs of Australia in the 1950s and 1960s, I was ignorant of what Gray and Winter describe as the 'unethical foundations of this nation'.<sup>60</sup>

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<sup>60</sup> G. Gray & C. Winter, *The Resurgence of Racism*, Monash Publications in History, Melbourne, 1997, p. 4.

In the last twenty years I have been privileged to work in partnership with Aboriginal communities and organisations in striving for change.<sup>61</sup> These endeavours have ranged from the adaption of white foster care systems into a more culturally appropriate extended family care approach,<sup>62</sup> to projects concerned with 'uncovering' the extent of state<sup>63</sup> and church<sup>64</sup> involvement in the removal and placement of Aboriginal children in Victoria. Of particular influence was the late Mollie Dyer. When I was a new and naive social worker in rural Victoria in the late 1970s it was Mollie, the Director of the Victorian Aboriginal Child Care Agency, who patiently yet firmly guided my learning. I see her influence in my ongoing approach to listening to and learning from Indigenous people.

I have also been confronted by the many stories of removal and loss which I personally encountered. One which had an immense impact on me was the situation of James Savage (born Russell Moore, in Swan Hill, Victoria). This highly publicised case revealed circumstances of removal, relocation and identity confusion. Adopted at birth despite the protests of his fifteen year old Aboriginal mother, Russell was taken to the United States by his adoptive family and experienced a troubled adolescence, underpinned by cultural dislocation, which resulted in his ultimate alienation from that family. Russell, when eventually reunited with his natural mother, was on 'Death Row' in Florida having been convicted on charges of rape and murder. In endeavouring to have his sentence commuted to life imprisonment, a number of individuals with an understanding of the impact of the removal of Indigenous children from their families, including Mollie Dyer, travelled to Florida for his court case. They were successful in the quest to have the death penalty commuted to a life sentence, and he is now serving his sentence in the United States, still alienated from family and community.

In 1991 I was moved by an interview I conducted with Teresa Donaczy, a 'stolen child' and Swan Hill resident. What particularly impressed me was her resilience, courage, sense of humour and survival against the odds. Despite the tragedies which have unfolded in the public awareness of

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<sup>61</sup> Some of this previous work and my writing is referred to in this dissertation, under my former name of Freedman.

<sup>62</sup> Freedman & Stark, 'When the White System Doesn't Work', 1995.

<sup>63</sup> L. Freedman, *Took the Children Away: Removal of Aboriginal Children in Victoria Research Feasibility Study*, SNAICC, 1993.

<sup>64</sup> Minajalku Aboriginal Corporation, *Home Still Waiting*, Minajalku, Melbourne, 1997.

stolen generations issues, the strength of Indigenous resistance, culture and survival is paramount. This is consistent with Frow's comment on 'the clash between an assimilationist approach that assumes the inevitable absorption or extinction of the indigenous population, and the resistant survival of a dispossessed, disoriented people living on stolen time'.<sup>65</sup> In the interview with me Teresa Donaczy talked of her memories of removal:

I remember when they took me. My brother Alf, who was a few years older, and I were walking along the riverbank when a car pulled up and the driver asked if we were all right. Alf optimistically replied that he was hungry, and before we knew it we were in the car on our way to the police station. The terror of not knowing what would happen would never leave me. We were locked in a cell and fed through the bars. No-one explained why we were there and we were just sent on a train to what would be our homes for all of our childhood. I was taken to the Cootamundra Girl's Home and I still remember Alf's screams when we separated.<sup>66</sup>

Despite my previous involvement and concerns, and despite the fact that the research undertaken in this thesis was at the invitation of SNAICC, the task of writing SNAICC's story has been full of dilemmas for me. Although I located myself within SNAICC when conducting the oral histories I still considered myself an 'outsider'. Coming from a different cultural and experiential background to those involved with SNAICC, including the interview participants, I could never hope to fully represent their perspectives. This has led me to exercise great care to ensure that the voices are heard with as little interpretative interference as possible. It has also resulted in an inter-disciplinary approach to my theorising and analysis, drawing on a collage of theoretical frameworks and methodology. These underpinnings seem to me, based on my own experience and knowledge base, to best fit the account which is being told and to minimise academic intrusion on Indigenous discourse including memory, the sequencing and linking of events and attributions of causality.

Aboriginal friends have told me that white involvement is necessary as non-Indigenous people do not always hear Indigenous voices. Although such statements have caused me some distress, they have spurred me on to publicly presenting my stance on a range of issues, particularly those connected with the stolen generations. This research has paved a way for

<sup>65</sup> Frow, 'A Politics of Stolen Time', 1998, p. 360.

<sup>66</sup> L. Freedman, 'The Stolen Children: A Personal Account', *Children Australia*, vol. 16, no. 4, National Children's Bureau of Australia, p. 19.

me to continue my advocacy role, but in a manner that gives precedence to the Indigenous voices. For me, this represents a position of 'speaking out', not 'speaking for'. As this position is central to my thesis, it is elaborated in Chapter 4.

I see my research as much more than a recounting of the Organisation's story. I have deliberately set out to link personal with political discourses. My intention for this linking is to 'make a difference', to be a testing ground for whether oral testimony can be a form of activism which influences the type of changes which SNAICC has been advocating. Adopting an international perspective Canadian Native Indian, Winona Stevenson, states that Indigenous oral history projects:

... are done for far more reasons than mere interest because our communities do not have the luxury of pursuing knowledge just for the sake of knowledge itself. There are too many critical issues on-going in our communities that require immediate attention—land claims, governance issues, child and family welfare concerns, language, cultural retention and identity issues, and economic development concerns.<sup>67</sup>

The stories of those who have been a direct part of the stolen generations are beginning to reach the wider community. In the academy, there has been increasing emphasis on Indigenous policy issues. My work takes a different slant, of policy analysis underpinned by the direct views of those who have fought for the last two decades and more, to change policy and practices which were detrimental to Indigenous families. Martin Flanagan recalls conversations with Aboriginal songwriter/singer, Archie Roach—'Like so many Aboriginal people, he had anecdotes which would be dramatic pinnacles, defining moments ...'<sup>68</sup> The anecdotal material with which I have been presented in my interviews has had a similar impact for me. The stories, struggles and successes spoken about form an account of resistance and survival in the face of legislation, policy and practices which acted against Indigenous interests.

<sup>67</sup> W. Stevenson, *Commentary: Issues in the Oral History of Indigenous Peoples*, Paper presented at Oral History Association Conference, Buffalo, New York, 15 Oct. 1998, p. 2.

<sup>68</sup> M. Flanagan, in Bird, *The Stolen Children*, 1998, p. 159.



## Structure of thesis

The first four chapters provide the context for the SNAICC story.

Chapter 2 provides an overview of the stolen generations, particularly past policies and practices, setting the scene for presenting accounts of SNAICC's activism which have been framed around this issue. Chapter 3 critiques and applies the theoretical frameworks of social movements, identity politics and citizenship. Chapter 4 offers methodological reflections involved in telling this story.

Chapters 5 to 9 focus on specific aspects of the SNAICC story through a presentation of my findings which draw on both written documentation and narratives of those interviewed. Chapter 5 documents the early struggles in the formative years of SNAICC and its constituent organisations, emphasising issues of *how* the organisations were established. Chapter 6 extends the story of the early and ongoing struggles by highlighting tensions around funding and accountability which have dogged the organisations since their inception. Chapter 7 examines the major thrust of SNAICC's quest, the retention of Indigenous children with their families and communities. It thus addresses issues of *why* organisations were established. Chapter 8 looks at *what* SNAICC has achieved and refers to the ways in which SNAICC has worked through events, projects and bringing its quest to the attention of the international community. Chapter 9 reflects on the 'unfinished business' of SNAICC, drawing attention to the pursuit of national legislation, the concerns about over-representation and the failure of governments to implement the recommendations of the Stolen Generation Inquiry. In all these chapters I endeavour to allow the voices of the interviewees and the written 'voice' of SNAICC to take precedence, while drawing on wider policy literature and analyses. I see my tasks and obligations in these chapters as pulling together the story, collating the data thematically and allowing the words of those involved in the Organisation to speak the story as much as possible.

In Chapter 10, the final chapter, I pull together the threads of the story, subjecting it to theoretical, methodological and substantive interpretation. In this chapter I revisit the question of advocacy research, discussing the issue of whether remembering the past and investigating the present can contribute to meaningful change. The Addendum which follows interrogates SNAICC from three perspectives: Strategies, complex practice issues and responses and Commonwealth/state tensions.

## Terminology and capitalisation

In keeping with emerging academic convention and with terminology appearing in Indigenous writing and commentary, the term Indigenous is the preferred term to describe Aboriginal and Torres Strait Islander people. Occasionally, other terms, including Aboriginal and Aborigine will be used, reflecting the diversity of terminology which appears in the literature. When the participants use localised terminology, for example Koori(e) explanations are footnoted. The word 'Indigenous' will be capitalised, as in the context of the thesis, it refers to a specific group ie the Aboriginal and Torres Strait Islander peoples of Australia.

Throughout the thesis, the voices of the research participants are woven into the text. Rather than explaining their lives and positions at length in the text, details of the interviewees are appended.

I mainly use the term 'stolen generations', rather than the commonly adopted term 'stolen generation' as the policies and practices adopted span a number of generations. Both terms, which are becoming increasingly embedded in Australian commentary, refer to the removal of Aboriginal and Torres Strait Islander children from their families and communities. The term 'white invasion' or 'invasion' to refer to the beginnings of the colonisation process is occasionally used in keeping with the terminology adopted by many Indigenous activists as well as an increasing number of historians and other commentators.<sup>69</sup>

The Human Rights and Equal Opportunity Commission's National Inquiry into the Separation of Aboriginal and Torres Strait Islander Children from Their Families will be referred to frequently, as will their final report *Bringing Them Home*. Both the process and report of the Inquiry will be variously referred to, depending on the context presented, including the HREOC Inquiry, the National Inquiry, the Stolen Generation(s) Inquiry or *Bringing Them Home*.

The terms ACCAs (Aboriginal child care agencies) and AICCAs (Aboriginal and Islander child care agencies) will both be used. The acronym AICCAs is more likely to refer to the Queensland context where Torres Strait Islander peoples are more commonly included in the

<sup>69</sup> For example, the term invasion is used by P. Taylor, *Telling it Like it Is*, 1996, p. 11 & M. Sam, *Through Black Eyes: A Handbook of Family Violence in Aboriginal and Torres Strait Islander Communities*, Second Edition, SNAICC, 1992, p. 1.

constituency of the Indigenous children's service organisations. At times both AICCA and ACCA will be used in a generic sense, as this is a prevalent practice in the written and spoken word of the organisations. At this point it should be noted that although SNAICC is inclusive of Islander communities, most of SNAICC's activity has focused on Aboriginal issues, supporting Torres Strait Islanders when requested to do so. When referring to SNAICC, the term Organisation will be capitalised to distinguish it from other organisations. MACS refers to the Multi-Purpose Aboriginal Children's Services which, although approved to become full members of SNAICC since November 1998, only began to do so from August 1999, after I had finished my research. In June 1999, there were 32 full members of SNAICC, and MACS were associate members without voting rights.

ATSIC is the acronym for the Aboriginal and Torres Strait Islander Commission.

The terms Commonwealth Government and Federal Government will both be utilised to refer to the national government in Australia. Both terms appear in literature and policy documents. The term 'mainstreaming' refers to government endeavours to apply uniform policies and practices, irrespective of identity and specific need. It also applies to the elimination of Aboriginal-specific programs, based on the notion that other institutions will incorporate culturally sensitive and appropriate services.

This thesis uses the phrase 'at the time of writing' on occasions. The 'time' should be taken to read June 1999 when most of my research was completed. Although there have been other events of relevance since then, I have resisted their incorporation recognising that the doctoral documentation requires a defined ending.

I refer to my research as a 'story' rather than a 'history'. This terminology first and foremost respects the narrative accounts of the participants, rather than adopting a dispassionate academic approach. It acknowledges that my research draws on a range of disciplines and does not necessarily adhere to the dictates of chronological historiography. It also takes the broad view of recording the past, cognisant of Taylor's view that 'history is not only the remote past but includes events as recent as yesterday'. Taylor further states:

History is not just great events that make the headlines. It is the stories we tell around the camp fire or the dinner table about the day's events, some of which wind up being remembered and retold. It is the songs we make up about the world around us and the people we meet, songs that may still be sung years later. It is the diary that someone keeps every night. It is the family photo album that we keep as a record of our lives for the next generation. It is the letters we write that end up in a file in some government office. We make history every day.<sup>70</sup>

I have used the first person on a regular basis as I see it as important to explain my position, and my own deliberations throughout. Although drawing on a range of literature and theoretical positions, the ultimate responsibility for the stance I am adopting rests with me and I take the view that this needs to be expressed explicitly.

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<sup>70</sup> Taylor, *Telling It Like It Is*, 1996, p. 10.

## CHAPTER 2 THE STOLEN GENERATIONS

Aboriginal people have borne the brunt of colonisation and its consequences since 1788, with no aspect of Aboriginal family life escaping.<sup>1</sup>

To set the scene for the SNAICC story, this chapter presents an overview of child removal policies and practices which existed in past times throughout Australia. These historical moments are now seen by many as representing some of the bleakest periods in the history of white settlement in this country. The process and findings of the Bringing Them Home report, derived from National Inquiry into the Separation of Aboriginal and Torres Strait Islander Children from their Families, is briefly analysed in this chapter, as it is this report which is largely paving the way for the incorporation of the stolen generations period into the Australian national consciousness. SNAICC's role in the development and process of the Inquiry is recounted.

### A blight on the nation

Until recently, one of the least understood components of the history of post-colonial Australia has concerned the removal of Indigenous children from their families and communities. Under a range of legal guises, these practices are now seen by most commentators as underpinned by Darwinian notions of racial superiority. These theories, which explain cultural and social differences largely in terms of 'blood' and physical conformation,<sup>2</sup> influenced assimilation policies. Such policies and practices represent a form of social control and engineering imposed by colonial and subsequent governments throughout Australia. A network of legislation existed which enabled each Australian jurisdiction to exert great authority over Aboriginal children.<sup>3</sup> Children were removed without consent from their families and placed in white institutions and

<sup>1</sup> K. Gilbert, *Because a White Man'll Never Do It*, Angus & Robertson, 1973, p. 37.

<sup>2</sup> D. Hollingsworth, 'The Work of Anti-Racism', in eds. G. Gray & C. Winter, *The Resurgence of Racism: Howard, Hanson and the Race Debate*, Monash Publications in History, Melbourne, 1997, p. 129.

<sup>3</sup> P. Grimshaw, M. Lake, A. McGrath & M. Quartly, *Creating a Nation*, McPhee Gribble, Melbourne, 1994, p. 289.

with white foster and adoptive families. These policies *and practices* have been described in recent times as attempts to take the Aboriginality out of Aboriginal children.<sup>4</sup>

Indigenous children were forcibly separated from their families and communities from the very first days of European occupation.<sup>5</sup> Although the laws and practices varied across the different jurisdictions,<sup>6</sup> children were removed principally because of their racial origins. Structures were established in most jurisdictions for the purposes of developing a specific Aboriginal child welfare system. By 1911, most states had introduced specific Aboriginal legislation with the emphasis on protection and restriction of Aboriginal children.<sup>7</sup> Segregation and institutionalisation of Aboriginal communities were the main instruments of protection,<sup>8</sup> with control exercised over many aspects of life including child care.<sup>9</sup> Foley has described the reserves and missions which housed Aboriginal people as 'concentration camps'.<sup>10</sup> At times the processes were ad hoc, idiosyncratic and without the force of law, and hence it is not possible to present a linear and uniform account of those processes. Examples of ill-documented practices include boarding out,<sup>11</sup> holiday hosting which extended into long-term placements, domestic service and farm placements. Processes were increasingly formalised. Legislation and other apparatus of the state became more evident, and institutions more systematically established. So-called 'voluntary' placements, which in Victoria converted to wardship when parents were unable to maintain financial contributions,<sup>12</sup> provide evidence of a system with the odds stacked against families. Robert Manne notes that in the Northern Territory, the decisions about child removal rested with politicians, public servants, police and patrol officers, without the backing of formal legal process.<sup>13</sup> In New South Wales:

<sup>4</sup> M. Dodson, in *Bringing Them Home* (video), HREOC, Sydney, 1997(c).

<sup>5</sup> HREOC, *Bringing Them Home*, 1997.

<sup>6</sup> For details see HREOC, *Bringing Them Home*, 1997 and J. McCorquodale, *Aborigines and the Law: A Digest*, Aboriginal Studies Press, Canberra, 1987.

<sup>7</sup> C.D. Rowley, *The Destruction of Aboriginal Society*, Aboriginal Policy and Practice, vol. 1, ANU Press, Canberra, 1970, p. 227.

<sup>8</sup> F. Gale, *Urban Aborigines*, ANU Press, Canberra, 1973, p. 58.

<sup>9</sup> C.M. Tatz, *Race Politics in Australia*, University of New England Publishing Co, Armidale, 1979.

<sup>10</sup> G. Foley, 'Blacks for Independence', *Aboriginal and Islander Identity*, vol. 3, no. 3, 1977, p. 5.

<sup>11</sup> A precursor to foster care.

<sup>12</sup> Minajalku Aboriginal Corporation, *Home Still Waiting*, 1997, p. 26.

<sup>13</sup> R. Manne, 'Stolen Lives', *The Age Saturday Extra*, 27 February 1999, p. 3.

Nobody knows how many Aboriginal children were officially kidnapped or what happened to most of them. In most cases no records were kept and often the records were no more than names. Many Aboriginal people grew up not knowing who their parents were. Brothers and sisters were always separated and usually lost contact. Parents were actively discouraged from visiting their children, and children were never allowed to go home, because Government policy was designed to break up Aboriginal families. After 1957, when the Government started placing Aboriginal children with white foster parents, many more Aboriginal people grew up totally cut off from their roots.<sup>14</sup>

The removal of Aboriginal children from their parents has been a policy in all states at different times.<sup>15</sup> In Australia today there may be 100,000 people of Aboriginal descent who do not know their families or communities. They are the people, or the descendants of people, who were removed from their families by a variety of white people for a variety of reasons. They do not know where they come from, and some do not even know they are of Aboriginal descent. As they grew up, they were expected to think white, act white, and in the end to be white.<sup>16</sup> According to Edwards and Read, the practice of separating black children from their parents lay in the desire to turn them into 'useful' citizens.<sup>17</sup> Robert Manne refers to the ambition to 'elevate the "half-caste" to the status of the white'.<sup>18</sup> The earliest Aboriginal institutions in Australia, where parents were at first allowed to live nearby, were set up to teach the Anglican 'virtues' of obedience, punctuality, thriftiness and hard work.<sup>19</sup> Bird aptly summarises the themes of removal across all regions of the country:

The children could be taken away at any age, and many of them were taken from their mothers at birth or in very early infancy. Most of the children so taken were put into institutions where the other children were mostly Indigenous, of mixed race, and where the staff were non-Indigenous. If a child was adopted or fostered out to a family, that family was usually white. The objective of all this activity was to absorb the Indigenous children into white society, to force them to forget and deny their Aboriginal heritage and blood, and to bring about, within a few generations, a form of breeding-out of all Indigenous characteristics.<sup>20</sup>

<sup>14</sup> N. Parbury, *Survival*, 1986, pp. 89-91.

<sup>15</sup> C. Edwards & P. Read, *The Lost Children*, Doubleday, Sydney, 1992.

<sup>16</sup> Edwards & Read, *The Lost Children*, 1992, p. x.

<sup>17</sup> Edwards & Read, *The Lost Children*, 1992, pp. ix-x.

<sup>18</sup> Manne, 'Stolen Lives', 1999, p. 2.

<sup>19</sup> Edwards & Read, *The Lost Children*, 1992, p. x.

<sup>20</sup> Bird, *The Stolen Children*, 1998, p. 11.

Rose comments that policies of removal were widely accepted, supported and defended as being in the best interests of both the child and of white society, epitomised by the colloquialism 'fuck em white'.<sup>21</sup> She further argues that the policies punished Aboriginal children, women and families for the actions of white men.<sup>22</sup> The HREOC report refers to exploitative and abusive relationships between European men and Aboriginal women, especially during the nineteenth and early twentieth centuries.<sup>23</sup>

The separation of Aboriginal children from their families was not an invention of the twentieth century, although its scale before this time was modest. Whatever the effect on the children and the parents involved, enforced separation in the nineteenth century was not the catastrophe to Aboriginal civilisation that it was in the twentieth.<sup>24</sup> It made little difference what the family situation really was or how they were cared for, because being Aboriginal was in itself reason to regard children as 'neglected',<sup>25</sup> with Aboriginal families regarded as 'inappropriate and improper'.<sup>26</sup> For Aboriginal families and children their position remained a marginal one, and they were given no place in white society except when their cultural and familial identity and social forms were left behind. They were often given new names, and the greater distances involved in rural areas made it easier to prevent parents and children on separate missions from tracing each other.<sup>27</sup>

The focus of contemporary critiques of the removal of Indigenous children is on the implementation of strategies throughout Australia, which saw children removed from their families as part of assimilation agendas. Although these 'agendas' officially ceased from around the 1970s, their legacy remains. This legacy, in terms of both impact of the practices and the ongoing removals, has been documented in *Bringing Them Home*. In the interests of assimilation and absorption policies, children were taken from their families and communities, in line with

<sup>21</sup> D.B. Rose, 'Dark Times and Excluded Bodies', in eds. G. Gray & C. Winter, *The Resurgence Racism: Howard, Hanson and the Race Debate*, Monash Publications in History, Melbourne, 1997, p. 110.

<sup>22</sup> Rose, 'Dark Times', 1997, p. 111.

<sup>23</sup> HREOC, *Bringing Them Home*, 1997, p. 272.

<sup>24</sup> Edwards & Read, *The Lost Children*, 1992, p. xi.

<sup>25</sup> R. Van Krieken, *Children and the State: Social Control and the Formation of Australian Child Welfare*, Allen & Unwin, Sydney, 1991, p. 8.

<sup>26</sup> Van Krieken, *Children and the State*, 1991, p. 96.

<sup>27</sup> Van Krieken, *Children and the State*, 1991, p. 108.



policies which have been variously described as an 'evil',<sup>28</sup> 'an Australian holocaust, an Australian version of ethnic cleansing',<sup>29</sup> 'genocide',<sup>30</sup> and as 'the most terrible injustice perpetrated on Australian soil during the twentieth century'.<sup>31</sup> Conversely, the recounting of this history has been described as part of a 'black armband' view of history and a policy, which although misguided, was not ill-intended. As will be demonstrated, this latter discourse has been embraced and advocated by the Australian Federal Government of today. Despite the varying viewpoints, as noted by Hocking and Hocking, the stolen generations have forced Australia to confront that we stole both family and cultural links from so many Indigenous citizens.<sup>32</sup> In an interview on public radio, Stuart Rintoul stated:

There was no more evil policy this century than the taking away of Aboriginal children from their families, and the wounds that left in Aboriginal society—both the wounds for individual people and the collective scarring for the Aboriginal people—that's something which has flowed through into all of the social problems we see now ...<sup>33</sup>

The separation of children was one of the most inhumane methods of implementing assimilation policies, representing a significant means of exploitation by the state.<sup>34</sup> Children were literally stolen from their families and removed from their traditional way of life.<sup>35</sup> Christian missions played a significant role in these attempts to break up traditional Aboriginal society.<sup>36</sup> The separation of children from their families is now seen as constituting a form of genocide, based on its philosophies of absorption, assimilation and ultimate disappearance of the Aboriginal race. This definition is consistent with the United Nations definition enshrined in the 1948 Convention on the Prevention and Punishment of the Crime of Genocide which was ratified by Australia in 1949.<sup>37</sup> The Convention defines genocide as 'any of the following acts committed

<sup>28</sup> S. Rintoul, cited in K. Garrett, 'Missing', *Background Briefing*, Radio National Transcript, 11 Feb. 1996, p. 3.

<sup>29</sup> J. Katona, cited in L. McLean, 'Forced removal of children: an Australian holocaust', *The Age*, 28 May 1996, p. 4.

<sup>30</sup> HREOC, *Bringing Them Home*, 1997, p. 275.

<sup>31</sup> Manne, *Stolen Lives*, 1999, p. 2.

<sup>32</sup> Hocking & Hocking, 'A Comparative View of Indigenous Citizenship Issues', 1998.

<sup>33</sup> Rintoul in Garrett, 'Missing', 1996.

<sup>34</sup> C. Hankins, *The Missing Link*, unpublished dissertation, November 1982, p. 1:1:2.

<sup>35</sup> J. Summers, 'Aboriginal Policy', in eds. D. Gibb & A. Hannan, *Debate and Decision*, Heinemann Educational, Melbourne, 1975, p. 111.

<sup>36</sup> Summers, 'Aboriginal Policy', 1975, p. 111.

<sup>37</sup> Commonwealth of Australia, *Genocide Convention Act*, 1949.

with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such ... forcibly transferring children of the group to another group' (Article 11). Haebich is among those historians who refer to a notion of 'cultural genocide' which was designed to compel people of mixed race to adopt the 'Australian way of life'.<sup>38</sup> The National Inquiry concluded that forcible removal was an act of genocide contrary to the 1948 Convention, asserting:

Genocide is not only the mass killing of a people. The essence of genocide is acting with the *intention* to destroy the group, not the extent to which that intention has been achieved. A major intention of forcibly removing Indigenous children was to 'absorb', 'merge' or 'assimilate' them, so Aborigines as a distinct group would disappear ...<sup>39</sup>

The focus of this thesis is on assimilation policies as it is these policies which have been given the most attention by Indigenous groups, including SNAICC. From the very early days of white settlement a form of assimilationist thinking prevailed, with the colonisers hoping that Aboriginal people would be absorbed into the lower orders of the colony.<sup>40</sup> An 1835 statement by Governor Gawler in Adelaide expresses such intent:

Black men. We wish to make you happy but you cannot be happy unless you imitate white men. Build huts, wear clothes and be useful ... You cannot be happy unless you love God ... love white men ... learn to speak English ...<sup>41</sup>

Although assimilation policies were evident in earlier times, particularly the 1930s, they were interrupted by the Second World War<sup>42</sup> and subsequently revived. The cornerstone of such policies was the physical absorption of so-called 'half and lesser castes'.<sup>43</sup> Rowley contends that the objective of assimilation was compatible with the continuation of the institutions which were maintained by every government, with the only change being from instruments of protection to instruments of assimilation.<sup>44</sup> He suggests that what had been considered necessary for protection in the early 1900s was considered necessary for assimilation in the 1950s and 1960s.<sup>45</sup>

<sup>38</sup> A Haebich, Submission to the Human rights and Equal Opportunity Commission, 1996, p. 3.

<sup>39</sup> HREOC, *Bringing Them Home*, 1997, p. 27.

<sup>40</sup> Summers, 'Aboriginal Policy', 1975, p. 113.

<sup>41</sup> Cited in R. Broome, *Aboriginal Australian*, 1982, p. 27.

<sup>42</sup> Freedman, *The Pursuit of Aboriginal Control*, 1989, p. 39.

<sup>43</sup> Freedman, *The Pursuit of Aboriginal Control*, 1989, p. 37.

<sup>44</sup> Rowley, *The Destruction*, 1970, p. 331.

<sup>45</sup> Rowley, *The Destruction*, 1970, p. 239.

In 1951, Commonwealth Minister for Territories, Paul Hasluck, stated that assimilation was a policy of 'opportunity', avoiding the existence of a separate racial group.<sup>46</sup> The policy of assimilation was reaffirmed at the Conference of State Ministers held in Darwin in 1963, where it was stated that:

The policy of assimilation means that all Aborigines and part-Aborigines will attain the same manner of living as other Australians and live as members of a single Australian society, observing the same customs and influenced by the same beliefs, hopes and loyalties as other Australians.<sup>47</sup>

Assimilation policies were pervasive. Aborigines who had moved to town came under increased scrutiny, with Aboriginal parents constantly assessed according to ideal middle-class standards of housekeeping. Aboriginal women were expected to behave like the idealised images of women portrayed in the advertisements of women's magazines.<sup>48</sup> However, the state did not regard Aboriginal women as having full rights or freedoms as mothers, and subjected them to special regulations and strict codes of conduct. If parents failed in the eyes of the state they lost the right to see their children at all.<sup>49</sup> Although formal assimilation policies eventually became discredited and displaced, particularly as their 'successes' were not evident, governments are still being accused of adopting assimilationist approaches. Pittock described this long enduring policy as the most subtle form of institutional racism.<sup>50</sup>

A policy turning point occurred with the election of the Federal Whitlam Labor Government in 1972, when a policy of self-determination was at the forefront of decision-making in Aboriginal affairs.<sup>51</sup> The path to self-determination has had an uneven run, particularly after the demise of the Whitlam Government in 1975. More recently, the statement of Labor Prime Minister, Paul Keating, at the launch of Australia's celebration of

<sup>46</sup> S. Stone, *Aborigines in White Australia: A Documentary History of the Attitudes Affecting Official Policy and the Australian Aborigine 1697-1973*, Heinemann Educational, Melbourne, 1974, p. 195.

<sup>47</sup> Cited in Freedman, *The Pursuit of Aboriginal Control*, 1989, p. 40.

<sup>48</sup> Grimshaw et al., *Creating a Nation*, 1994, p. 294.

<sup>49</sup> Grimshaw et al., *Creating a Nation*, 1994, p. 295.

<sup>50</sup> B. Pittock, 'Towards a Multicultural Society', in eds. F.S. Stevens & E.P. Wolfers, *Racism*, vol. 3, ANZ Book Co., Sydney, 1977, p. 245.

<sup>51</sup> Policies of Aboriginal self-determination emerged following the election of the Whitlam Labor Government which was in power from 1972-75. Such policies had a rhetoric of granting to Indigenous people the right to control their own destinies and to retain their cultural heritage, with associated support for the development of Aboriginal organisational structures. The implementation of the policy has been subjected to critiques which will be referred to in subsequent chapters.

the 1993 International Year of the World's Indigenous People gave some hope to proponents of a self-determining approach, in his acknowledgment of the impact of the colonisers:

- We took the traditional lands and smashed the traditional way of life
- We brought the diseases. The alcohol.
- We committed the murders.
- We took the children from their mothers.
- We practised discrimination and exclusion.<sup>52</sup>

The return to Coalition Federal rule in 1996 changed the discourse to one of denial, justification and welfare reform. Although there has been a rise and fall of self-determining approaches to Aboriginal policy, particularly since the 1970s, it is evident that assimilation policies have never vanished from the landscape. The ongoing over-representation of Indigenous children in the child welfare system has been seen as an insidious application of assimilation principles. However, the over-representation is more commonly critiqued in terms of lack of understanding by the dominant society of Aboriginal cultural issues, and the lack of self-determination entrusted to Aboriginal people in their child-rearing. The overt focus has shifted to some degree from the 'race' approach which was evident in most jurisdictions under an assimilation banner, to the welfare approach of the present. However, in the course of this research I have concluded that the manner in which welfare intervention operates today still has a 'race' focus and a tendency to assimilation. A continuing discriminatory approach to welfare intervention in Indigenous families prevails, one which fails to embrace cultural difference. In analysing the policies of Aboriginal assimilation in Australia, Canada and New Zealand, Andrew Armitage argues that although there is now more debate about the objectives and administration of this policy than at any other point in its history, 'that is not to say that it has finally been decided to replace it.'<sup>53</sup> Although there are threads of what could constitute an alternative policy paradigm, he concludes that a coherent statement on how this might occur has not been offered by any of these countries.<sup>54</sup>

<sup>52</sup> Cited in *The Age*, 11 December, 1992.

<sup>53</sup> Armitage, *Comparing the Policy of Aboriginal Assimilation*, 1995, p. 220.

<sup>54</sup> Armitage, *Comparing the Policy of Aboriginal Assimilation*, 1995, p. 220.

## Indigenous (de)construction of the past

Frantz Fanon notes that men and women who are the 'objects' of history are condemned to immobility and silence.<sup>55</sup> This has not only contributed to the ignorance of the dominant society, but has had a significant impact on Indigenous peoples. Aboriginal writer and historian Jackie Huggins comments that she was 'fed on a diet of lies and invisibility about the true history of this country from a very young age'.<sup>56</sup> The main lens through which the stolen generations past is viewed is the white lens, and those 'othered' in the recounting of this view of the past have until recently been marginalised, excluded and discounted. Jackie Huggins refers to the fact that white constructions of history have been charged with ethnocentrism, keeping Aboriginal people on the peripheries of existence. She proposes that 'rather than being at the margins, we should be in the centre'.<sup>57</sup> Drawing on the Indigenous oral tradition is now emerging as a means for mainstream society to be confronted with previously suppressed viewpoints.

Through oral testimony and autobiography, stories of Aboriginal child removal have been told in alternate ways. Aboriginal singer/songwriter Archie Roach recalls his life as a child 'in and out of foster homes and institutions', eventually ending up with a white family.<sup>58</sup> The National Stolen Generations Inquiry took evidence, much of this by direct interview, from 535 Indigenous people throughout Australia.

Autobiographies of such writers as Marjorie Tucker and Labumore have documented stolen generations experiences. In his compilation of Indigenous oral history, Stuart Rintoul heard stories which highlighted the removal of children.<sup>59</sup> Former Chairperson of the Aboriginal and Torres Strait Islander Commission, Dr Lowitja O'Donoghue, has spoken publicly of her own experience of removal in the 1930s and 1940s where all five of her mother's children were removed from her care.<sup>60</sup>

<sup>55</sup> Cited in R. Young, *White Mythologies: Writing History and the West*, Routledge, London, 1990, p. 120.

<sup>56</sup> Huggins, *Sister Girl*, 1998, p. 120.

<sup>57</sup> Huggins, *Sister Girl*, 1998, pp. 121-122.

<sup>58</sup> Cited in A. Jackomos & D. Fowell, *Living Aboriginal History of Victoria: Stories in the Oral Tradition*, Cambridge University Press, Melbourne, 1991, p. 70.

<sup>59</sup> S. Rintoul, *The Wailing: A National Black Oral History*, William Heinemann Australia, Melbourne, 1993.

<sup>60</sup> L. O'Donoghue, *Can We Call Australia Home: An Indigenous Perspective of Housing*, The Fifth Oswald Barnett Oration, St John's Southgate, Melbourne, 5 November 1998, p. 11.

Evidence of Indigenous resistance and non-Indigenous protest has emerged through recent research. Accounts have been revealed of mothers who attempted all sorts of strategies in order to hide their children from the authorities.<sup>61</sup> Anna Haebich has highlighted, from her review of seventy years of Australian newspapers, stories of both struggles by Aboriginal people to keep their children, as well as public indignation at the practices of removal.<sup>62</sup> Research by Fiona Paisley reveals that Australian women's groups had campaigned to support the end of Aboriginal child removals in the 1930s.<sup>63</sup> Marilyn Lake has identified early public opposition to the removal of children, as well as the consternation of Aboriginal women at their treatment.<sup>64</sup> A SNAICC document supports these accounts:

There are innumerable accounts of written opposition by Europeans to the policy of removing Aboriginal children, to say nothing of the recorded protests of Aboriginal people, who it should be remembered, had no less protection under British and Australian law than the white population. Indeed, the House of Commons could see clearly the breaches of rights of Indigenous populations in the colonies.<sup>65</sup>

### Contesting acknowledgment of the past

Despite documented evidence of past policies and practices, combined with evidence of both resistance and ongoing impact, most government and community discourse is based on a rhetoric of 'forgetting', rather than 'remembering'. The current Federal political leadership has shown a reluctance to account for the past and to take on the 'burden' of 'supposed wrongdoings' of previous generations, with the defence of 'good intentions'.<sup>66</sup> This defence has resulted in the refusal by Prime Minister John Howard to apologise to those removed from their families. The Prime Minister has justified his position by stating that many Australians believed at the time their actions were beneficial.<sup>67</sup> It is commonly stated by those holding such views that it is the specific areas of Indigenous disadvantage which need addressing, including health,

<sup>61</sup> Grimshaw et. al. *Creating a Nation*, 1994, p. 291.

<sup>62</sup> A. Haebich, 'Grim facts we've known', *The Adelaide Review*, no. 173, February 1998, pp. 8-9.

<sup>63</sup> F. Paisley, 'Assimilation: A protest as old as the policy', *The Australian*, 5 June, 1997.

<sup>64</sup> M. Lake in ed. C. Bird, *The Stolen Children*, 1998 p. 36-37.

<sup>65</sup> N. D'Souza, 'The Howard Government and the National Inquiry into the Separation of Aboriginal Children from their Families', SNAICC 1996, p. 4.

<sup>66</sup> R. Manne, *The Way We Live Now: Controversies of the Nineties*, Text Publishing, Melbourne, 1998, p. 12.

<sup>67</sup> G. Windsor, 'No apology, now move on, PM tells blacks', *The Weekend Australian*, 20-21 November, 1997, p. 3.

housing and education, rather than dwelling on the past. This ahistorical and welfarist approach contributes to letting the colonisers off the hook, and fails to understand the impact of the past on both the present and the future.

The issue of apology for the past injustices reached a peak at the Australian Reconciliation Convention in 1997 when a silent protest was lodged by many participants against the failure of the Prime Minister to apologise on behalf of the nation.<sup>68</sup> At the time of writing the Governments of Victoria, South Australia, New South Wales, Tasmania and Western Australia had all issued apologies. A motion of regret was passed by the Queensland Government. The Federal Government's refusal to apologise stands in sharp contrast to the plethora of formal apologies received from around Australia including by churches, schools, community groups and trade unions.<sup>69</sup> 'The Australian Council of Social Service (ACOSS) also issued a formal apology and asked its constituent organisations to be signatories to this. Despite the disappointment of Indigenous people over the lack of a Federal Government apology, recognition of past wrongs has occurred in a variety of ways. A National Sorry Day was inaugurated in May 1998 which contributed to recognition that the events of the stolen generations were conceived of and implemented by non-Indigenous people. 'Sorry books' have been signed by a large number of Australians. As part of the reconciliation process community groups, local governments and others have joined with Indigenous peoples Australia-wide in a variety of projects. In 1997, I was personally involved, as a researcher, in a project auspiced by the Minajalku Aboriginal Corporation which involved three major Victorian churches releasing the records of their welfare agencies for research purposes, in order to openly confront their roles in the removal and placement of Indigenous children.<sup>70</sup>

A disturbing popular conception of the stealing of children is that Indigenous people gained from being assimilated into white society, especially through opportunities offered by education. In the Commonwealth Parliament in 1996, the Minister for Aboriginal and Torres Strait Islander Affairs, Senator John Herron, spoke of the many

<sup>68</sup> The protest took the form of conference delegates turning their backs to the Prime Minister during his speech to the Convention.

<sup>69</sup> M. Dodson, 'We all bear the cost if apology is not paid', *The Age*, 18 December, 1997.

<sup>70</sup> Minajalku Aboriginal Corporation, *Home Still Waiting*, 1997.

people who had benefited from being removed from their families.<sup>71</sup> This outdated notion brings back memories of the 'fashion' of adopting black children, a move which was seen as providing opportunity and the benefits of the dominant society. A poignant repudiation of this viewpoint was expressed in the *Bringing Them Home* videotape by a member of the stolen generation, Julie Lavelle, who talked about her response to what some Australians see as the advantages of her 'white' upbringing:

... And look at her now. She's well educated, she's bright and articulate and has all those things which white society offered me. Yes I do have all those things. And that's okay. There's no way that was ever a trade-off for not having known my mother—I have no memory of her-, of not having my own identity, of not knowing for forty-two years of my life that I had biological brothers and sisters. There is no way that that ever could be a trade-off.<sup>72</sup>

The HREOC report further dispelled the notion of 'benefit', pointing out that a 1994 Australian Bureau of Statistics survey found that forcibly removed people were not better educated, not more likely to be employed and not receiving significantly higher incomes than people who were raised in their communities. However, they were twice as likely to have been arrested more than once in the past five years, with one in five removed people having this experience.<sup>73</sup>

The ongoing impact of removal policies is receiving considerable attention in the academic literature and through Indigenous organisations, with SNAICC at the forefront of many of these activities. It has been asserted that 'there was scarcely an Indigenous family which was not affected'.<sup>74</sup> Some of the effects of the policies and practices have been documented by the Federal Race Discrimination Commissioner:

They were not permitted to speak their languages. They were unable to retain their links with their land and could not take a role in the cultural and spiritual life of their former communities. They are unlikely to be able to establish their right to native title. Removals on the basis of race continued into the 1970s. The legacy of forcible separation remains active in the lives of Aboriginal individuals and the communities today.<sup>75</sup>

<sup>71</sup> Rose, 'Dark Times', 1997, p. 110.

<sup>72</sup> J. Lavelle in HREOC (video), 1997 (c).

<sup>73</sup> HREOC 1997, p. 19.

<sup>74</sup> O'Donoghue, *Can We Call Australia Home*, 1998, p. 11.

<sup>75</sup> Federal Race Discrimination Commissioner, *Face the Facts: Some Questions and Answers About Immigration, Refugees and Indigenous Affairs*, Sydney, 1997, p. 22.



Since the National Inquiry, increasing concern has been given to mental health issues facing Indigenous families who have been subjected to removal and separation. The Inquiry noted that Indigenous mental health 'is finally on the national agenda'.<sup>76</sup> It is disconcerting that the first study of Aboriginal mental health, conducted in Victoria in 1978, revealed that approximately 90% of Aboriginal people taken from their families were suffering from chronic depression.<sup>77</sup> It has taken twenty years and a national inquiry to achieve wider recognition of this impact which was referred to by participants in my research.

The inability to effectively 'parent' has been referred to by the New South Wales Law Reform Commission. The Commission noted that many Aboriginal children removed from their parents did not get the chance to learn parenting skills. The resultant difficulties in becoming effective parents led to the removal of their own children by welfare authorities.<sup>78</sup>

Rose argues that the injuries of the past exist as present wounds. She asserts that practices of suppression such as distance, denial and disablement, generate pain.<sup>79</sup> 'As the powerful seek to insulate themselves from any relationship to the pain of others, their very actions continue to open and exacerbate the injuries'.<sup>80</sup> Emerging clearly are conflictual approaches about how to deal with this aspect of our history. Curthoys explains this tension as follows:

On the one hand, Aboriginal people, their supporters, some teachers, and some historians emphasise the arrogance, injustices and devastating effects of the invasion, dispossession, segregation, exploitation, institutionalisation and child removal policies of the past. On the other, there is a widespread popular backlash against this reading of history ...<sup>81</sup>

She refers to the meta-narrative that white Australian popular culture still prefers, based on such notions as battlers, heroism, convict suffering, and pioneering.<sup>82</sup> In the 1998 Boyer lectures, David Malouf speaks of our

<sup>76</sup> HREOC, *Bringing Them Home*, 1997, p. 373.

<sup>77</sup> Australian Institute of Aboriginal and Torres Strait Islander Studies, Victorian Chapter, *Newsletter*, March 1996, p. 1.

<sup>78</sup> New South Wales Law Reform Commission, *The Aboriginal Child Placement Principle*, 1997, p. 25.

<sup>79</sup> Rose, *Dark Times*, 1997, p. 110.

<sup>80</sup> Rose, *Dark Times*, 1997, p. 112.

<sup>81</sup> A. Curthoys, 'Entangled Histories', in eds. G. Gray & C. Winter, *The Resurgence of Racism*, 1997, pp. 118-119.

<sup>82</sup> A. Curthoys, 'Entangled Histories', 1997, p. 120.

selective view of history, where 'we remember the bits that speak well of us ... the dark bits we suppress'.<sup>83</sup> Martin Krygier, in the 1997 Boyer series, argues that people seem capable of feeling only one response, either pride in what Australia has achieved or shame at the way in which Indigenous people have been dispossessed, savaged, slaughtered and humiliated, not both.<sup>84</sup> In a scathing attack on Prime Minister Howard, historian Janet McCalman argues that the difficulty with national stories, particularly those which celebrate decency, fair play, democratic instincts and Christian values, are the facts, arguing:

The characters in the story have to earn the respect and pride of their descendants. If they act ignobly, we are obliged to remember those deeds just as much as their noble ones.<sup>85</sup>

For McCalman history is about difficult questions and not about 'iconic beliefs'.<sup>86</sup>

The current Federal Government is demonstrating a reluctance to address the injustices of the colonisation process and its ongoing legacy, criticising the 'black armband' views of history. Reynolds suggests that the notion of 'black armband' is not a new creation but descends from the humanitarian tradition of doubt, dissent and disappointment.<sup>87</sup> Veronica Brady argues that the history which really matters is not the story of the winners but the story of the losers, 'of all those who were defeated, oppressed, raped, humiliated and robbed of what they held sacred: their land and their community'.<sup>88</sup> Even if one were to forget the past, the injustices of the present remain. As Rose points out, 'Aboriginal people are advised to forget past injustices and at the same time are deprived of fair access to the Anglo-Australian system of justice because of cuts for Aboriginal Legal Aid'.<sup>89</sup> Other examples of deprivation abound including lack of access to equitable services and a denial of basic human rights to Indigenous people. This issue will be discussed in the next chapter which considers the vexed nature of Indigenous citizenship.

<sup>83</sup> D. Malouf, *The Making of Australian Consciousness*, Lecture 6, The 1998 Boyer Lectures, Radio National, [www.abc.net.au/mboyers/98boyer6.htm](http://www.abc.net.au/mboyers/98boyer6.htm)

<sup>84</sup> M. Krygier, *Between Fear and Hope*, Lecture 2, The 1997 Boyer Lectures, Radio National, [www.abc.net.au/mboyers/97boyer2.htm](http://www.abc.net.au/mboyers/97boyer2.htm)

<sup>85</sup> J. McCalman, 'Why this prime minister makes me ashamed', *The Age*, 17 February, 1999, p. 13.

<sup>86</sup> J. McCalman, 'We must bid adieu to questionable romance', *The Age*, 14 April, 1999, p. 17.

<sup>87</sup> H. Reynolds, *The Whispering in Our Hearts*, Allen & Unwin, Sydney, 1998, p. 248.

<sup>88</sup> V. Brady, in Bird, *The Stolen Children*, 1998, p. 163.

<sup>89</sup> Rose, 'Dark Times', 1998, pp. 97-98.

## Bringing them home

The National Inquiry into the Separation of Aboriginal and Torres Strait Islander Children from their Families was auspiced by the Human Rights and Equal Opportunity Commission. Initiated by the Keating Labor Government in 1995, the terms of reference for the Inquiry were to:

- trace the past laws, practices and policies which resulted in the separation of Aboriginal and Islander children from their families by compulsion, duress or undue influence, and the effects of those laws, practices and policies;
- examine the adequacy of and the need for any changes in current laws, practices and policies relating to services and procedures currently available to Aboriginal and Torres Strait Islander peoples who were affected by separation under compulsion, duress or undue influence of Aboriginal and Torres Strait Islander children from their families, including but not limited to current laws, practices and policies relating to access to individual and family records and to other forms of assistance towards locating and reunifying families;
- examine the principles relevant to determining the justification for compensation for persons or communities affected by such separations;
- examine current laws, practices and policies with respect to the placement and care of Aboriginal and Torres Strait Islander children and advise on any changes required taking into account the principle of self-determination by Aboriginal and Torres Strait Islander peoples.<sup>90</sup>

The Inquiry team visited all states and territories, holding hearings and receiving written and verbal submissions from Indigenous people affected by separation and others.<sup>91</sup> The Inquiry was not without its critics. Dismay was expressed by its Chairman, Sir Ronald Wilson, that the Inquiry had insufficient funding to perform its task, stating that 'to spoil the ship for a ha'p'orth of tar would be a tragedy indeed.'<sup>92</sup> Indigenous people expressed concern. A spokesperson for Northern Territory Aborigines stated that Aboriginal people had grave doubts about the Inquiry because it was under-resourced and without the power to demand documents. She stated that 'we don't see any value in the Inquiry just being a weeping session'.<sup>93</sup>

<sup>90</sup> HREOC, *Bringing Them Home*, 1997, p. 2.

<sup>91</sup> HREOC, *Bringing Them Home*, 1997.

<sup>92</sup> P. Heinrichs, 'Inquiry needs more cash says chairman', *The Age*, 2 December 1995, p. 3.

<sup>93</sup> Cited in G. Alcorn, 'Aborigines in test case over child removal', *The Age*, 12 February 1996, p. A4.

The findings of the Royal Commission into Aboriginal Deaths in Custody had previously hit the headlines. Included in the Royal Commission findings were comments on failures to live up to the standard of care needed for those in custody, and on system defects. Of the ninety-nine cases investigated, forty-three had experienced childhood separation from their natural families through intervention by state authorities, missions or other institutions.<sup>94</sup> The Federal Government has been criticised for its failure to implement many of the Commission's recommendations as well as for the continuation of Indigenous deaths in custody at an unacceptable rate.<sup>95</sup> The lack of implementation resulted in some scepticism when the Stolen Generations Inquiry was announced, with a belief that it would not result in positive outcomes. This view was exacerbated by the fact that the Inquiry was less-resourced than the Royal Commission.

Children's experiences of removal were documented by the Inquiry. Experiences included discouragement from family contact; being taught to reject Aborigines and Aboriginality; experiencing harsh institutional conditions; receiving only basic education; many not receiving wages; experiencing excessive physical punishment; sexual abuse; and failure of authorities to care and protect the children.<sup>96</sup>

The Inquiry made fifty-four recommendations<sup>97</sup>, spanning a range of issues and identifying a range of bodies responsible for implementation. These ranged from reparations, apologies, record preservation, family reunion services, Indigenous well-being and national standards. HREOC expressed concern about the slowness of response by governments to the effects of forcible removal on Indigenous people, commenting that the early responses were made by Indigenous individuals themselves who had made efforts to locate and reunite families.<sup>98</sup> There have been other critics. Amnesty International expressed the view that the Australian Government response to the Inquiry is essentially incomplete, as it failed to address important human rights issues. According to Amnesty International, these issues include HREOC's findings that the policies

<sup>94</sup> Royal Commission into Aboriginal Deaths in Custody, *National Report: Overview and Recommendations*, 1991.

<sup>95</sup> L. Briskman, 'Justice for Aboriginal People off the Political Agenda', *Forum*, Centre for Citizenship and Human Rights, Deakin University, 1996, p. 2.

<sup>96</sup> HREOC, *Bringing Them Home*, 1997.

<sup>97</sup> See Appendix 4 for the recommendations.

<sup>98</sup> HREOC, *Bringing Them Home*, 1997, p. 317.

constituted genocide and systematic racial discrimination, and that the authorities frequently failed to take action on physical and sexual abuse of children taken into its care.<sup>99</sup> Well-known media commentator, Ramona Koval has stated:

The shame increases with each day that passes, as the government neglects to put into practice recommendations of the report ...<sup>100</sup>

### SNAICC and the National Inquiry

SNAICC has seen the stolen generations issue as a 'blank spot' in the history of Australia, arguing that the Australian Government needed to openly accept responsibility for its actions.<sup>101</sup> In a 1991 call for an inquiry, SNAICC commented that:

Although very little 'hard' data is available on the numbers of children that were removed, Dr Peter Read of the History Department at the Australian National University has estimated that at least 5000 people were taken away in New South Wales alone.<sup>102</sup>

SNAICC's role in the National Inquiry has been an intense, yet largely unacknowledged one. As the Organisation responsible for lobbying for the National Inquiry, SNAICC played a major role in its deliberations. Through the presentation of information to the wider community, and through its lobbying activities, SNAICC has highlighted the impact of policies and practices of child removal. Nigel D'Souza believes that the previous Labor Government established the Inquiry 'because it was compelled to as a result of considerable lobbying by Aboriginal people over many years'.<sup>103</sup>

In 1990, at its Annual General Meeting in Brisbane, SNAICC made its first call for an inquiry.<sup>104</sup> On National Aboriginal and Islander Children's Day in August 1991, SNAICC repeated its plea.<sup>105</sup> In a media release to coincide with National Aboriginal and Islander Children's Day in 1992, Nigel D'Souza commented that SNAICC would be 'reiterating

<sup>99</sup> Amnesty International, *Silence on Human Rights: Government Responds to 'Stolen Children' Inquiry*, March 1998.

<sup>100</sup> R. Koval, 'Value of Shame', *The Weekend Australian*, 25-26 October, 1997, p. 26.

<sup>101</sup> SNAICC, *Aboriginal Organisation Calls for Enquiry into "stolen children"*, Media release, n.d., c. 1991, p. 2.

<sup>102</sup> SNAICC Media release, 1991, p. 1.

<sup>103</sup> D'Souza, *The Howard Government and the National Inquiry*, 1996, p. 3.

<sup>104</sup> Minutes SNAICC AGM 1990.

<sup>105</sup> SNAICC, *Newsletter*, September 1995, p. 5.

last year's demand for a national inquiry into the removal of Aboriginal children from their families'.<sup>106</sup> The media release pointed out that the call for the proposed inquiry did not just refer to the removal policies of yesteryear, as large numbers of Aboriginal children were still being removed from their families.

SNAICC clearly stated its demands for the nature and scope of the Inquiry:

To be successful it would need to be open and accessible. It needs to go to the people. It must also address the impact of removal policies on the individuals *and the families* affected. It should consider how these policies impact on the contemporary life of Aboriginal people and recommend the establishment of appropriate services. It must also consider how people affected can be compensated and whether there is a need to set up a tribunal to hear claims for compensation rather than compelling people to go through expensive and laborious litigation in the court system. Finally, it should consider why, despite all the changes that have taken place, Aboriginal children are still over-represented in the welfare and juvenile justice institutions, incarcerated and separated from their families—experiencing a different form of removal policy in the 1990s.<sup>107</sup>

Brian Butler told the Australian Law Reform Commission:

We want an enquiry to determine how many of our children were taken away and how this occurred. We want the enquiry to hear from Aboriginal people about how they have been affected and what must be done to compensate them. We also want the enquiry to consider whether these policies fall within the definition of genocide as it is outlined in article 2(e) of the Prevention and Punishment of the Crime of Genocide Act of 1949.<sup>108</sup>

In an address to the World Congress on Family Law and the Rights of the Child in 1997, Brian Butler reiterated a 1994 statement he had made which emphasised that 'the sooner this issue is brought out from under the carpet, the sooner will one further obstacle to reconciliation be removed'.<sup>109</sup>

<sup>106</sup> N. D'Souza, *Media Release*, 4 August 1992.

<sup>107</sup> N. D'Souza, 'Call for a National Inquiry into the Removal of Aboriginal Children', *Impact*, ACOSS, April 1995, p. 8.

<sup>108</sup> Cited in SNAICC, *Newsletter*, February 1996, p. 6.

<sup>109</sup> B. Butler, *Family Law, Family Forms and Family Functions: Aboriginal and Torres Strait Islander Families in Australia*, Address to the Second World Congress on Family Law and the Rights of the Child, San Francisco, June 1997, p. 6.

By 1995, SNAICC was optimistic that the Inquiry would occur.<sup>110</sup> The Organisation had lobbied intensely, and discussions had been held with the Attorney General's Department. SNAICC members were advised that the Organisation was required to compile the terms of reference for the National Inquiry and the meeting determined that the Executive Officer would develop these and send them to member organisations for comment.<sup>111</sup> In December of that year, SNAICC Chairperson, Brian Butler, presented the Organisation's submission to the National Inquiry in Wybalenna, Flinders Island, Tasmania. In his concluding remarks to the President of HREOC, Sir Ronald Wilson, and Commissioners, Brian Butler stated:

I genuinely believe that without Australian society coming to terms with this matter that the goal of some people to a reconciliation will never be realised. This is the last remaining issue between us the Aboriginal people of this land and you, the settlers and the descendants of this land. You have our land, you control the resources that were once ours, we present no threat to you and your families, why must you continue to harass and abuse our children and families?<sup>112</sup>

In 1997, Brian Butler expressed the sense of achievement and pride he had felt when he heard in May 1995 that the Federal Attorney-General had given HREOC the reference to inquire into matters 'we have been badgering governments about for years'.<sup>113</sup> SNAICC had a significant role in the process of the Inquiry. Not only had SNAICC members met with the Commission to set the ground rules for conducting the National Inquiry, but an Indigenous Advisory Council to HREOC included representation from SNAICC.<sup>114</sup>

The change of Federal Government had a detrimental impact on the process and outcome of the Inquiry, instigated by a Labor Government and then implemented by a reluctant Liberal/National Coalition Government. Nigel D'Souza made the following comment:

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<sup>110</sup> Minutes SNAICC AGM 1995.

<sup>111</sup> Minutes SNAICC AGM 1995.

<sup>112</sup> Cited in SNAICC *Newsletter*, February 1996, p. 10.

<sup>113</sup> B. Butler, *Family Law, Family Forms*, 1997, p. 6.

<sup>114</sup> Minutes SNAICC AGM 1996.

The Federal Government, through its highest officer, the Prime Minister, eagerly assisted by his lieutenant, the Minister for Aboriginal Affairs, is doing its best to undermine the outcome of the Human Rights and Equal Opportunity Commission National Inquiry into the Separation of Aboriginal and Torres Strait Islander Children from their Families.<sup>115</sup>

He also referred to 'whispers' that most of the new Coalition Government believed the Inquiry to be a waste of time, serving no purpose to be delving into the past when what mattered was getting on with the present. According to D'Souza it was 'indeed extraordinary to see a Federal Government actually pre-empting the outcome of a process that it had initiated' as well as being 'even more unusual for a government to deliberately snub an officially commissioned Inquiry ...'<sup>116</sup>

The approach by the new Government reflected the ideology of this conservative regime. In the December 1996 SNAICC Newsletter, D'Souza incorporated comments by the Prime Minister, John Howard, which referred to Howard's views on what he saw as the difficulty of imposing standards and attitudes of today on the conduct of the past; and the preference not to fund the Inquiry more adequately but to commit funds to the improvement of such areas as health, education, housing and employment opportunities for Aboriginal people.<sup>117</sup> SNAICC expressed disappointment at the limited funds spent on the National Inquiry—only \$1.5 million compared to the \$30 million allocated for the Royal Commission into Aboriginal Deaths in Custody.<sup>118</sup> In a report to the National Children's Services Forum in August 1997, SNAICC commented:

Without a doubt this Inquiry is and will be regarded as one that has delved into the very soul of this country and society. While there are many who regard this Inquiry as one that concerns Aboriginal people only, nothing could be further from the truth.

The Inquiry has revealed the complicated web of relationships that developed—good and bad—between Aboriginal children and their families and non-Aboriginal state authorities, social workers and families ...<sup>119</sup>

<sup>115</sup> SNAICC, *Newsletter*, December 1996, p. 1.

<sup>116</sup> SNAICC, *Newsletter*, December 1996, p. 1.

<sup>117</sup> SNAICC, *Newsletter*, December 1996, p. 1.

<sup>118</sup> D'Souza, *The Howard Government and the National Inquiry*, 1996, p. 4.

<sup>119</sup> SNAICC, *Report to the National Children's Services Forum*, August 1997, p. 1.



Issues relating to the Inquiry have been raised by SNAICC at international forums. At the Working Group on Indigenous Populations held in Geneva in 1995, Irene Stainton presented a statement on behalf of SNAICC.<sup>120</sup> This statement was included in the review of developments pertaining to the promotion and protection of human rights and fundamental freedoms of Indigenous people. In the statement, Irene Stainton concluded:

Whilst such an Inquiry is welcomed and indeed applauded, it is to be hoped that the real issues of separation are in fact addressed in this process. The loss of culture and family is a key consequence of this policy of removal and must be addressed by the Inquiry.

The grievances expressed by the victims of the policy of removal have been heard for many years and we hope that the Inquiry will assist in the healing processes for both the victims and the wider Aboriginal and Torres Strait Islander community. We look forward to an open Inquiry with true consultation and achievable recommendations. Most importantly we seek an assurance that the whole of the Australian community will be involved in this most important healing process and seek an individual understanding of the removal process and the subsequent healing which we must achieve.<sup>121</sup>

At the Second Child Survival Conference, convened by SNAICC in Townsville in 1997, attention was directed to stolen generations issues as the HREOC report had just been released. A conference resolution endorsed the recommendations from the National Inquiry regarding the Aboriginal Child Placement Principle and National Standards which required legislation.<sup>122</sup> Criticism was levelled at Prime Minister Howard, the Coalition Government and the states and territories that had denied a formal apology to Indigenous people.<sup>123</sup>

Since the Inquiry has completed its task and tabled its report, SNAICC continues to work with stolen generations working groups, in addition to pressuring for implementation of the Inquiry's recommendations through its own membership. In addition, SNAICC has continued to ensure that the recommendations of the Inquiry have a place in government policy

<sup>120</sup> Irene Stainton was a Western Australian SNAICC representative. She was also an interview participant for the SNAICC story.

<sup>121</sup> I. Stainton, *Statement to the Thirteenth Session of the Working Group on Indigenous Populations*, Geneva, July 1995, p. 4.

<sup>122</sup> Minutes, Second Child Survival Conference, Townsville, June 1997.

<sup>123</sup> Minutes, Second Child Survival Conference, 1997.

agendas, including recommendations relating to the ongoing over-representation of Indigenous children in the child welfare and juvenile justice systems. These items will be discussed more fully in Chapter 9 which examines SNAICC's 'unfinished business'.



## CHAPTER 3 RACE, ACTIVISM, IDENTITY & CITIZENSHIP

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### Introducing theory to the story

Developing a theoretical framework for this dissertation is a problematic task. Sensitivity to Aboriginal perspectives has made me wary of imposing a lens through which to view the Organisation, which may not correspond with the views of the research participants or with Aboriginal groups more generally. Postmodern epistemologies which challenge categories of 'knowing', have resulted in a call for the 'abandonment of the search for monolithic and enduring truths'.<sup>1</sup> Childress argues that the belief in the primacy of theory is a means of exclusion, a way for us to talk knowingly behind the backs of our participants.<sup>2</sup> Indigenous people have accused white researchers, academics and practitioners of imposing 'categories' on Indigenous people which deny Indigenous cultural perspectives.

So why turn to theory at all? I have taken the view that as an aim of my research is to 'make a difference' then there is some place for developing an interpretive framework. In this sense, theories can be viewed as 'second order stories' which present a frame for interpretation and meaning which allows sense to be made of the narratives of the participants (first order stories) and the theorists own experience of living in and being a part of these stories.<sup>3</sup> Although the main aim of my research methods, outlined in the next chapter, is to give voice to the research participants, I believe I would be abdicating responsibility not to link the data from their accounts with broader theoretical frameworks to both turn stories into scholarship<sup>4</sup> and to endeavour to effect social and political change.<sup>5</sup> Those telling the stories also have a framework, but their constructions are less visible as opposed to the researcher who uses

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<sup>1</sup> K. Daly, 'Re-placing Theory in Ethnography: A Postmodern View', *Qualitative Inquiry*, vol. 3, no. 3, 1997, p. 345.

<sup>2</sup> H. Childress, 'Kinder Ethnographic Writing', *Qualitative Inquiry*, vol. 4, no. 2, 1998, p. 256.

<sup>3</sup> Daly, 'Re-placing Theory', 1997, p. 355.

<sup>4</sup> Childress, 'Kinder Ethnographic Writing', 1998, p. 251.

<sup>5</sup> C. Hyde, 'Reflections on a Journey: A Research Story', in ed. C. K. Riessman, *Qualitative Studies in Social Work Research*, Sage Publications, Thousand Oaks, 1994, p. 184.

the oral histories to exemplify existing frameworks.<sup>6</sup> Care however, needs to be exercised as 'places and people and events exist in the world. Frameworks and constructs do not'.<sup>7</sup>

I have drawn on a number of interconnected frameworks to help forge my own understanding of the complexities emerging from the research, and to hopefully contribute to emerging breakthroughs in the academic discourse, in order to counter dominant discourses which have taken hold. Although these frameworks have limitations, emerging as they do from traditions within the academy, I do not believe, as a non-Indigenous researcher, that I am in a position to develop a theoretical perspective from an Indigenous viewpoint. I expect that early in the 21st century, Indigenous people will be developing culturally relevant frameworks derived from their lived experiences. In the meantime however, I recognise that in developing my own interpretations that 'good theory' has both consistency and contradiction, with the nature of the reality that is being theorised being complicated and filled with contradiction.<sup>8</sup>

SNAICC has been part of the broader movement for the advancement of Indigenous rights, and the frameworks offered by *New Social Movement* theorists provide some leads to understanding the activism of the Organisation. The emphasis within social movement literature on *Identity Politics* creates space for helpful explorations which elucidate some of the issues raised by participants in this study. I have also selected *Citizenship Theory* as a point of analysis, a perspective which is 'in vogue' in Australian sociological and political circles, particularly its emphasis on inclusionary and exclusionary aspects of citizenship. Most of the interviewees referred, in some way, to how the 'mainstream' excluded them from full participation in Australian society. Although the specific literature on Aboriginal citizenship is embryonic, that which does exist provides some leads and my analysis seeks to extend this in terms of its connections to stolen generations issues.

Before proceeding to an examination of these theoretical approaches, it is necessary to firstly explore the ideological stance behind my positioning in terms of constructs of *race* and *racism*.

<sup>6</sup> Childress, 'Kinder Ethnographic Writing', 1998, p. 252.

<sup>7</sup> Childress, 'Kinder Ethnographic Writing', 1998, p. 255.

<sup>8</sup> K. Daly, 'Re-placing Theory', 1997, p. 358.

## Race & racism

From the perspective I am taking, I believe it is first and foremost essential to explain how I am adopting constructs of *race* as central to my analysis, and to explore the limitations of so doing, in terms of other intersections of analysis, particular gender and class perspectives. As a feminist, and one committed to an equal and just society, this comes at some intellectual and ideological cost to me. In minimising gender perspectives in this work, I am sympathetic and sensitive to the view expressed by a number of Aboriginal writers, activists and practitioners that 'race' is the major form of oppression experienced by Aboriginal people and that men and women are in 'the struggle' together. The following statement by a group of Aboriginal women to a feminist journal encapsulates this approach:

We are women and men together who have suffered grave injustices by the white invaders. We have all suffered.<sup>9</sup>

This view is not without its critics, as an emerging feminist discourse among Indigenous women provides challenges by looking at the dual oppression of racism and patriarchy for understanding. However, unlike much of the Black writing emanating from the United States these views have not been part of the popular representation in Indigenous theorising. Jackie Huggins has explained this further, emphasising that despite the predominance of patriarchal rule in Australian society, Australia was colonised on a racially imperialistic base and not on a sexually imperialistic base.<sup>10</sup> She sees white women as colonists too, as part of the dominant culture which oppresses Aboriginal women in this country.<sup>11</sup>

Constructs of class have been more readily applied to analysing Aboriginal affairs in this country, and such analysis frequently denies the significance of racial identity. Although 'class' issues are of significance in examining the socio-economic conditions of Aboriginal people, a class analysis has its perils when applied to the Indigenous context. Although it is impossible to ignore the economic disparities between Indigenous and non-Indigenous people, such a focus, which has become popularised in current policy approaches, downplays the lived experiences of

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<sup>9</sup> J. Huggins; J. Wilmot; I. Tarrago; K. Wilets; L. Bond; L. Holt; E. Bourke; M. Bin-Salik; P. Fowell; J. Shmider; V. Craigie; and L. McBride-Levi, 'Letter to Editor', *Women's Studies Int. Forum*, vol. 14, no. 5, 1990, pp. 506-507.

<sup>10</sup> Huggins, *Sister Girl*, 1998, p. 14.

<sup>11</sup> Huggins, *Sister Girl*, 1998, p. 59.

Indigenous people in terms of the racial divide. Even when taking a structural approach to class differentials,<sup>12</sup> the emphasis on change for those subscribing primarily to class-based explanations of inequality is likely to focus on such facets as job-creation, equality of opportunity and income distribution, rather than addressing issues of rights, sovereignty, land and culture which are the cornerstones of Indigenous activism. As Jennett and Stewart comment, although one cannot ignore the impact of capitalist class relations on Aboriginal lives, Aboriginal activists prefer to speak of their people as a race rather than in class terms.<sup>13</sup>

Giving supremacy to a class-based discourse creates a further risk of being seen to concur with those who argue that the treatment of poor black children was the same as poor white children, a standpoint which is both ahistoric and inaccurate. Rose reminds us that the Aboriginal policy of Australian governments long depended on the socio-biological categories of race, and held that those of mixed race could and should be 'lifted away from their darker side and incorporated at a low level by their lighter side'.<sup>14</sup> The view existed that Aborigines would fade away, a reference to both colour and temporal presence,<sup>15</sup> an 'ambition' which was accepted by many 'white experts' in Australian society. Although the legal provisions and language of contemporary child removals have shifted from race-based underpinnings to a welfarist discourse, the inconsistent treatment, which will become evident in the stories of the SNAICC participants, demonstrates that racial dictates predominate.

Robert Manne convincingly argues that the 'line of defence' that children were removed for social welfare reasons is at the core of present confusion about stolen children.<sup>16</sup> He asserts that the removals were driven by altogether different motives to children being in danger, stating:

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<sup>12</sup> In this context, a structural approach refers to inequalities derived from the means in which society is organised to favour powerful groups at the expense of disadvantaged and minority sectors. It is an approach commonly referred to in 'progressive' social work circles, to challenge victim-blaming and client-changing perspectives.

<sup>13</sup> C. Jennett & R.G. Stewart, *Three Worlds of Inequality: Race, Class and Gender*, The Macmillan Company of Australia, Melbourne, 1987, p. 67.

<sup>14</sup> D. Rose, 'Dark Times', 1997, p. 110.

<sup>15</sup> D. Rose, 'Dark Times', 1997, p. 110.

<sup>16</sup> R. Manne in Bird, *The Stolen Children*, 1998, p. 143.

The policy and practice of child removal was, at its heart, the response of the Australian governments to a 'problem' that stirred public opinion and politicians alike—especially before 1950—the problem of the so-called half-caste.<sup>17</sup>

This view is reinforced by Beresford and Omaji who assert that the removal of Aboriginal children from their families was the key instrument of the drive for cultural destruction.<sup>18</sup> The two most commonly expressed approaches to the stolen generations have been outlined by Beresford and Omaji. The first dismisses any connection with a racial explanation, by claiming that removal of children was in their best interests. The second diminishes any potential connection with racism, by arguing that the policies were based on standards different from those of the present time, and were thus, at worst, a 'misguided' approach.<sup>19</sup>

In bringing constructs of race to the forefront, I am further prompted by my concerns about ideological stands taken by commentators who allude to the notion of a 'colour blind' society, a viewpoint which diminishes the significance of race. One example is that proposed by Michael Warby from the Tasman Institute who advocates the need for Indigenous 'adaption to modern society' and the 'giving up some of what they have been',<sup>20</sup> a view which is embraced in the dominant discourse. From my observations, living in a rural town for sixteen years, I was frequently confronted by community perceptions that the only 'acceptable' Aboriginals were those who were 'like us'. In a society where some groups are privileged and others are oppressed, insisting that persons should leave behind their particular affiliations only serves to reinforce privilege and further marginalise and silence other groups.<sup>21</sup>

Placing race to the forefront of analysis necessitates explaining the place of racism in Australian society.<sup>22</sup> Racism has always been a part of the

<sup>17</sup> Manne in Bird, *The Stolen Children*, 1998, p. 143.

<sup>18</sup> Q. Beresford & P. Omaji, *Our State of Mind: Racial Planning and the Stolen Generations*, Fremantle Arts Centre Press, South Fremantle, 1998, p. 257.

<sup>19</sup> Q. Beresford & P. Omaji, 'Our State of Mind', 1998, p. 255.

<sup>20</sup> M. Warby, *Past Wrongs, Future Rights*, Tasman Institute, Melbourne, 1997, pp. 104-105.

<sup>21</sup> I. M. Young (1989) 'Polity and Group Difference: A Critique of the Ideal of Universal Citizenship', in eds. B.S. Turner & P. Hamilton, *Citizenship: Critical Concepts*, Routledge, London, 1994, p. 391.

<sup>22</sup> I am adopting the definition of racism from David Hollingsworth (in eds. Gray & Winter, 'The Work Of anti-Racism', in *The Resurgence of Racism*, 1997, p. 129) derived from Gloria Wekker, which refers to beliefs, statements and acts which make certain ethnic groups inferior on the basis that they do not belong to the culture of origin of the dominant ethnic group within the state apparatus.

Australian landscape despite the myth of an egalitarian society. One of the most blatant examples was the Immigration Restriction Act passed by the new Australian Parliament soon after Federation in 1901. More commonly known as The White Australia Policy, the last vestiges of the legislation were laid to rest by the early 1970s.<sup>23</sup> This policy had been designed to 'keep out of Australia people from cultures perceived to be alien and whose presence would threaten the desire to create in Australia a culture of British civilisation'.<sup>24</sup> Parallel to this endeavour to shape a monocultural Australian nation where Australian nationalism was profoundly related to white Australia,<sup>25</sup> the 'problem' of Indigenous Australians had to be addressed.<sup>26</sup> At policy levels, racist concepts have been applied to the stolen generations in a number of ways. The following statement by Neville, the Western Australian delegate to the Initial Conference of Commonwealth and State Aboriginal Authorities in Canberra in 1937 reveals an early endeavour to deal with the 'half-caste' problem:

Every administration has trouble with half castes. I know of 200-300 girls in WA who have gone into domestic service. Our policy is to send them out into the white community, and if a girl is to come back pregnant our rule is to keep her for two years. The child is then taken away from the mother and sometimes never sees her again. Thus these children grow up as whites, knowing nothing of their own environment. At the expiration of two years, the mother goes back into service so it really does not matter if she has half a dozen children ...<sup>27</sup>

Although these policies are seen as being 'of the time' by many in the dominant society, the evidence does not bear this out. In 1997 I was engaged in a research project auspiced by the Minajalku Aboriginal Corporation. This project aimed to establish the role of the churches in Victoria in the removal and placement of Aboriginal children. Among the range of race-based comments found in the records, some as recent as the 1960s, were 'The house was filthy with a number of Aboriginals in the house'; 'Aboriginal I believe, but extremely well-adjusted to white society'; 'Sleeps like an Aboriginal'; 'I am continually surprised by his nativeness'; 'A quarter-native blood and fair complexioned. A big

<sup>23</sup> J. Stratton, *Race Daze: Australia in Identity Crisis*, Pluto Press, Sydney, 1998.

<sup>24</sup> Beresford & Omaji, *Our State of Mind*, 1998, p. 256.

<sup>25</sup> H. Reynolds, 'Racism and other National Discourses', in eds. G. Gray & C. Winter, *The Resurgence of Racism* 1997, p. 35.

<sup>26</sup> Beresford & Omaji, *Our State of Mind*, 1998, p. 256.

<sup>27</sup> A.O. Neville, *Address to Initial Conference of Commonwealth and State Aboriginal Authorities*, 21-23 April 1937.



advantage'; 'The house was extremely clean for an Aboriginal house'; 'M's Aboriginal features can definitely be detected ... when she is smiling which emphasizes her wide mouth and full lips'; 'Part-aboriginal, a slow moving, dumb, morose woman ... obese and dirty in appearance'.<sup>28</sup>

Different manifestations of racism were expressed by those involved with SNAICC. Research participant, Marjorie Thorpe, presented a personal account of the racism she experienced in Victoria stating that 'we knew there was racism, we weren't acceptable for whatever reasons. But we wondered why—what had we done wrong' (interview 27 Aug. 97). Jenny Munro tells a heart-wrenching story emerging from the work of the Aboriginal Children's Service in New South Wales:

From 1978 to 1980 the work was mainly kids that were actually hurting themselves physically, a lot through kids that had been fostered or adopted, coming back looking for their families, having grown up and been indoctrinated into that you are black you are no good. So they were harming themselves, self mutilation. X<sup>29</sup> was actually a field officer with the Aboriginal Children's Service at the time and she tells a story about how a young girl just used a razor blade to try and scrape the top layer of skin off as she thought it was the black layer (interview 25 Oct. 97).

Former SNAICC Chairperson, Brian Butler, sees racism as 'a powerful and pervasive factor that our children confront every day of their lives. Because Europeans are largely oblivious of it and its effects, they are unable to deal with it or to prepare Aboriginal children for it'.<sup>30</sup> Nigel D'Souza analyses the concept of 'institutional racism':

It is quite clear that institutional racism is a problem that continues to affect Aboriginal families and raises some serious questions about the effectiveness of the Government's 'access and equity' policy ... Institutional racism can be described as the historically determined and developed barriers that exist in the nature of the arms of the state—the judiciary and legal system, the bureaucracy, the coercive arms of the state, the police, secret services, governments, and economically, in the disadvantaged position of aborigines—to the participation of aborigines in Australian society and the sharing of the wealth generated by the economy. Institutional racism also acts against the rights and ability of aboriginal reproduction. Indeed one could go further and state that institutional racism facilitates the domination and exploitation of Aborigines in Australia.<sup>31</sup>

<sup>28</sup> Minajalku Aboriginal Corporation, *Home Still Waiting*, 1997, p. 28.

<sup>29</sup> Name deleted to protect anonymity.

<sup>30</sup> Butler, 'Aboriginal Children: Back to Origins', 1993, pp. 9-10.

<sup>31</sup> SNAICC, *Newsletter*, Sep. 1994, pp. 10-11.

## Social movements and identity politics

Although 'class' has dominated much of the traditional social movement literature, Burgmann refers to 'those other axes of oppression' revealed by what is referred to as the *new* social movements.<sup>32</sup> She states:

It is not just the clash of classes, but the collision of all kinds of social interests that makes our society what it is and propels it towards a future that will not be the same as it is at present.<sup>33</sup>

A demarcation exists between the 'old' and 'new' social movements. Basically, old social movements emerged from class-based concerns, reducible to industrial and economic issues and questions. The new social movements evolved from concerns about new subjects of knowledge and identities which transcended the old class-based politics. Examples include the women's movement, the lesbian and gay movements and the Indigenous movement. Hence, the transformative struggle at the forefront takes place at a cultural level, as opposed to old social movement activists and Marxist adherents, who have seen class struggle as the fundamental feature of social change.<sup>34</sup> New social movements can be broadly defined as forms of collective action aimed at social change.<sup>35</sup> The charter of a social movement is the invention of new norms, institutions and practices.<sup>36</sup> Social movements mobilise to press demands or protest against social conditions, government policy and political repression for example.<sup>37</sup> The importance of these movements is helpful in understanding SNAICC's activism, a form of activism which places racial identity to the forefront of its endeavours for change.

Theorising about such movements has been largely influenced by the work of French social theorist, Alain Touraine. For Touraine, the challenging of dominant ideologies and the transformation of relations of social domination are the hallmarks that distinguish collective behaviour from a true social movement.<sup>38</sup> Social movements can also be

<sup>32</sup> V. Burgmann, *Power and Protest: Movements for Change in Australian Society*, Allen & Unwin, Sydney, 1993, p. 30.

<sup>33</sup> Burgmann, 'Power and Protest', 1993, p. 30.

<sup>34</sup> C. Jennett & R.G. Stewart, *Politics of the Future: The Role of Social Movements*, The Macmillan Co. of Australia, Melbourne, 1989, p. 2.

<sup>35</sup> S. Kenny, *Developing Communities for the Future: Community Development in Australia*, Nelson, Melbourne, 1994, p. 39.

<sup>36</sup> Jennett & Stewart, *Politics of the Future*, 1989, p. 4.

<sup>37</sup> J. Foweraker & T. Landman, *Citizenship Rights and Social Movements: A Comparative and Statistical Analysis*, Oxford University Press, New York, 1997, p. 39.

<sup>38</sup> A. Touraine, *Return of the Social Actor: Social Theory in Postindustrial Society*, University of Minnesota Press, Minneapolis, 1988, p. 57.

distinguished from pressure groups, in the manner in which the 'personal' is linked to the 'political',<sup>39</sup> a strong feature of the activism of SNAICC which will be evident from the interviews documented in subsequent chapters. A fundamental defining feature of social movements is that by existing outside mainstream political parties and processes, they have opportunities for radicalism and political freedom.<sup>40</sup> In line with Touraine's (1988) formulation, social movements are the agents of collective action and political struggle.<sup>41</sup> Social movements have further developed political practices committed to the idea of a heterogeneous public.<sup>42</sup>

New social movements endeavour to transform civil society, expanding its autonomy from the state.<sup>43</sup> They are seen to operate in a manner which establishes their own autonomy. Yet, for SNAICC and other Indigenous organisations, this autonomy has never been fully realised. Unlike other social movements with the potential for an independent resource base, SNAICC has, despite earlier rejection of the notion, been dependent on the state for funding. In its endeavours to transform civil society it has been in many ways co-opted and coerced into mirroring the dictates of the dominant society, and not able to reflect the goals of its constituents particularly in terms of a form of independent sovereignty.<sup>44</sup> By repositioning itself to conform, albeit reluctantly, with state demands, the state has been able to continue to pursue policies of oppression.<sup>45</sup> Thus the degree of liberation for the Organisation is at a relatively low level. Like the gay movement which, in its early days, saw the state as an enemy whose power should be limited,<sup>46</sup> SNAICC and its constituent organisations have maintained their struggle from outside government structures. Unlike many of the policy activists who sought to bring about change by operating within the bureaucracy, Indigenous support for this activism has been almost entirely from outside government structures.

<sup>39</sup> Jennett & Stewart, *Politics of the Future*, 1989, p. 11. (The authors are referring to the work of Dennis Altman in relation to gay identity).

<sup>40</sup> Kenny, *Developing Communities*, 1994, p. 40.

<sup>41</sup> Cited in Kenny, *Developing Communities*, 1994, p. 75.

<sup>42</sup> Young, 'Politics and Group Difference', 1989, p. 397.

<sup>43</sup> C. Offe, 'Divergent Rationalities of Administrative Action', in ed. J. Keane, *Disorganised Capitalism*, Basil Blackwell, Oxford, 1985.

<sup>44</sup> An example of SNAICC's failure in this regard can be seen by the ongoing refusal of the Federal Government to transfer control of Aboriginal child welfare to Aboriginal groups.

<sup>45</sup> An example of conformity is the necessity to adhere to funding accountability requirements imposed by government. This issue is discussed in Chapter 6.

<sup>46</sup> Jennett & Stewart, *Politics of the Future*, 1989, p. 50.

Touraine contends that social movements create the most significant aspects of social change, change which occurs at the cultural, institutional and political level.<sup>47</sup> Social movements generate new meaning, spirit and solidarity into the lives of the individuals concerned.<sup>48</sup> New social movements are argued to 'generate a passion and commitment which conventional politics seldom produces.'<sup>49</sup>

The basis of a movement can be identified by activism targeted at policy change. Policy activists can be broadly defined as those individuals or organisations who support a more open and participatory policy process, rather than a closed and top-down approach.<sup>50</sup> The meaning that social movement activists give their action is important, but it does not necessarily achieve the desired change.<sup>51</sup> Yet the success of the movement's stance, and the actions which surround it, need to be assessed by its outcomes. The success of a social movement depends on the state accommodating social protest by introducing social, administrative and political reforms, including legislative change.<sup>52</sup> Indigenous groups, including SNAICC, have had limited success, which will become apparent as the story of the Organisation unfolds.

Social movement theorists, such as Melucci and Touraine, affirm the importance of other worlds and other voices, with the 'new theorists' underlining the centrality of identity to any analysis of social movements.<sup>53</sup>

Seidman refers to the rise of identity politics in the United States, which appealed to the notion that all members of the same oppressed group share a common identity.<sup>54</sup> According to Seidman, these new social movements created new subjects of knowledge (for example African-

<sup>47</sup> Cited in C. Noble, *At Home in the World: A Sociological Study of Homebirths and Independent Midwifery in Australia (principally in NSW)*, unpublished PhD thesis, University of New South Wales, 1997, p. 83.

<sup>48</sup> Cited in Noble, *At Home in the World*, 1997, p. 83.

<sup>49</sup> Cited in Noble, *At Home in the World*, 1997, p. 88.

<sup>50</sup> S. Short, 'Community Activism in the Health Policy Process: The Case of the Consumers' Health Forum of Australia, 1987-96', in ed. A. Yeatman, *Activism and the policy process*, Allen & Unwin, Sydney, 1998, p. 127.

<sup>51</sup> Jennett & Stewart, *Politics of the Future*, 1989, p. 4.

<sup>52</sup> J. Paluski, *Social Movements: The Politics of Moral Protest*, Longman Cheshire, Melbourne, 1991.

<sup>53</sup> P. G. Johnston, *Identity, the Gay Movement and Understandings of HIV/AIDS: Implications for Policy Development*, unpublished MA (Social Policy) thesis, Royal Melbourne Institute of Technology, 1996, p. 37.

<sup>54</sup> Seidman, *Contested Knowledge*, 1994, p. 235.

Americans, lesbians and gay men) and developed new perspectives on knowledge, society and politics. The dominant knowledges in American public culture were criticised as reflecting the standpoint and interests of white Europeans, men and heterosexualists. By way of contrast, other groups began to produce social perspectives that were said to express their personal reality.

Johnston speaks of how a symbiotic relationship between resistance and the formation of identity comes into being, when there is a cessation of a group seeing itself as 'victims' and viewing itself as an oppressed minority.<sup>55</sup> Before a movement formally develops, individuals may have suffered at a personal level, as demonstrated by stolen generations stories. Collectivising the stories and forming organisations changes the positioning. It also allows the group to move beyond a definition imposed by others or the state, including stereotypic views.<sup>56</sup>

Much of the thrust of shifting definitions and identity, particularly in challenging the colonial project, is visible in Australia through the arts, expressed by poets, songwriters, playwrights and novelists, in an overtly political way. These popular forms of activism contribute to paving the way for the promotion and acceptance of Indigenous cultural perspectives. For example, Aboriginal poet Oodgeroo Noonuccal<sup>57</sup> has put forward the view that Aboriginal Australians should take their rightful place in Australia without having to surrender their culture,<sup>58</sup> a view which has been mirrored by many others in the creative arts. The activism of organisations such as SNAICC is much less in the public realm but nonetheless challenges dominant notions of the 'place' of Indigenous peoples, with constructs based on culture, justice and self-determination.

Although it is not possible to equate American Black politics with Indigenous movements, the body of knowledge which has emerged has some relevance to analysing the Australian context. In the United States, Seidman posits that the Black movement, unlike the white, middle class women's movement, was a movement by 'the poor, the working class

<sup>55</sup> Johnston, *Identity, the Gay Movement*, 1996, pp. 53-54.

<sup>56</sup> This perspective was derived from the work of Peter Johnston, 1996, p. 57, cited above, who writes about new social movements and identity formation in the gay community.

<sup>57</sup> Formerly Kath Walker.

<sup>58</sup> Cited in J. Webb & A. Enstice, *Aliens and Savages: Fiction, Politics and Prejudice in Australia*, Harper Collins, Sydney, 1998, p. 264.

and an aspiring, but still marginal, strata of educated Blacks who had only promises and hope, with little reality of social progress'.<sup>59</sup> In the United States there were differences. The Civil Rights movement for example emphasised equal rights, opportunities and integration, whereas the Black Power or Black Liberation movements emphasised racial pride and unity, asserting that racism was institutionalised and not merely a matter of attitudes or laws.<sup>60</sup> The latter group appealed to a history of racism and to shared African-American traditions to assert their racial unity, and the assertion of an affirmative African-American identity would form the foundation for an ethnic nationalist community and politics.<sup>61</sup>

Not necessarily 'named' in the same way, similar divisions have emerged and to some extent still exist in the Australian context. Those advocating an equal rights perspective are seen as taking a less radical stance than those opting for sovereignty, land rights and self-determination. The rise of Aboriginal organisations in Australia has spanned the boundaries of both perspectives, with many organisations fighting for self-determination<sup>62</sup> while still maintaining a striving for equality of opportunity.

Indigenous peoples in Australia encounter regular but changing modes of resistance. Dodson refers to 'an international backlash against a nascent politics of difference'.<sup>63</sup> This has resulted in being thrown back to both fighting for the basic achievement of human rights as well as full recognition of pre-existing Indigenous rights, the lack of attention to which has meant Indigenous people have found themselves back at subsistence level.<sup>64</sup> For Indigenous Australians to have rights which are not special rights to facilitate catching up to other citizens is seen by some to fly in the face of the fundamental principles of citizenship, but Indigenous Australians have been successful in having some of those

<sup>59</sup> Seidman, *Contested Knowledge*, 1994, p. 254.

<sup>60</sup> Seidman, *Contested Knowledge*, 1994, p. 255.

<sup>61</sup> Seidman, *Contested Knowledge*, 1994, p. 255.

<sup>62</sup> Self-determination is defined as 'the right of distinct groups of peoples, with a shared culture and history, to pursue their lifestyle and culture in a manner consistent with their own traditions' (Australian Reconciliation Convention 1997, p. 61).

<sup>63</sup> M. Dodson, 'First Fleets and Citizenships', in ed. S. R. Davis, *Citizenship in Australia: Democracy, Law and Society*, Constitutional Confederacy Foundation, Melbourne, 1996, p. 192.

<sup>64</sup> Dodson, 'First Fleets', 1996, p. 193.

distinctive rights recognised.<sup>65</sup> The symbiotic relationship between social movement activity and citizenship rights suggests that citizenship describes a process of putting the prescribed content into its 'ubiquitous legal and political forms'.<sup>66</sup> From the standpoint of this perspective, social movement struggles aspire to close the gap between rights-in-principle and rights-in-practice.<sup>67</sup>

Seidman asserts that in the scientific disciplines in American and European societies, 'Eurocentric paradigms of knowledge are dominant and imposed as universal'. In the US context, this reinforces the public invisibility and devaluation of African-centred ideas and experiences, and represents a form of cultural colonisation. Seidman draws on the work of Asanta who notes that despite the diversity of African cultures there is a core African identity, which emphasises holistic approaches to knowledge and society, valuing harmony, unity and spiritualism.<sup>68</sup> This analysis can be applied in the Australian context where there are clearly differences between Aboriginal communities, but there is an Aboriginal 'core' of values which is often expressed in terms of harmony with the land, spiritualism and the importance of family. This is often belittled by the dominant society. One example is the Premier of Victoria, Mr. Jeff Kennett, mocking in January 1999, the request by Aboriginal people that tourists not climb Uluru, a geographical monument considered sacred by Aboriginal people.<sup>69</sup> Similarly in relation to the Hindmarsh Bridge Royal Commission, in which South Australian Aboriginal women's claims of sacredness were not accepted, their beliefs, particularly as urban Aboriginal people, believed to be fabricated.<sup>70</sup>

Indigenous perspectives are often marginalised, with Aboriginal culture and lifeways, particularly in terms of their non-material focus, depicted as inferior and primitive. These views serve the particular interests of those who wish to exploit the land for economic gain. This is linked to views about Aboriginal culture which see it as against development and static, views which go back to the 'stages of human development'.<sup>71</sup>

<sup>65</sup> N. Peterson & W. Sanders, *Citizenship and Indigenous Australians: Changing Conceptions and Possibilities*, Cambridge University Press, Melbourne, 1998, p. 2.

<sup>66</sup> Foweraker & Landman, 1997, p. 42.

<sup>67</sup> Foweraker & Landman, 1997, p. 42.

<sup>68</sup> Seidman, *Contested Knowledge*, 1994, p. 257.

<sup>69</sup> *The Age*, 19 January, 1999, p. 6.

<sup>70</sup> D. Hollingsworth, 'The Work of Anti-Racism', in eds. Gray & Winter 1997, p. 134.

<sup>71</sup> H. Reynolds, 'Racism and other National Discourses', in eds. G. Gray & C. Winter, 1997, p. 32.

These notions have been apparent since the commencement of the colonisation process, and have been recorded in historical documentation which is now reaching the public domain. For example Dampier, on 'discovering' New Holland in the seventeenth century did not find a 'civic environment' as he had experienced in his travels to the Philippines, instead finding a people without permanent buildings and other marks of 'civilisation'.<sup>72</sup> Hollingsworth's adoption of the term 'culture wars' is relevant here as it demonstrates the clash between the dominant society and Indigenous people, and the resistance of the dominant society to the activist intent of Indigenous groups as change agents.<sup>73</sup>

Seidman argues that the social knowledges generated by the new social movements challenge the Enlightenment human studies tradition. Paralleling French post-structuralism, there is an emphasis on cultural politics, for example, the role of discourses and representations in producing identities and configurations of power.<sup>74</sup> He asserts that in the discourses of the new social movements, science is often viewed as a major social and political force, entangled in social practices of exclusion, marginalisation and devaluation. This manifests itself by promoting colonialism as a benevolent gesture of social progress. He also notes that the social sciences have constructed non-Western societies as backward, primitive, static and authoritarian. From Marx to Habermas, social science has constructed 'Orientalism' or the contrast between the presumed superior West and the inferior, subordinate East.<sup>75</sup> As a counter to these notions, contemporary identity politics, conceived as 'politics of recognition', represent the 'problem' of minority and oppressed groups and their assertion of their interests in the polity.<sup>76</sup> Because of the repression of other forms of political expression, movements for transforming identity often begin with the process of cultural revival.<sup>77</sup>

Ruth Lister suggests that the cause of global governance is being promoted by the birth of an international civil society which reflects the impact of social movements and non-government organisations operating

<sup>72</sup> Webb & A. Enstice, *Aliens and Savages*, 1998, p. 23.

<sup>73</sup> Hollingsworth, 'The Work of Anti-Racism', 1997, p. 136.

<sup>74</sup> Seidman, *Contested Knowledge*, 1994, p. 273.

<sup>75</sup> Seidman, *Contested Knowledge*, 1994, p. 275.

<sup>76</sup> G. Stokes, 'Introduction', in ed. G. Stokes, *The Politics of Identity in Australia*, Cambridge University Press, Melbourne, 1997, p. 6.

<sup>77</sup> Stokes, 'Introduction', 1994, p. 7.



at the international level.<sup>78</sup> For SNAICC and other Aboriginal organisations this has resulted in the development of activism across national boundaries, with international forums, including those sponsored by the United Nations, as a site of this activism. Dodson states:

Across the globe, in international forums—in Canada, the United States, Norway and New Zealand—indigenous peoples are fighting for formal and substantive recognition of our status as distinct peoples with distinct rights, notwithstanding our enclosure within internationally recognised nation states. Our challenge to the dominant political order is a long way from being generally accepted by Governments, either in principle or as a basis for law and policy. Nevertheless, whereas twenty years ago our assertions were dismissed without even a pause for breath, our collective voice has now become part of contemporary political dialogue.<sup>79</sup>

In this way, SNAICC and other Indigenous organisations are harnessing the potential of world-wide Indigenous movements and international human rights forums, in order to have their voices heard and their aspirations directed to the attention of the international community. Chapter 8 explores SNAICC in this international context.

Verity Burgmann reminds us that the Aboriginal land rights movement dates back to the 1870s and resistance to dispossession occurred from 1788.<sup>80</sup> Brian Butler points out that the activism which preceded SNAICC began long before the rise of formal organisational structures.<sup>81</sup> In its submission to the National Inquiry, SNAICC documents the movements which were first evident with the formation of the Aborigines Progressive Association in Sydney in 1924, noting that it was from the 1960s that organisations evolved to represent Aboriginal rights and to protect Aboriginal people against further wrongdoing and exploitation.<sup>82</sup>

Aboriginal people have formed organisational structures to meet their needs and to serve as cultural symbols.<sup>83</sup> With the rise of Aboriginal-only organisations in the 1970s, SNAICC cites Nathan (1980) who sees these organisations as a new and deliberative attempt to reverse the long period

<sup>78</sup> R. Lister, *Citizenship: Feminist Perspectives*, Macmillan Press, London, 1997, p. 62.

<sup>79</sup> Dodson, 'First Fleets', 1996, p. 192.

<sup>80</sup> Burgmann, *Power and Protest*, 1993, p. 2.

<sup>81</sup> See Chapter 1 for more details.

<sup>82</sup> SNAICC, *Never Again...Break the Chains*, Submission to the National Inquiry into the Separation of Aboriginal and Torres Strait Islander Children from their Families, August, 1996, pp. 15-16.

<sup>83</sup> E. Bourke, 'The first Australians: Kinship, family and identity', in eds. W. Weeks & J. Wilson, *Issues Facing Australian Families: Human Services Respond*, Longman, Melbourne, 1995.

of subjection to paternalistic control.<sup>84</sup> It was from this general political movement that the AICCAs and SNAICC emerged. In this light, policy activism can be seen as a category of political action, 'wed to participatory conceptions of democracy that have come to displace paternalistic models of democracy in the last several decades'.<sup>85</sup>

Much of the current Indigenous activism in Australia takes the form of high profile activities, which capture the attention of the media and hence bring issues into the public domain. In 1999, by way of protest against Government policies, a second tent embassy was erected, this time at the new Parliament House in Canberra. The actions of the Federal Government repeated those of the 1972 quest, with the demonstration being broken up by Federal Police and two participants arrested.<sup>86</sup> In the same year, actions by Indigenous people and their supporters to stop the mining of uranium on Aboriginal land at Jabiluka resulted in the arrest of an Aboriginal activist and a traditional owner of the land in question, Jackie Katona. Legal action mounted in both 1997 and 1999, through the challenges of members of the stolen generations to Northern Territory actions, is another example. Most of SNAICC's activities, outlined in subsequent chapters, have represented a less public form of activism, indicative of the variety of means adopted by Indigenous social movements.

A somewhat bleak view of the political efficacy of Aboriginal activism is presented by Burgmann:

The numerical and political isolation of the black movement, coupled with its economic weakness, renders it more or less impotent in the parliamentary political system. Our liberal democracy offers no scope for the black movement to effect the changes it desires, because Aborigines do not have the numbers to apply pressure on the electoral process, either directly through the election of candidates representing specifically Aboriginal interests or indirectly through the weight of Aboriginal opinion.<sup>87</sup>

Although it is difficult to mount a challenge to Burgmann's views in the current political and social climate, I believe that this 'deficit' approach only presents part of the picture. As Jennett and Stewart assert, social

<sup>84</sup> SNAICC, *Never Again Break the Chains*, 1996, p. 16.

<sup>85</sup> A. Yeatman, *Activism and the Policy Process*, Allen & Unwin, Sydney, 1998, p. 32.

<sup>86</sup> S. Marris & C. Harvey, 'Police douse second fiery protest', *The Australian*, 16 February, 1999,

p. 2.

<sup>87</sup> Burgmann, *Power and Protest*, 1993, p. 30.

movements 'aim to achieve change by asserting the moral superiority of their views and by changing people's hearts and minds'.<sup>88</sup> The public response to the stolen generations stories, after the release of *Bringing Them Home* is an example of such change. The story of SNAICC demonstrates both the strengths of the Organisation and its struggles. One of the key barriers facing the Organisation is the reluctance of the dominant society to relinquish and transfer its power. In challenging this reluctance, SNAICC has demonstrated a determination since its inception to mobilise its collective force in pushing for change. In so doing, it has adopted a variety of tactics to achieve its goals, and these are outlined in Chapter 8. Although not expressed overtly, much of the activism of SNAICC has been directed at changing notions of citizenship. Redeveloped citizenship theorising has stemmed in part from the agendas of the new social movements.

### Citizenship

The elusiveness of the concept of citizenship is described by Sue Kenny:

If we have ever thought about the idea of citizenship, most of us have probably thought about it in the context of legal and constitutional frameworks and linked citizenship to such rights as the right to vote, or the right to receive social security payments or having a passport. Those of us who have begun to explore the conceptual territory of citizenship have found that the ideas of citizenship have been around for quite a while and have been subjected to a range of politically and socially loaded interpretations and claims.<sup>89</sup>

The common conceptions of citizenship in the contemporary socio-political context, result in 'citizenship' being 'ill-defined, poorly understood, confused and confusing'.<sup>90</sup> Dodson suggests that if a survey were conducted, asking Australians what citizenship means, it would result in inconsistent responses or 'vague platitudes'.<sup>91</sup> Yet, the issues of ethnic diversity and of access to rights denied by legal citizenship definitions occupy a good deal of the current reflections on citizenship.<sup>92</sup>

<sup>88</sup> Jennett & Stewart, *Politics of the Future*, 1989, p. 1.

<sup>89</sup> S. Kenny, 'Unpacking Citizenship', *Community Quarterly*, no. 44/45, September/December 1997, p. 49.

<sup>90</sup> Dodson, 'First Fleets', 1996, p. 193.

<sup>91</sup> Dodson, 'First Fleets', 1996, p. 193.

<sup>92</sup> J. M. Barbalet, 'Developments in Citizenship Theory and Issues in Australian Citizenship', *Australian Journal of Social Issues*, vol 31, no. 3, 1996, p. 62.

Aboriginal and Torres Strait Islander peoples do not enjoy the rights assumed to adhere to citizenship in general, and the question of distinct rights remains highly contested.<sup>93</sup> Those who believe that existing states and current concepts of citizenship have a cultural and gender bias are demanding recognition of differences and testing the extent to which such differences can be accommodated within liberal democratic frameworks.<sup>94</sup> Indigenous people are at the vanguard of these movements.

Despite increased attention to the political rights of Indigenous peoples over the last three decades, including the prohibition of racial discrimination, the granting of limited land rights and support for the development of Indigenous organisations, 'the slow recognition of indigenous rights has not translated into material improvements in the life situations of most Aborigines'.<sup>95</sup> Disempowerment and dispossession still characterise Indigenous peoples' relationships with the state, reinforcing the claim by Aboriginal peoples that by being free to determine their own destinies, their circumstances will improve.<sup>96</sup>

Citizenship has been criticised through the perception in modern political thought that the notion of citizenship status for all transcends particularity and difference.<sup>97</sup> Social movements of oppressed and excluded groups have queried why extension of equal citizenship rights has not led to social justice and equality.<sup>98</sup> Contemporary social movements of the oppressed assert a positivity and pride in group specificity against assimilation ideals, and the notion of differentiated citizenship<sup>99</sup> is gaining momentum. The new social movements have provoked developments in citizenship theory because they expand the experience of citizenship in new directions.<sup>100</sup> They have challenged the universal nature of citizenship concepts, as by their very nature social movements are significantly particularistic.<sup>101</sup>

<sup>93</sup> Dodson, 'First Fleets', 1996, p. 194.

<sup>94</sup> Peterson & Sanders, *Citizenship and Indigenous Australians*, 1998, p. 3.

<sup>95</sup> J. Chesterman & B. Galligan, *Citizens Without Rights: Aborigines and Australian Citizenship*, Cambridge University Press, Melbourne, 1997, p. 221.

<sup>96</sup> Dennis, 'Local Indigenous Rights', 1997, p. 9.

<sup>97</sup> Young, 'Polity and Group Difference', 1994, p. 386.

<sup>98</sup> Young, 'Polity and Group Difference', 1994, p. 386.

<sup>99</sup> Young, 'Polity and Group Difference', 1994, p. 387.

<sup>100</sup> Barbalet, 'Developments in Citizenship Theory', 1996, p. 63.

<sup>101</sup> Barbalet, 'Developments in Citizenship Theory', 1996, p. 64.

Although citizenship theorising has developed rapidly since the traditional analyses arising from the work of Marshall, the foundations are still set by his original framework. Marshall (1950) argued that there had been a gradual extension of citizenship rights from civil rights to political rights to social rights. Included in civil rights were such rights as the right to free speech; political rights included the right to vote; whereas social rights equated with the right to welfare or to live in accordance with the standards of a particular society. Although Marshall's framework presented a broad approach to understanding citizenship, it has been criticised for its ethnocentric, patriarchal and simplistic evolutionary approach to citizenship rights.<sup>102</sup> Critics have pointed to the highly differentiated access to rights in which women, Indigenous peoples and minority groups have been denied access.<sup>103</sup>

Dodson finds Marshall's framework on rights, applicable to the plight of Aboriginal people today. He supports the notion that unless one enjoys social rights, it is not possible to enjoy civil and political rights.<sup>104</sup> He argues that those who are deprived of legal representation, decent prison conditions and freedom from arbitrary arrest are those who are the poorest, sickest, least well-educated and most unemployed. 'This is undeniably the experience of Aboriginal and Torres Strait Islander peoples who are consistently the lowest or most violated on every scale measuring the enjoyment of rights in any category devised'.<sup>105</sup>

Many of those interviewed for my research expressed concern about their exclusion from full participation in Australian society, including exclusion from the democratic process and societal institutions. It is my contention that the rise and fall of Aboriginal self-determination represents an assault on full citizenship rights for Indigenous peoples. This is not surprising when an examination of the exclusionary regimes since colonial times shows they denied Aborigines the rights of citizenship, and empowered administrators to police the boundaries of citizenship.<sup>106</sup>

<sup>102</sup> Kenny, 'Unpacking Citizenship', 1997, p. 50.

<sup>103</sup> Kenny, 'Unpacking Citizenship', 1997, p. 50.

<sup>104</sup> Dodson, 'First Fleets', 1996, p. 211.

<sup>105</sup> Dodson, 'First Fleets', 1996, p. 211.

<sup>106</sup> Chesterman & Galligan, *Citizens Without Rights*, 1997, p. 212.

Self-determination is not a term widely used in analysing citizenship. For many 'mainstream' Australians it is perhaps an irrelevant concept, as the political structures reflect dominant white interests vested in commercial, property and trade union structures. Although there are a wide variety of groups entitled to justice within the Australian context, it is only the Indigenous people of this land who can claim a special interest in self-determination, based on claims of sovereignty and rights to land, and clouded by a history of colonisation and exploitation. They see their relationship with the Australian nation as requiring recognition of their status as original occupants, as 'first peoples'.<sup>107</sup> For many Indigenous peoples self-determination means increased political independence through forms of self-government. Yet, even when the rhetoric of self-determination is espoused by sympathetic governments in the Australian context, the underlying values of such policies have generally relied on non-Aboriginal frameworks.<sup>108</sup> This is evident with the rise of Aboriginal organisations which are required to adopt structural arrangements consistent with non-Aboriginal accountability requirements.<sup>109</sup> Originating with ideals which were culturally based, they have been drawn further into fields that operate in accordance with dominant frameworks based on European worldviews and knowledge. As Aboriginal people achieve autonomy, the state continues to make the rules, including the rules which define Aboriginal self-determination.<sup>110</sup> The policy of self-determination, while asserting the autonomy of Indigenous people, simultaneously denies autonomy and perpetuates the colonial relationship.<sup>111</sup> SNAICC conceives of self-determination as follows:

All peoples have the right to self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development.<sup>112</sup>

<sup>107</sup> S. Bennett, *White Politics and Black Australians*, Allen & Unwin, Sydney, 1999, p. 11.

<sup>108</sup> R. Folds, 'Assimilation by name... Why the Federal Government's Attempts to Achieve Social Justice for Indigenous Australians Will Never Succeed', *Australian Aboriginal Studies*, no. 1, 1993.

<sup>109</sup> N. D'Souza, *The Impact of Competition Policy on Aboriginal Non-Government Organisations*, SNAICC, 1999.

<sup>110</sup> I. Hughes, 'Dependent Autonomy: A New Phase of Internal Colonialism', *Australian Journal of Social Issues*, vol. 30, no. 4, November 1995, p. 381.

<sup>111</sup> Hughes, 'Dependent Autonomy', 1995, p. 381.

<sup>112</sup> SNAICC, *A New Framework for Recognising the Rights of Indigenous Children in Australia*, Submission to Australian Law Reform Commission Inquiry on Children and the Legal Process, May 1996, p.5.

The complexity of self-determination aspirations, located within a nation state which values homogeneity,<sup>113</sup> has not caught the imagination of either governments or the community at large. In Australia today, there is an evident backlash against Aboriginal rights, particularly those rights which are seen as intruding on economic development in the spheres of mining and agriculture. Mainstream support generally only extends to what may be loosely defined as an equality of opportunity, without recognition of the lack of a level 'playing field'. Reynolds suggests that the statement 'Are we not all supposed to be equal?' conceives of equality in terms of the individual, rather than the group, and is hence assimilationist.<sup>114</sup>

### Indigenous citizenship: inclusion and exclusion

A prevailing discourse among Indigenous leaders is that Indigenous people do not have full citizenship in their own land and are subject to exclusion, discrimination and human rights abuses.

The granting of formal citizenship rights has been a complex and beleaguered issue for Indigenous people in Australia. The 1948 *Nationality and Citizenship Act* which granted citizenship to all Australian citizens by birth, was automatically inclusive of Indigenous peoples. Peterson and Sanders argue however, that this piece of legislation was no more than an 'empty vessel' to which virtually no rights and obligations were attached.<sup>115</sup> In 1948 the myriad of earlier discriminatory legislation remained in place and Aboriginal people, despite their formal status as 'citizens', still had restricted rights.<sup>116</sup> It was not until 1962 that qualifications on their right to vote were removed by the Commonwealth, although in some states Indigenous people were able to vote earlier.<sup>117</sup>

<sup>113</sup> This move towards homogeneity of thinking, is evident in the statements of the Australian Prime Minister, Mr. John Howard, and other political leaders who use language which implies uniformity, including uniformity of goals, such as 'The Australian People', 'We are First and Foremost Australians' and 'The Australian People Want'. This trend towards uniformity has been critiqued by opponents of a 'universalising' Preamble to the new Australian Constitution, proposed by Prime Minister Howard in March 1999.

<sup>114</sup> Reynolds, 'Racism and Other National Discourses', 1997, p. 33.

<sup>115</sup> Peterson & Sanders, *Citizenship and Indigenous Australians*, 1998, p. 13.

<sup>116</sup> Peterson & Sanders, *Citizenship and Indigenous Australians*, 1998, p. 14.

<sup>117</sup> Australian Citizenship Council, *Contemporary Australian Citizenship*, February 1999, p. 7.

In the 1940s, certificates granting Aboriginal people the rights of Australian citizenship were made available in most states to those who cared to apply for them and who met the conditions.<sup>118</sup> Certificates could be revoked however, for example in Western Australia for not altering to the habits of 'civilised life'. It is significant that Aboriginal people largely rejected citizenship offers since it meant the severing of relationships with all Aboriginal people, other than immediate family.<sup>119</sup> Reece explains that even following the granting of citizenship, Aboriginal people were subjected to such forms of discrimination as the denial of voting rights and exclusion from the Census.<sup>120</sup> The granting of 'formal' citizenship can thus be assessed as a somewhat dubious honour, which did not place Aboriginal people on an equal footing with other Australians.<sup>121</sup>

The limits to citizenship for Indigenous people have been evident throughout the history of colonisation through regulation over place of residence, marriage, movement, children and place in society. Citizenship has been highly problematic for Aboriginal people who were formally excluded from it and yet subject to a particular and inferior status outside the nation, yet inside the state.<sup>122</sup> The recognition of citizenship on an individual basis has detracted from communitarian struggles, including land rights.

While positioning Aboriginal people at the bottom of the ladder of human evolution, in keeping with Social Darwinist ideologies, the new Australian Commonwealth excluded them from all rights and responsibilities thus relegating them to the status of permanent minors.<sup>123</sup> Combined with the exclusion of non-white immigrants, the new nation began to define what it meant to be Australian, with *exclusive* rather than *inclusive* terms of reference.<sup>124</sup> As Australian colonial society evolved, there was an expectation that all citizens would participate in and identify with a 'common culture' and this expectation included Indigenous

<sup>118</sup> Broome, *Aboriginal Australians*, 1982, p. 170.

<sup>119</sup> Broome, *Aboriginal Australians*, 1982, pp. 170-171.

<sup>120</sup> R.H.W. Reece, 'The Aborigines in Australian Bibliography', in ed. J. A. Moses, *Historical Discipline and Culture in Australia*, Columbia University Press, New York, 1979, p. 258.

<sup>121</sup> Freedman, *The Pursuit of Aboriginal Control*, 1989, p. 56.

<sup>122</sup> J. Pettman, *Living in the Margins: Racism sexism and feminism in Australia*, Allen and Unwin, Sydney, 1992.

<sup>123</sup> 81.

<sup>124</sup> Webb & Enstice, 1998, *Aliens and Savages*, p. 217.

Webb & Enstice, *Aliens and Savages*, 1998, p. 217.



Australians.<sup>125</sup> Aboriginality was constructed as a primitive social order, needing to be eliminated from the fabric of social life through civilising processes.<sup>126</sup>

In 1967, after much agitation from Aboriginal individuals and organisations, and non-Aboriginal supporters, a Referendum was passed which deleted exclusionary clauses from the Australian constitution. These provisions had enabled the Federal Parliament to have the powers to make laws with respect to ... the people of any race other than the Aboriginal race in any State ..., and to exclude Aboriginal people from the Census count. There has been considerable debate around the role of the Referendum which occurred during a period of conservative Coalition rule, with Harold Holt as Prime Minister. Even though there was bi-partisan support for the Referendum, its significance was more symbolic than real, as the form of constitutional change it effected did not result in changes of real significance for Aboriginal people. Despite what Attwood and Marcus describe as the 'talking up'<sup>127</sup> of the Referendum to equate with what some inaccurately saw as being the advent of 'full citizenship' or 'voting rights' it has been considered a landmark date for many in the Aboriginal community and was commemorated in a ceremony at the 1997 Australian Reconciliation Convention held in Melbourne. Celebration of the Referendum is contested by some commentators, including Dodson<sup>128</sup>, who argues that the 1967 Referendum 'only gave us entry into the back stalls at some of the shows'.<sup>129</sup> For SNAICC, the Referendum, although providing potential for change at a national level, has not resulted in the enactment of its quest for national legislation in the Indigenous child welfare area.<sup>130</sup>

Notwithstanding its limitations, the reformist agenda associated with the 1967 Referendum gave voice to a more radical agenda with a visible black leadership calling for changes at a variety of levels. Before the Referendum, Castan suggests, Aboriginal people were considered not as

<sup>125</sup> J. Goldlust, *Understanding Citizenship in Australia*, Bureau of Immigration and Multicultural and Population Research, Australian Government Publishing Service, Canberra, 1996.

<sup>126</sup> R. Van Krieken, *The Barbarism of Civilisation: Cultural Genocide and the "Stolen Generations"*, ERS Project, [www.usyd.edu.au/su/social/ers/ersframe.html](http://www.usyd.edu.au/su/social/ers/ersframe.html)

<sup>127</sup> B. Attwood & A. Marcus, *The 1967 Referendum or When Aborigines Didn't Get the Vote*, Australian Institute of Aboriginal and Torres Strait Islander Studies, Canberra, 1997.

<sup>128</sup> Mick Dodson is a former Aboriginal and Torres Strait Islander Social Justice Commissioner who had a lead role in the HREOC Inquiry.

<sup>129</sup> Dodson, 'First Fleets', 1996, p. 215.

<sup>130</sup> The quest for national legislation will be discussed in Chapter 9.

just 'non-citizens', but as non-people.<sup>131</sup> Government structural changes following the Referendum included the establishment of the Council for Aboriginal Affairs in 1967 and the Department of Aboriginal Affairs (DAA) in 1972.<sup>132</sup>

Stokes sees the Referendum as representing a different type of citizenship. Arguments for citizenship in the 1930s and 1940s were based on a notion of identity which suppressed Aboriginal difference. After 1967, Aboriginal people made political claims on the dual basis of equal citizenship rights and cultural difference.<sup>133</sup> Bennett suggests that the passage of the 1967 Referendum was 'relatively easy', as it was not only seen as fair, but it was also policy-free. He argues that once the generalities of this occasion were replaced by specific policies, there was a gradual realisation that Aboriginal aims would inevitably clash with the aims and needs of other interests.<sup>134</sup>

With the emergence of increasingly politicised Aboriginal and Islander communities, particularly through organisational structures, Indigenous peoples have strived for a meaningful form of both political and social citizenship. With the shifting of political recognition of Indigenous rights, there has been a shifting recognition of citizenship claims. It is argued that Indigenous demands have now reached a new low ebb with the rise in a mainstreaming discourse. Collective claims to a 'selfhood' which stands outside of the national model has become what Goodman defines as the 'enemy within'.<sup>135</sup>

The issue of inclusionary and exclusionary citizenship has been subject to a number of recent analyses of the extent of Aboriginal citizenship.<sup>136</sup> The feminist literature on citizenship provides some analytical tools for addressing this issue. Ruth Lister argues that inclusion and exclusion represent the two sides of the citizenship coin. Whereas much of the literature on citizenship traditionally focused on its inclusionary focus, more radical contemporary writings tend to portray citizenship as a force

<sup>131</sup> R. Castan, 'The Great Australian Silence', *The Australian Jewish News*, 16 April, 1999.

<sup>132</sup> Bennett, *White Politics and Black Australians*, 1999, p. 42.

<sup>133</sup> G. Stokes, 'Citizenship and Aboriginality: Two Conceptions of Identity in Aboriginal Political Thought', in ed. G. Stokes, *The Politics of Identity*, Cambridge University Press, Melbourne, 1997, p. 159.

<sup>134</sup> Bennett, *White Politics and Black Australians*, 1999, p. 44.

<sup>135</sup> J. Goodman, *Indigenous Citizenship Between Local and Global*, paper presented at ANZ Third Sector Conference, Melbourne, 1998, p. 2.

<sup>136</sup> For example Chesterman & Galligan 1997, Peterson & Sanders 1998.

for exclusion.<sup>137</sup> This analysis can be applied to the stolen generations, where the assimilationist rhetoric was about absorption and rights of Australian citizenship, but the policies and practices set in place to achieve this set

Aboriginal people apart from other citizens. These policies and practices, mainly applied to 'half-caste' children, reflected the obsession at the time with the ratio of 'white blood' which was seen to equate with the degree of potential for 'civilisation'. Van Krieken argues that such policies speak volumes about the darker side of 'science', in that it unleashed the eugenicism inherent in the Social Darwinist ideas on feeble-mindedness and biological inferiority.<sup>138</sup> Peterson and Sanders describe such policies as indicating 'cultural arrogance and racism'.<sup>139</sup>

Placing children into children's homes and white foster homes was one way of trying to rid Australian society of the 'otherness' which the presence of Aboriginal people symbolised. It can also be viewed as an extension of the concept of terra nullius, rendering Indigenous peoples invisible. Nigel D'Souza, acknowledging that the fiction of terra nullius has been abandoned in relation to native title, argues that the concept prevails in the field of social services 'where we are treated as welfare problem ... we need to decolonise the field of social welfare'.<sup>140</sup> Dodds argues that Aboriginal and Torres Strait Islander peoples were not simply overlooked in the process of nation building, but their status as rights bearers was actively undermined.<sup>141</sup> By ultimately ridding society of the visibility of Aboriginal people, there could be justification for the policies of exclusion, exploitation of the land and the development of a monocultural society. Yet, the endeavour to 'include' Aboriginal people in the polity still resulted in their exclusion as they never met the conditions of being 'white', equating to what Frow refers to as a definition of race in 'self-cancelling terms by a double negative'.<sup>142</sup>

Assimilationist policies constituted a means of providing full civil rights to Indigenous people, rights which were dependent on the relinquishment

<sup>137</sup> R. Lister, *Citizenship: Feminist Perspectives*, 1997, p. 42.

<sup>138</sup> R. Van Krieken, *Children and the State*, 1992, p. 128.

<sup>139</sup> Peterson & Sanders, *Citizenship and Indigenous Australians*, 1998, p. 15.

<sup>140</sup> N. D'Souza, 'The Secretariat of the National Aboriginal and Islander Child Care', *Aboriginal and Islander Health Worker Journal*, vol. 18, no. 1, Jan/Feb 1994, p. 27.

<sup>141</sup> S. Dodds, 'Citizenship, Justice and Indigenous Group-specific Rights - Citizenship and Indigenous Australia', *Citizenship Studies*, vol. 2, no. 1, 1998, p. 106.

<sup>142</sup> Frow, 'A Politics of Stolen Time', 1998, p. 358.

of their culture and identity. The separation of Indigenous children from their families and communities is a clear example of how a category of people were excluded from the full citizenship accorded to other Australians, through the imposition of selective and discriminatory legislation, policies and practices. Yet at the same time the prevailing ideology driving such policies was to create a society of 'equals', with Aboriginal children growing into an adulthood in which they would be white, 'civilised' and 'Christianised'. The policy of assimilation demanded that Aboriginal people give up their culture and their land.<sup>143</sup> It represented a trend to the development of a society in which 'otherness' was devalued and to be erased.

Rose takes this analysis a step further, referring to a notion of colonisation which continues to the present day, based on clearing out the country for the white presence and constructing Aboriginality as 'a condition to be transcended'.<sup>144</sup> Similarly, Dodson notes that the creation of modern Australia and the assertion of its legitimacy, required the 'displacement and annihilation, conceptually and in practice, of another, or other, pre-existing nations'.<sup>145</sup> Policies of self-determination assert the autonomy of Indigenous people, while at the same time denying autonomy and perpetuating a colonial relationship.<sup>146</sup> Social constructs of exclusion are linked with temporal constructs of progress to produce a divide between privilege and pain, with the associated practices appearing natural as they can be represented as 'an inevitable consequence of history'.<sup>147</sup> According to Dodson once the 'new order' was defined as the standard, anything else was defined as deviant and unlawful.<sup>148</sup> Examples given by Dodson include strapping a child in mission school for speaking his or her own language, or women seeking to prevent a development project in order to protect their sacred site.<sup>149</sup>

<sup>143</sup> T. Rowse, 'Indigenous Citizenship and Self-Determination: The Problem of Shared Responsibilities', in eds. Peterson & Sanders, *Citizenship and Indigenous Australians*, 1998, p. 80.

<sup>144</sup> Rose, 'Dark Times', 1997, p. 107.

<sup>145</sup> Dodson, 'First Fleets', 1996, p. 194.

<sup>146</sup> Hughes, 'Dependent Autonomy', 1995, p. 381.

<sup>147</sup> Rose, 'Dark Times', 1997, p. 107.

<sup>148</sup> Dodson, 'First Fleets', 1996, p. 195.

<sup>149</sup> Dodson, 'First Fleets', 1996.

### A pluralist Indigenous citizenship?

Despite a backlash against the type of heterogeneous and diverse society which Australia has become, there is much talk about the celebration of diversity within a multicultural framework. There is little talk however, of celebration of our Indigenous heritage in a way which is meaningful to Indigenous people. It is important, as noted by Dessaix, that in celebrating diversity we do not reinforce the notion of 'theme park' and officially sponsored 'infotainment'.<sup>150</sup> There is a danger that during such events as the 2000 Olympic Games in Sydney that Aboriginal cultural displays will be little more than an 'add on' ingredient.

Dodson refers to the 'societal stability' argument which is posed by those who argue that we must have one national system of institutions which must apply universally to all Australians, irrespective of their particular status.<sup>151</sup> In order to promote the primacy and dominance of the chosen system, it may be necessary to actively discourage, suppress, marginalise or 'neglect benignly' other competing systems, with such sacrifices required 'in the name of justice, stability and the majority interest'.<sup>152</sup>

Stratton comments that the vision of the current Australian Prime Minister, John Howard, is limited to 'one nation', 'one Australia'.<sup>153</sup> The Executive Director of the Kimberley Land Council in Western Australia, Peter Yu, comments that endeavours to engage in any debate about the relationship between Indigenous Australians and the nation as a whole has been seen as somehow 'un-Australian', further stating:

We are Australia's Indigenous peoples. We are not just another minority ethnic group, we are the first peoples of this land, and we continue to have—as we have always had—our own internal system of law, culture, land tenure, authority and leadership.<sup>154</sup>

Furthering this assertion, a former Chairperson of ATSIC, Gadjil Djerrkura, revealed that Aboriginal and Torres Strait Islander people, in a consultation process regarding a proposed treaty, 'were adamant that there could be no acknowledgment in a treaty that Indigenous sovereignty had ever been ceded'.<sup>155</sup>

<sup>150</sup> R. Dessaix, 'Citizens all let us rejoice...', *The Age*, 24 January, 1998, p. 6.

<sup>151</sup> Dodson, 'First Fleets', 1996, p. 199.

<sup>152</sup> Dodson, 'First Fleets', 1996, p. 199.

<sup>153</sup> Stratton, *Race Daze*, 1998, p. 53.

<sup>154</sup> P. Yu, 'The Fundamental Challenge', *Walking Together*, Council for Aboriginal Reconciliation, Canberra, November 1998, p. 9.

<sup>155</sup> G. Djerrkura, 'Living Document', *Walking Together*, November 1998, p. 10.

Rowse discusses a notion of Indigenous citizenship which alludes to corporate citizenship.<sup>156</sup> This notion recognises that citizenship 'responsibilities' have become vested in Aboriginal organisations and thus Indigenous collectivity rather than individual rights are the focus of attention. It is often argued that recognising and promoting the rights of minority groups or Indigenous peoples constitutes a threat to individual human rights, maintaining that group rights create distinctions between citizens.<sup>157</sup> These group rights have been derided by a society which emphasises individual rights.<sup>158</sup> To recognise the group rights of Aboriginal peoples would require a significant institutional transformation, which would then justify Australia using the label of post-colonial nation.<sup>159</sup>

The Eurocentric frameworks which shape the thinking in the West have an impact on how the dominant society expresses divergent notions of rights. Social perspectives that express alternative values or paradigms have been excluded, marginalised and frequently criticised, with Australians generally comfortable with the ideas that Indigenous people should have individual rights, but disturbed by the idea that groups have rights because they are groups with a particular history.<sup>160</sup> In Australia many social systems, including welfare systems, have built into them assumptions about society which derive from and support the values, beliefs and status of particular groups to the detriment of other groups.<sup>161</sup>

The protection and promotion of collective rights can be seen as a pre-requisite for the exercise and enjoyment of individual rights, and the argument that the protection of collective rights is a threat to individual human rights presupposes that collective and individual rights are irreconcilable.<sup>162</sup> Many people worry that group-differentiated rights for minority cultures will inhibit the development of a shared identity considered necessary for stable social order.<sup>163</sup> As individual rights are

<sup>156</sup> Rowse 'Indigenous Citizenship and Self-Determination', 1998.

<sup>157</sup> Federal Race Discrimination Commissioner, *Alcohol Report*, Australian Government Publishing Service, 1995, p. 23.

<sup>158</sup> Dodson, 'First Fleets', 1996, p. 217.

<sup>159</sup> Dodson, 'First Fleets', 1996, p. 218.

<sup>160</sup> Reynolds, 'Racism and Other National Discourses', 1997, p. 33.

<sup>161</sup> South Australian College of Advanced Education, *Race Relations in Australia*, 1985.

<sup>162</sup> Federal Race Discrimination Commissioner, *Alcohol Report*, 1995.

<sup>163</sup> W. Kymlicka, *Multicultural Citizenship: A Liberal Theory of Minority Rights*, Oxford University Press, Oxford, 1995, p. 9.

liberal democracy's most basic commitment to the freedom and equality of all, this raises the issue of how liberals can accept the demand for group-differentiated rights by minorities.<sup>164</sup>

Since the time of colonisation, policy impositions have plagued Aboriginal people, and have given little credence to the importance of constructing citizenship notions which differentiate between passive and active citizenship.<sup>165</sup> Although passive rights, those derived from 'above', and which may be based on notions of social justice or legal obligations, are a necessary component of citizenship development, to ensure full citizenship, people must be empowered to participate in the continual processes of 'shaping their society, their communities and their identities'.<sup>166</sup> This form of active citizenship for Aboriginal people has been rare in the Australian context. A useful distinction is one coined by Dessaix of *denizen*, as opposed to *citizen*, the former term relegating to the position of mere inhabitant or occupant.<sup>167</sup>

The need for citizenship analysis to be extended into the sphere of human rights has been advocated by Turner, who argues that some combination of human rights and citizenship institutions appears to be essential for developing policies towards marginalised groups.<sup>168</sup> He is cognisant of criticisms encountered by the human rights movement for adopting western individualism as the framework for the modern exercise of such rights.<sup>169</sup> Barbalet notes that human rights are generally conceived as 'those rights which are not given by states but which state action potentially contravenes'.<sup>170</sup>

In recent decades there have been endeavours by scholars to deconstruct inevitability and to analyse agency.<sup>171</sup> There is now in existence a wide body of anthropological, legal and sociological work which makes untenable any assertion that 'indigenous legal, political, cultural and social systems no longer exist or have no comparative validity in the

<sup>164</sup> Kymlicka, *Multicultural Citizenship*, 1995, p. 34.

<sup>165</sup> Kenny, 'Unpacking Citizenship', 1997, p. 52.

<sup>166</sup> Kenny, 'Unpacking Citizenship', 1997, p. 52.

<sup>167</sup> Dessaix, 'Citizens all let us rejoice', 1998, p. 6.

<sup>168</sup> B.S. Turner, (1993), 'Outline of a Theory of Human Rights', in eds. B.S. Turner & P. Hamilton, *Citizenship: Critical Concepts*, Routledge, London, 1994, p. 470.

<sup>169</sup> Turner, 'Outline of a Theory of Human Rights', 1993, p. 471.

<sup>170</sup> Barbalet, 'Developments in Citizenship Theory', 1996, p. 64.

<sup>171</sup> Rose, 'Dark Times', 1997, p. 107.

modern Australian nation'.<sup>172</sup> If it is accepted that peoples are distinct political entities, in line with notions of self-determination, then requiring the imposition of uniform requirements and standards is not logical.<sup>173</sup>

There is a cultural, moral, legal and political obligation for a reconstruction of the state to include the distinct political rights of indigenous peoples'.<sup>174</sup> The presentation of sovereign claims against powerful state ideologies of assimilation, represent Indigenous rights to self-determination as continuous and inalienable.<sup>175</sup>

The 1965 United Nations Convention on the Elimination of All Forms of Discrimination, which has been ratified by Australia, has resulted in a contest as to its meaning.<sup>176</sup> Some would argue that it means no more than equality of opportunity, through the removal of barriers which prevent peoples' rights. However, according to Dodson, freedom from racial discrimination in line with the Convention does not merely mean that everyone has the right to equality before the law and the full enjoyment of human rights. What is required is that the *outcome* and not only the formal processes are non-discriminatory.<sup>177</sup> This is highly relevant to SNAICC's agenda. The clear evidence that Aboriginal children are over-represented in both the child welfare and juvenile justice systems demonstrates that 'equal provisions' are not sufficient and additional measures based on Aboriginal cultural values are called for. Moreover, evidence has demonstrated that the so-called equal provisions have been discriminatorily applied in respect to Aboriginal children, representing a citizenship constructed from broken promises. Chairman of the Cape York Land Council, Noel Pearson, in presenting options for Indigenous citizenship in 1997, raised the issue of whether Australians were capable of recognising the right of Indigenous groups within the nation to have the power and facility of self-determination.<sup>178</sup> Other pessimistic views abound, with Chesterman and Galligan referring to Indigenous Australians as citizens without rights.<sup>179</sup> Dodson has coined the term 'citizen minus'.<sup>180</sup>

<sup>172</sup> Dodson, 'First Fleets', 1996, p. 197.

<sup>173</sup> Dodson, 'First Fleets', 1996, p. 203.

<sup>174</sup> Dodson, 'First Fleets', 1996, p. 205.

<sup>175</sup> Goodman, *Indigenous Citizenship*, 1998, p. 3.

<sup>176</sup> Dodson, 'First Fleets', 1996, p. 213.

<sup>177</sup> Dodson, 'First Fleets', 1996, p. 214.

<sup>178</sup> Cited in Goodman, *Indigenous Citizenship*, 1998, p. 11.

<sup>179</sup> Chesterman & Galligan, *Citizens Without Rights*, 1997.

<sup>180</sup> Dodson, 'First Fleets', 1996, p. 193.



Arguments for a two-pronged approach to Indigenous citizenship have been presented by Dodds, based on *equal rights* and *Indigenous group-specific rights*, to respond adequately to demands for justice by Indigenous peoples.<sup>181</sup> For Turner, the growth of modernity has resulted in movement away from de-jure inequalities in terms of legitimate status hierarchies, to de-facto inequalities as a consequence of market forces.<sup>182</sup> This is played out through various forms of insidious exclusion which those subscribing to a liberal democratic philosophy, a prevailing paradigm at the current time, with its emphasis on individualism, fail to recognise. Dodds refers to the still remaining image of the white male, propertied head of household as the paradigm citizen, which although not explicitly defined still lurks in liberal political theory.<sup>183</sup>

In advocating a two-pronged approach, there is a need to ensure that the paternalism of the traditional welfare 'hand-out' approach does not linger in the approach to equal rights. Bird argues, that 'the paternalism of the old Empire has not disappeared in Australia in the 1990s.'<sup>184</sup> Australian government social justice policies have tended to operate on a welfare model in which the identification of areas of need results in the redistribution of resources.<sup>185</sup> Critics have argued that this is an inappropriate basis on which to pursue justice for Indigenous peoples, since the welfare model reinforces feelings of powerlessness by the recipients.<sup>186</sup> Peter Yu presents a challenge:

The nation faces a choice. Government can continue to administer an essentially colonial relationship between Indigenous and non-Indigenous Australia, re-investing in welfarism, with all its past and present failures. Or the nation can choose a different path, one which not only establishes a new and just relationship, but also provides practical and workable solutions to the chronic social and economic problems faced by many Indigenous Australians.<sup>187</sup>

<sup>181</sup> Dodds, 'Citizenship, Justice and Indigenous Group-specific Rights', 1998.

<sup>182</sup> B. S. Turner, *Citizenship and Capitalism: The Debate Over Reformism*, Allen & Unwin, London, 1986, p. 136.

<sup>183</sup> Dodds, 'Citizenship, Justice and Indigenous Group-specific Rights', 1998, p. 111.

<sup>184</sup> Bird, *The Stolen Children*, 1998, p. 4.

<sup>185</sup> P. Patton, 'Post-structuralism and the Mabo Debate: Difference, Society and Justice', in eds. M. Wilson and A. Yeatman, *Justice and Identity: Antipodean Practices*, Allen & Unwin, Sydney, 1995, p. 166.

<sup>186</sup> Patton, 'Post-structuralism', 1995, p. 166.

<sup>187</sup> Yu, 'The Fundamental Challenge', 1998, p. 9.

The Royal Commission into Aboriginal Deaths in Custody called for governments and non-Aboriginal society to accept the necessity for Aboriginal people 'to be empowered, to identify, effect and direct the changes which are required', also acknowledging that 'the process of empowerment is at the same time the process of self-determination'.<sup>188</sup> This view was echoed in the report of the Stolen Generations Inquiry which noted that not a single submission to the Inquiry from Indigenous organisations saw intervention from welfare departments as an effective way of dealing with the protective needs of Indigenous children.<sup>189</sup>

Affirmative action policies, often seen as short term measures to allow Indigenous people to reach an 'acceptable standard', may serve a useful function. However, they still need to be couched in terms of a self-determining framework with recognition that 'community control' is paramount to Indigenous demands, including in the child welfare field.<sup>190</sup> Unfortunately, such policies are sometimes perceived as temporary measures needed to move more rapidly towards a colour-blind society.<sup>191</sup>

There is a danger that an over-emphasis on the 'equality' aspect falls into the hands of the liberal ideologues who tend to focus on individual rights. Such a focus limits the possibilities for Indigenous rights and justice.<sup>192</sup> Demands such as those for fair pay and access to social services fit readily into liberal conceptions of citizenship, justice and the state, but a liberal discourse 'is less adept at responding to claims of entitlements based on alternate property systems or historic injustice towards identifiable groups'.<sup>193</sup> Cultural identification is not recognised by most liberal theorists as a ground for any group-specific rights, but purely a private matter in which individuals are free to participate.<sup>194</sup> The policies and ideology of the current Federal Government in Australia reflect the view that Aboriginal people are a minority who suffer particular

<sup>188</sup> Royal Commission into Aboriginal Deaths in Custody, *National Report*, vol. 2, Australian Government Publishing Service, Canberra, 1991, pp. 501-502.

<sup>189</sup> HREOC, *Bringing Them Home*, 1997, p. 454.

<sup>190</sup> Freedman, *The Pursuit of Aboriginal Control*, 1989.

<sup>191</sup> Kymlicka, *Multicultural Citizenship*, 1995, p. 4.

<sup>192</sup> Dodds, 'Citizenship, Justice and Group-specific Rights', 1998, p. 112.

<sup>193</sup> Dodds, 'Citizenship, Justice and Group-specific Rights', 1998, p. 113.

<sup>194</sup> Dodds, 'Citizenship, Justice and Group-specific Rights', 1998, p. 114.

disadvantages, not that they are Indigenous people with rights and status.<sup>195</sup> Tatz refers to a turning back of the clock to what looks like 'old time Christian paternalism'.<sup>196</sup>

This is not to argue that Indigenous communities are not entitled to the same basic rights as other citizens.<sup>197</sup> The point at which justice for Aboriginal and Islander communities conflicts with liberal principles concerns those rights to which they may be entitled 'by virtue of their cultural specificity and status as indigenous peoples'.<sup>198</sup> A dual approach to citizenship goes some way towards achieving the concept of a differentiated citizenship<sup>199</sup> and moves away from the notion of a purely homogeneous citizenship. Young argues that the 'inclusion and participation of everyone in social and political institutions therefore sometimes requires the articulation of special rights that attend to group differences in order to undermine oppression and disadvantage'.<sup>200</sup> Mickler refers to the 'tortuous routine' of justifying exception, with the existence of opposition which renders sovereignty into the realm of privilege and handout.<sup>201</sup> He comments on the rendering of sovereignty to be 'a utopian fantasy, an idealistic whimsy or an ideological distraction from the mundane pragmatics of everyday life'.<sup>202</sup>

The continuum of liberal philosophies, which emanate from the work of John Stuart Mill, is predicated on an understanding that the ways of life of Europeans are somehow *a priori*.<sup>203</sup> The early American republicans for example were explicit about the need for the homogeneity of citizens and the presence of a variety of groups, including Native Indians posed a threat that only assimilation, extermination or dehumanisation could thwart.<sup>204</sup> They defined moral, civilised republican life in opposition to this 'backward-looking, uncultivated desire that they identified with women and nonwhites'.<sup>205</sup> In Australia until the late 1960s and even beyond, a commonly held view existed that Aboriginal people were

<sup>195</sup> N. D'Souza, 'Aboriginal Affairs Policy - A Question of Identity', *Impact*, ACOSS, 1996.

<sup>196</sup> C. Tatz, 'Where are the wise White voices?', *Sydney Morning Herald*, 1996, p. 15.

<sup>197</sup> Patton, 'Post-structuralism', 1995, p. 167.

<sup>198</sup> Patton, 'Post-structuralism', 1995, p. 167.

<sup>199</sup> Young, 'Polity and Group Difference', 1994, p. 387.

<sup>200</sup> Young, 'Polity and Group Difference', 1994, p. 387.

<sup>201</sup> S. Mickler, *The Myth of Privilege*, Fremantle Arts Press, South Fremantle, 1998, p. 289.

<sup>202</sup> Mickler, *The Myth of Privilege*, 1998, p. 293.

<sup>203</sup> C. Samson, 'The Dispossession of the Innu and the Colonial Magic of Canadian Liberalism', *Citizenship Studies*, vol. 3. No. 1, 1999.

<sup>204</sup> Young, 'Polity and Group Difference', 1994, p. 390.

<sup>205</sup> Young, 'Polity and Group Difference', 1994, p. 390.

inferior, and their culture incompatible with the modern world; thus assimilation was seen as a solution.<sup>206</sup> Aboriginal people could thus become worthy citizens through the erasing of difference, acquiring 'the cultural and social competencies of the colonisers'.<sup>207</sup> As a contrasting discourse, others are now formulating a view of citizenship rights which acknowledges the colonial past. Mulgan argues that with the discrediting of notions of the 'civilising mission', comes a quest for the restoration of rights lost through colonisation. This means that the settler and migrant majorities must accept that their own political community rests on unjust colonial conquest.<sup>208</sup>

There is room for further theorising on Indigenous citizenship, as the terminology of citizenship, with its broad connotations, has only recently found its way into a discourse of Indigenous citizenship. Although the struggle for separate nationhood in Canada is distinct from Australian Indigenous struggles for self-determination, it is interesting to note that the use of the term 'citizenship' is somewhat contested in the Canadian context as it is seen as the language of the neo-colonialist state which is not regarded as appropriate in framing the discourse of post-colonialist empowerment.<sup>209</sup> Nonetheless, the wielding of the 'tools of the oppressor' is seen by the Mohawks as a 'Foucaultian act of empowerment'.<sup>210</sup>

In the theoretical literature and its practical applications, citizenship remains contested and bound by ideological constraints in a society which has adopted a fractured approach to identity and difference. Patton suggests the way forward:

For the attainment of a society in which cultural differences are recognised and valued as such will require ongoing shifts in non-indigenous people.<sup>211</sup>

<sup>206</sup> Attwood & Marcus, *The 1967 Referendum*, 1997, p. 16.

<sup>207</sup> Peterson & Sanders, *Citizenship and Indigenous Australians*, 1998, p. 5.

<sup>208</sup> R. Mulgan, 'Citizenship and Legitimacy in Post-colonial Australia', in eds. Peterson & Sanders, *Citizenship and Indigenous Australians*, 1998, p. 179.

<sup>209</sup> E. J. Dickson-Gilmore, 'Iata-Onkwehonwe: Blood Quantum, Membership and the Politics of Exclusion in Kahnawake', *Citizenship Studies*, vol. 3, no. 1, 1999.

<sup>210</sup> Dickson-Gilmore, 'Iata-Onkwehonwe', 1999, p. 2.

<sup>211</sup> Patton, 'Post-structuralism', 1995, p. 169.

## CHAPTER 4 REFLECTING METHODOLOGY

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To do successful oral biography you have to believe that other people's lives and stories are important and worth recording.<sup>1</sup>

The purposes of the current research were defined by SNAICC as being for two purposes. Firstly, to give recognition to those involved in endeavours to change Aboriginal and Islander child welfare policy and to give voice to those who have been advocates for the rights of Indigenous children and families. The second aim is to record specific historical events from an Indigenous perspective, and to publicise the struggles and achievements of those involved in the child welfare area.

In keeping with these directions, this chapter discusses the main means of data collection which comprises oral history interviews and an analysis of SNAICC documentation. It establishes the position of the subjective researcher, highlights ethical issues which arise for a non-Indigenous researcher and explores the centrality of narrative.

### Methodological overview

In accordance with SNAICC's wishes and consistent with Indigenous ways of transmitting information, *oral history* was the major method of collecting data (32 interviews, with participants selected by SNAICC), supported by supplementary data-collection which utilised SNAICC's own written documentation. Broadly, an ethnographic approach was taken to collecting information. Contemporary ethnography or field work is viewed as a multimethod research approach, usually including such components as observation, participation, archival analysis and interviewing.<sup>2</sup> Kellehear asserts that ethnography is less a method than an approach to analysing and portraying a social system.<sup>3</sup> Ethnographic significance is 'derived socially, not statistically, from discerning how

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<sup>1</sup> J. Perry, 'Hear Me Talking To You - Doing Oral Biography', in eds. M. Crick & B. Geddes, *Research Methods in the Field: Eleven Anthropological Accounts*, Second edition, Deakin University Press, Geelong, 1998, p. 220.

<sup>2</sup> S. Reinharz (with L. Davidman), *Feminist Methods in Social Research*, Oxford University Press, New York, 1992, p. 46.

<sup>3</sup> A. Kellehear, *The Unobtrusive Researcher: A Guide to Methods*, Allen & Unwin, Sydney, 1993.

ordinary people in particular settings make sense of the experience of their everyday lives'.<sup>4</sup> Oral history conducted in this manner, is a 'bottom up' approach with the potential to be an egalitarian research process.<sup>5</sup> The academic historian wrote principally for other historians, but since the 1960s their cultural authority has been gradually

eroded. In recent years there has been a return to the storytelling function, a celebration of the imaginative elements in historical reconstruction, a greater awareness of history writing as a literary practice.<sup>6</sup> It has also been a means of relaying experiences of violence, loss, separation and discrimination.

Oral history is not the domain of any particular discipline, and in conducting my research I have spanned a range of disciplinary areas. As McGrath suggests, Aboriginal history has not been marginalised as an obscure specialisation but is recognised as leading the discipline in new directions.<sup>7</sup> These new directions for me involved my work being informed by a range of areas of knowledge, or what Clendinnen refers to as a 'bowerbird' approach,<sup>8</sup> including history, politics, ethnography and narrative. I also drew on Aboriginal areas of knowledge and information-transmission, including autobiographical work. Details of the research process are presented later in this chapter.

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<sup>4</sup> M. F. Wolcott, 'Ethnographic Research in Education', in ed. R.M. Jaeger, *Complementary Methods for Research in Education*, American Educational Research Association, Washington, 1988, p. 75.

<sup>5</sup> K. Blee, 'Evidence, Empathy and Ethics: Lessons from Oral Histories of the Klan', in eds. R. Perks & A. Thomson, *The Oral History Reader*, Routledge, London, 1998, p. 333.

<sup>6</sup> P. Hamilton, 'The Knife Edge: Debates About Memory and History', in eds. K. Darian-Smith & P. Hamilton, *Memory and History in Twentieth-Century Australia*, Oxford University Press, Melbourne, 1994, p. 25.

<sup>7</sup> A. McGrath, *Contested Ground*, 1995, p. 385.

<sup>8</sup> S. Freeman-Greene, 'Bearing Witness', *The Age*, 26 December 1998, p. 2.

## Subjectivity and purpose

Throughout this thesis, consideration has been given to ensuring that the methodological approach developed was culturally sensitive to Aboriginal people, and did not perpetuate what has often been seen as the imperialistic imposition of research on Aboriginal people as 'research objects'. In engaging in the research I have not come from a position of detachment, having had a long association with SNAICC as well as being highly supportive of its ideology and purposes. I concur with such writers as Wadsworth<sup>9</sup> and Toseland<sup>10</sup> that there is no such thing as the value-free pursuit of knowledge. Parlett and Hamilton have noted concern over subjectivity and 'gross partiality' on the part of the researcher, yet they contend that any research is vulnerable with none immune to prejudice, bias and human error.<sup>11</sup> In relation to her work in the sphere of education, Thompson notes that she could not have taught for nearly twenty years without gaining some understanding of what teaching and learning entails and to 'strip this away, and come to the research clear from my pre-judgements, would have been impossible and would have impoverished the study'.<sup>12</sup> My experience similarly demonstrated that my twenty years involvement in Aboriginal child welfare, particularly collaborative activities with Aboriginal organisations and advocacy roles, prepared me for the research in a way that 'objectivity' could never have done. Without empathy it is most unlikely that responses from participants would be complete, or that those responses would be as fully appreciated and understood.<sup>13</sup> My research constituted what Reason describes as 'living inquiry' which is passionate, committed, involved and personal.<sup>14</sup>

<sup>9</sup> Y. Wadsworth, *Do It Yourself Social Research*, Victorian Council of Social Service & Melbourne Family Care Organisation, Melbourne, 1984.

<sup>10</sup> R. W. Toseland, 'Choosing an Appropriate Research Method', in ed. R. M. Grinnell, *Social Work Research and Evaluation*, F. E. Peacock Publishers, Illinois, 1981.

<sup>11</sup> M. Parlett & D. Hamilton, (1972), 'Evaluation as Illumination: A New Approach to the Study of Innovative Programmes', in eds. D. Hamilton; D. Jenkins; C. King; B. MacDonald & M. Parlett, *Beyond the Numbers Game: A Reader in Educational Evaluation*, Macmillan Education, London, 1977, p. 18.

<sup>12</sup> D. Thompson, *Telephone-mediated Academic Discourse*, unpublished PhD thesis, Deakin University, 1994, p. 83.

<sup>13</sup> D. Thompson, *Telephone-mediated Academic Discourse*, 1994, p. 83.

<sup>14</sup> P. Reason, 'Reflections on the Purposes of Human Inquiry', *Qualitative Inquiry*, vol. 2, no. 1, 1996, p. 17.

Locating myself at the SNAICC office for the fieldwork stage of my research made me perceive my role as that of 'temporary insider', placing myself at the heart of the experiences I wished to understand.<sup>15</sup> This physical location, combined with my support for the work of the Organisation, enabled me to gain the trust of participants which in turn facilitated the interview process. This is consistent with the experiences of Moran, who, in researching an educational institution, noted that her views, theories and attitudes were integral to the research process.<sup>16</sup> She comments that her own background and values were intimately connected with the institution which she studied, and she felt

that this not only helped her explain what she looked for and found, but how she maintained that crucial 'fire in the belly' throughout the project.<sup>17</sup>

Acquiring knowledge from Indigenous people required me to learn a new set of social relations, a new set of cultural and intellectual traditions.<sup>18</sup>

During the course of conducting the research, I was a participant observer for a six month period, examining the archives, attending meetings, conducting interviews and joining in the day-to-day activities of the Organisation. Moran comments that gaining formal access to an institution is one thing, but how you are treated once inside is another.<sup>19</sup> As a quasi-participant I was able to engage in a variety of activities as a SNAICC representative, a status derived from extending my brief from researcher to an 'honorary' member of staff. I was however, conscious of the limits to this role, recognising that although I would retain my involvement with SNAICC when the research ended, I would revert to my primary role of 'academic'.

Swain notes that calls for the rejection of the notion of objectivity in favour of empathy and mutuality has 'opened up a space for the recognition of compassion rather than avoidance as an essential part of

<sup>15</sup> C. M. Ponticelli, 'The Spiritual Warfare of Exodus: A Postpositivist Research Adventure', *Qualitative Inquiry*, vol. 2, no. 2, 1996, p. 202.

<sup>16</sup> L. Moran, 'Documentary and Oral Testimony in Institutional Research', in eds. M. Crick & B. Geddes, *Research Methods in the Field: Ten Anthropological Accounts*, 1993, p. 236.

<sup>17</sup> Moran, 'Documentary and Oral Testimony', 1993, p. 236.

<sup>18</sup> W. Stevenson, *Commentary: Issues in the Oral History of Indigenous Peoples*, paper presented at Oral History Conference, Buffalo New York, October 1998, p. 4.

<sup>19</sup> Moran, 'Documentary and Oral Testimony', 1993, p. 254.



the interview process'.<sup>20</sup> The ethnographic process can be viewed as 'subjective soaking' where one abandons the idea of absolute objectivity or scientific neutrality and merges oneself into the culture under study.<sup>21</sup> This extends to a subjective valuing of the experiences of research participants, in which individual contributions are exposed. Moran refers to the impossibility of maintaining anonymity in such work, noting that for the most part attributing action and motive to particular individuals is not controversial.<sup>22</sup> She states that a convincing history demands narrative which brings the players to life 'and therefore deals in some measure with their strengths and failings, passions and foibles'.<sup>23</sup> This was indeed the intent of SNAICC in requesting a story which recognised individual and group contributions.

Although embracing Moran's approach of bringing life to the study through narrative, I was conscious throughout the process of being simultaneously accurate while exercising caution about the continuing environment and reputation of the players.<sup>24</sup> I considered I needed a balance between representing all views and not becoming a 'censor', while avoiding issues of gossip and personal criticism of others. Where participants' statements appeared to be controversial, I have allowed the words to be spoken in their entirety rather than risking my own interpretations through editing. This helps to counter positioning myself as an interpreter, presenting as a privileged witness.<sup>25</sup> To further minimise this risk, I sent the transcripts of the recorded interviews to the interview participants, with an invitation to delete or change any material with which they were not satisfied. I was cautious of the inclusion of material assessed by me to be of a sensitive cultural nature, transmitted through the interview process. Although I concur, to some degree, with Clendinnen's view that it is necessary to face the truth of a situation regardless of the pain,<sup>26</sup> I also believe that in the telling of a collective story, individual narratives which may cause pain to others are best avoided. As some of the issues raised by those interviewed may cause

<sup>20</sup> S. Swain, 'Honouring the gift: Ethical considerations in the oral history relationship', *Crossing Borders*, no. 19, Oral History Association of Australia, 1997, p. 16.

<sup>21</sup> R. F. Ellen (ed.), *Ethnographic Research: A Guide to General Conduct*, Academic Press, New York, 1984, p. 52.

<sup>22</sup> Moran, 'Documentary and Oral Testimony', 1993, p. 249.

<sup>23</sup> Moran, 'Documentary and Oral Testimony', 1993, p. 249.

<sup>24</sup> Moran, 'Documentary and Oral Testimony', 1993, p. 249.

<sup>25</sup> G. Nijhof, 'Response Work: Approaching Answers to Open Interviews as Readings', *Qualitative Inquiry*, vol. 3, no. 2, 1997, p. 177.

<sup>26</sup> Cited in Freeman-Greene, 'Bearing Witness', 1998, p. 2.

distress to others if permitted to enter the public domain, I needed to use my discretion as to what to include and what to exclude. This for me was part of the researcher-participant relationship characterised by trust, collaboration, shared knowledge and mutuality of purpose.<sup>27</sup> The work of Fine and Weis takes this a step further, suggesting that there is nothing straightforward about reporting or withholding such data, as each strategic decision of scholarship bears theoretical, ethical and political consequences.<sup>28</sup> To ignore the data is to deny the effects; to report the data is to risk likely misinterpretation.<sup>29</sup> In the process of the research, I became conscious that, in winning the trust of participants, some wished to disclose issues beyond the research brief. The final responsibility for what is included and what is excluded rests in my hands.

Choo alerts researchers to be mindful of the structural barriers between ourselves and the people with whom we intend to work.<sup>30</sup> She suggests that important questions for researchers are: In whose interests are we working? Have we adequately consulted those in whose interests we are working? How are we maintaining our own integrity and independence as researchers?<sup>31</sup> These are the questions for researchers to consider which go beyond their responsibility to exercise thoroughness in research and care in analysis. They must consider, too, the implications for Aboriginal individuals and communities of the differing approaches to making public interpretations of the past.<sup>32</sup>

The purposes of undertaking this research have been an important consideration, beyond the charter defined by SNAICC. 'All history depends ultimately upon its social purposes'<sup>33</sup> or what Clendinnen describes as stimulation of the moral imagination.<sup>34</sup> I see the SNAICC

<sup>27</sup> K. Manning, 'Authenticity in Constructivist Inquiry: Methodological Considerations without Prescription', *Qualitative Inquiry*, vol. 3, no. 1, 1997, p. 96.

<sup>28</sup> M. Fine & L. Weis, 'Writing the "Wrongs" of Fieldwork: Confronting Our Own Research/Writing Dilemmas in Urban Ethnographies', *Qualitative Inquiry*, vol. 2, no. 3, 1996, p. 259.

<sup>29</sup> Fine & Weis, *Writing the Wrongs*, 1996, p. 258.

<sup>30</sup> C. Choo, *Aborigines, Researchers and the Welfare Industry: Different Worlds, Different Discourses*, paper presented at TASA Conference, Murdoch University, Perth, December 1991, p. 14.

<sup>31</sup> Choo, *Aborigines, Researchers and the Welfare Industry*, 1991, p. 14.

<sup>32</sup> H. Goodall, 'The Whole Truth and Nothing But...Some Intersections of Western Law, Aboriginal History and Community Memory', in eds. B. Attwood & J. Arnold, *Power, Knowledge and Aborigines*, La Trobe University Press, Melbourne, 1992, p. 105.

<sup>33</sup> P. Thompson, 'The Voices of the Past: Oral History', in eds. R. Perks & A. Thomson, *The Oral History Reader*, Routledge, London, 1998, p. 20.

<sup>34</sup> Cited in Freeman-Greene, 'Bearing Witness', 1998, p. 2.

research as a contribution to 'making a difference' and hence it falls into the realm of what may loosely be described as advocacy research. In adopting this position I was influenced by Australian historian Henry Reynolds, who states that in his endeavours he was not a dispassionate scholar but was motivated by a desire to change an ignorant, racist society.<sup>35</sup> Bourke comments that a determination exists on the part of Indigenous people that research conducted by non-Indigenous people should be of some use to Indigenous Australian society.<sup>36</sup> Aboriginal history is thus used as a means of political consciousness-raising, affirming a shared sense of oppression and a way of resolving identity problems caused by state interventions which broke up families and communities.<sup>37</sup> Knowledge and understanding of the past has a profound impact on contemporary social and political life, with many oral historians aiming to effect social and political change through their work.<sup>38</sup>

Such research needs to be applied in the context of practice and action.<sup>39</sup> Arising out of the needs and experiences of the people it serves, my research aims to 'interrupt patterns of power that define issues in the service of the powerful'.<sup>40</sup> Within this framework, the purpose of social inquiry is to inform critically public policies, existent social movements and daily community life.<sup>41</sup> Oral history can thus be a significant resource for political groups and emergent social movements.<sup>42</sup> For example, oral histories have been used by Central American refugees who told their life stories to educate North Americans about the situation in their countries and to gain financial and political support.<sup>43</sup> In undertaking the research I adopted the principles espoused by Hyde<sup>44</sup> that knowledge is grounded in the experiences of the participants, that the research has benefits for them and that I, the researcher, immerse myself

<sup>35</sup> Cited in McGrath, *Contested Ground*, 1995, p. 371.

<sup>36</sup> E. Bourke, 'Dilemmas of Integrity and Knowledge: Protocol in Aboriginal Research', in eds. I. Blue, P. Buckley & D. Harvey, *Proceedings of First National Rural Health Research Workshop*, Whyalla, July 1995, p. 55.

<sup>37</sup> McGrath, *Contested Ground*, 1995, p. 376.

<sup>38</sup> R. Perks & A. Thomson, 'Advocacy and Empowerment', in *The Oral History Reader*, 1998, p. 185.

<sup>39</sup> Manning, 'Authenticity in Constructivist Inquiry', 1997, p. 109.

<sup>40</sup> Reason, 'Reflections on the Purposes of Human Inquiry', 1996, p. 15.

<sup>41</sup> Fine & Weis, 'Writing the Wrongs', 1996, p. 264-265.

<sup>42</sup> Perks & Thomson, 'Advocacy and Empowerment', 1998, p. 184.

<sup>43</sup> Perks & Thomson, 'Advocacy and Empowerment', 1998, p. 185.

<sup>44</sup> C. Hyde, 'Reflections on a Journey', 1994, p. 173.

in and exhibit empathy for the world being studied. It is to be hoped that insights gained from my research have the potential 'to positively inform professional practices ...'<sup>45</sup>

Emerging trends in what Goodall describes as 'new social history' have encouraged research on previously neglected sources, including oral ones.<sup>46</sup> These trends offer the opportunity to learn from knowledge about the past which had previously been either ignored by non-Aboriginal researchers, or was inaccessible to them because it had not been written.<sup>47</sup> Jackie Huggins talks about how the many examples of Aboriginal involvement in the blazing of trails, in the establishment of settlements and in every area of Australian 'advancement', have been hidden within historical accounts that exist.<sup>48</sup> Aboriginal people have been excluded from the pages of white history, and remain nameless men and women.<sup>49</sup> Stimulating this rising awareness in the 'new social history' was the increasing involvement of historians and others using historical tools in political campaigns to bring about change.<sup>50</sup> However, it is important to recognise that oral history is not always an instrument for change, but it can serve as a means for transforming both the content and purpose of history.<sup>51</sup> This is my experience with the current project, which clearly has a political basis, given the advocacy and change agent role adopted by SNAICC, as well as presenting an account of the past which challenges popular representations.

The intertwining of the personal and political was evident throughout my interviews. I was not merely collecting information about the Organisation, but was hearing the individual and community stories which combined to forge the activism which was the experience of SNAICC. This raises a question, still unanswered, as to whether I was in fact doing oral history, or simply collecting personal reminiscences.<sup>52</sup> Part of the process could in fact be seen as drawing from the genre of life history, although, unlike autobiography, oral historians may choose who

<sup>45</sup> C. L. McWilliam, 'Creating Understanding That Cultivates Change', *Qualitative Inquiry*, vol. 2, no. 2, 1996, p. 159.

<sup>46</sup> Goodall, 'The Whole Truth and Nothing But', 1992, p. 106.

<sup>47</sup> Goodall, 'The Whole Truth and Nothing But', 1992, p. 106.

<sup>48</sup> Huggins, *Sister Girl*, 1998, p. 2.

<sup>49</sup> Huggins, *Sister Girl*, 1998, p. 2.

<sup>50</sup> Goodall, 'The Whole Truth and Nothing But', 1992, p. 106.

<sup>51</sup> Thompson, 'The Voices of the Past', 1998, p. 22.

<sup>52</sup> Stevenson, *Commentary*, 1998, p. 3.

to interview and what to ask about.<sup>53</sup> There is a fine line to be negotiated however, and I needed to keep in mind that, in accordance with the research goals, my role was to chronicle the stories of the participants and get them into broad circulation.<sup>54</sup>

Oral histories, rather than being a simple 'regurgitation of lifeless facts', endeavour to provide human faces and to evoke the human emotions which were integral aspects of past events.<sup>55</sup> The research highlighted for me the differences between examining documents located in SNAI... filing cabinets, and the living history arising from the interviews. However, to ensure rigour in my approach both methods of data collection were adopted, together with techniques of observation and participation. The methods were supplemented by the literature, particularly critiques and analyses on historical processes, policies and practices. Recent media reports have been included as they often capture the essence of critical policy debates before the more formal academic critiques have emerged. The methodological approaches were not used to ascertain 'historical truths', as indeed the notion of one historical truth has been dispelled in modern-day methods. As noted by Rubinstein, the successful writings of historians are now so pluralistic that any attempt to impose a single definition of historical truth is bound to be rejected as high handed dictation by most historians.<sup>56</sup> The postmodern project also dispels the notion of universal truths. Seth comments that Foucault's concerns were with what in any given age and within any system of thought, is taken to count as true.<sup>57</sup> Foucault not only argued that truth is relative and historical rather than absolute, but that knowledge and power are intertwined.<sup>58</sup> The knowledge that the researcher produces must always remain locked within the constraints of structural meaning systems.<sup>59</sup> Whether we choose to embrace it or not, postmodernity has precipitated a new awareness of how we research, 'by calling for the abandonment of the search for monolithic truths and instead focusing on

<sup>53</sup> P. Thompson, 'The Voices of the Past', 1998, p. 24.

<sup>54</sup> P. A. Lather, 'The Validity of Angels: Interpretive and Textual Strategies in Researching the Lives of Women with HIV/AIDS', *Qualitative Inquiry*, vol. 1, no. 1, 1995, p. 42.

<sup>55</sup> E. Neale & M. Wilkinson, 'Listen With Your Heart', *Crossing Borders*, no. 19, Oral History Association of Australia, 1997, p. 10.

<sup>56</sup> B. Rubinstein, 'A Misguided Review', *The Australian Jewish News*, 7 August, 1998, p. 24.

<sup>57</sup> S. Seth, 'Michael Foucault Ethics: Subjectivity and Truth', Review, *The Age*, 25 July, 1998.

<sup>58</sup> Seth, 'Michael Foucault Ethics', 1998.

<sup>59</sup> T. McGettigan, 'Uncorrected Insight: Metaphor and Transcendence "After Truth"', *Qualitative Inquiry*, vol. 3, no. 3, 1997, p. 379.

an understanding of human reality'.<sup>60</sup> It also creates a greater awareness of values, meanings and interpretations.<sup>61</sup> The interview itself is not a search for a single truth, but is a text composed of multiple layers and multiple realities.<sup>62</sup> An endeavour to produce 'historical truth' would result in a product 'devoid of texture, vitality and evocative power'.<sup>63</sup> Despite being clear about my position, I still had to deal with the question of the potential for discrepancy between the oral testimony and the 'written word', and to be mindful of the fact that what I produced was necessarily going to be 'flawed and incomplete'.<sup>64</sup> Phillips asserts that regardless of care taken, the final research product will be incomplete, partial and open to contest.<sup>65</sup>

Davis argues that most anti-postmodern rhetoric tends to a certain xenophobia, endeavouring to re-ratify Western values in order to reinvigorate the collective moral fibre and reinscribe Western histories.<sup>66</sup> He notes that most western democracies in the post-war period have discovered that their cultural imperative has been maintained by exclusions.<sup>67</sup> Perry comments that certain regimes have deliberately suppressed the point of view of minority ethnic groups, or censored the opinions of those who challenge existing power relations.<sup>68</sup> In the current Australian context this can analysis can be extended to a demonising of notions that are seen to be 'politically correct'.

The production of written texts is, according to Perry, the result of a complex power/knowledge equation.<sup>69</sup> Taylor notes that over the last two decades we have seen oral history becoming a force for redressing social disadvantage, with the important role of oral historians in writing 'history from below' which has inevitably involved many in the construction of counter-discourses or contested histories which challenge authorised

<sup>60</sup> K. Daly, 'Re-placing Theory in Ethnography: A Postmodern View', *Qualitative Inquiry*, vol. 3, no. 3, 1997, p. 345.

<sup>61</sup> Daly, 1997, 'Re-placing Theory', p. 345.

<sup>62</sup> R. Hertz, 'Separate But Simultaneous Interviewing of Husbands and Wives: Making Sense of Their Stories', *Qualitative Inquiry*, vol. 1, no. 4, 1995, p. 433.

<sup>63</sup> C. E. Kiesinger, 'From Interview to Story: Writing Abbie's Life', *Qualitative Inquiry*, vol. 4, no. 1, 1998, p. 89.

<sup>64</sup> McGettigan, 'Uncorrected Insight', 1997, p. 380.

<sup>65</sup> Cited in K. Manning, 'Authenticity in Constructivist Inquiry', 1997, p. 100.

<sup>66</sup> M. Davis, 'Two Cheers for New Thinking', *The Age*, 25 July, 1998.

<sup>67</sup> Davis, 'Two Cheers for New Thinking', 1998.

<sup>68</sup> Perry, 'Hear Me Talking To You', 1998, p. 221.

<sup>69</sup> Perry, 'Hear Me Talking To You', 1998, p. 221.

versions of events and demand recognition.<sup>70</sup> Denzin refers to a form of writing which reproduces the struggle for voice for those who Clough sees as being 'on the wrong side of the power relationship'.<sup>71</sup> In uncovering previously silenced voices in the margins, the uncovering of the stolen generations has been paramount. The *Bringing Them Home* report has made a major contribution to challenging previous accounts of the past, both factually and in terms of ideology.

A difficult question to resolve is the power imbalance between 'researcher' and 'researched'. The very act of trying to 'give voice' can deny the unequal power in the research relationship.<sup>72</sup> Salazar discusses this as a recurring problem underpinning the collection of oral histories, asserting that the power differential between the ethnographer and Other structures the interview:

The demand that the Other expose itself (vulnerability) and the desire to know (power/knowledge) that guides the ethnographic project inevitably creates a hierarchical field of forces that opens up different discursive positions for its participants to take up.<sup>73</sup>

Altering the power dynamic between researcher and respondent makes the interview a collaborative process, with respondents as 'agents' rather than 'objects' of study.<sup>74</sup> In the course of my research I endeavoured to overcome these problems by ensuring that participants had control over the time and place of the interview, and ensuring that they could steer the interview process to a significant extent. Participants had the right to veto their own transcript. I also shared with interview participants the right to set the agenda of the conversations<sup>75</sup>, while ensuring, from my knowledge of the Organisation that the narratives were not merely idiosyncratic accounts. Perhaps at best, they can be seen as guided conversations.<sup>76</sup> However, in line with postmodern critiques which challenge the imposition of standardised approaches, I needed to ensure that knowledge

<sup>70</sup> P. Taylor, 'Crossing Boundaries: The Value of a Comparative Reading of Oral Histories', *Crossing Borders*, no. 19, Oral History Association of Australia, 1997, p. 1.

<sup>71</sup> N. Denzin, *Interpretive Biography*, Sage Publications, Newbury Park, Newbury Park, 1989, p. 82.

<sup>72</sup> Hyde, 'Reflections on a Journey', 1994, p. 185.

<sup>73</sup> C. Salazar, 'A Third World Woman's Text: Between the Politics of Criticism and Cultural Politics', in eds. S. Gluck & D. Patai, *The Feminist Practice of Oral History*, Routledge, New York, 1991, p. 100.

<sup>74</sup> Hertz, 'Separate But Simultaneous Interviewing', 1995, p. 433.

<sup>75</sup> N. F. Knapp, 'Interviewing Joshua: On the Importance of Leaving Room for Serendipity', *Qualitative Inquiry*, vol. 3, no. 3, 1997, p. 339.

<sup>76</sup> Manning, 'Authenticity in Constructivist Inquiry', 1997, p. 105.

was not distorted by coercion or ideology.<sup>77</sup> I was still left with some unease in that, by reducing the power imbalance and creating some 'equality', some of the information I gathered, although setting the context, providing a holistic approach and linking the personal with the political, went beyond what I needed to know for the SNAICC story.

### **Ethical issues and contested domains**

The Council for Aboriginal Reconciliation refers to two distinct strands of Australian history 'one written by non-Indigenous Australians and another that has survived in the oral histories of Aboriginal and Torres Strait Islander communities'.<sup>78</sup> The Council asserts that, despite the neglect of Indigenous peoples and their experiences in European-authored histories, the other history was being passed from one generation of Indigenous Australians to another, further noting that:

... indigenous Australians are increasingly influencing the framework in which historians work. Some Aboriginal and Torres Strait Islander critics explicitly claim the rights of ownership to their past, and deny that a non-indigenous historian can write about Aboriginal and Torres Strait Islander people's history.<sup>79</sup>

In a manner which assists in reconciling diverse viewpoints, the Council states:

Writing history about indigenous Australians is, necessarily, the imposition of an alien explanatory framework on Aboriginal and Torres Strait Islander people's experience and understanding. One way of addressing this problem is for historians to listen to indigenous Australians, and to evidence from Aboriginal and Torres Strait Islander peoples, and to be open to their challenges.

A willingness to speak of Aboriginal and Torres Strait Islander peoples, but not for them, makes possible an exchange of knowledge by creating a common ground for speaking and listening.<sup>80</sup>

Batchelor College, an Aboriginal and Torres Strait Islander Institute in the Northern Territory, has produced research and ethics policy guidelines, stating that:

<sup>77</sup> McGettigan, 'Uncorrected Insight', 1997, p. 367.

<sup>78</sup> Council for Aboriginal Reconciliation, *Sharing History*, Key issues paper, no. 4, Australian Government Publishing Service, Canberra, 1994, p. 30.

<sup>79</sup> Council for Aboriginal Reconciliation, *Sharing History*, 1994, pp. 30-31.

<sup>80</sup> Council for Aboriginal Reconciliation, *Sharing History*, 1994, p. 31.



Aboriginal and Torres Strait Islanders have become understandably critical and cynical about research as an activity intruding into their affairs. Much research in their experience has been characterised by paternalistic probing and interminable questioning leading to their being written about as objects couched in dense alien texts. These texts promoted not the community interests but the enhanced status of 'experts' who appropriated and reconstructed Aboriginal and Torres Strait Islander cultural knowledge in ways which were often damaging to processes of Aboriginal and Torres Strait Islander cultural reproduction, and which carried messages to the wider world unrepresentative of Aboriginal and Torres Strait Islander truths.<sup>81</sup>

A range of views exist about whether non-Indigenous people should engage at all in writing Indigenous histories. Although my research is not 'history' in the formal sense of the word, the same ethical dilemmas arise. Atkinson et.al. comment on the different worldview of Aboriginal people in arguing their case against white historians writing Aboriginal history:

Our ways of establishing fact are distinctively our own. Our history is legend, tradition, story, myth-making, song, painting, dance. The Aboriginal technique of telling history is a particular cultural form, as valid as any other, including white historiography. Our tradition is an oral one, and the recital of our past takes place within a linguistic and cultural structure as yet largely misunderstood by white historians.<sup>82</sup>

As a person who has not directly experienced the events which shape this story, I am mindful of the words of holocaust writer Elie Wiesel in relation to Auschwitz that 'only those who lived it in their flesh and in their minds can possibly transform their experience into knowledge.'<sup>83</sup> Iris Young states that narrative reveals particular experiences belonging to those in social locations and these experiences cannot be shared by those who are situated differently.<sup>84</sup> However, ignoring issues of representation does not necessarily equate with ignoring presenting alternative views of the past. McGrath refers to anthropologist W.E.H. Stanner who, in 1968, challenged the Great Australian Silence on the story of Aborigines, suggesting that inattention on such a scale could not be explained by absent-mindedness but was in fact a structural matter—'a view from a window which has been carefully placed to

<sup>81</sup> Batchelor College, 'Position Statement on Aboriginal and Torres Strait Islander Research', in *Research and Ethics Policies*, Batchelor College Council, Batchelor, July 1996.

<sup>82</sup> W. Atkinson, M. Langton, D. Wanganeen & M. Williams, 'Contact History', in *Black Australia: An Annotated Bibliography*, compiled by M. Hill & A. Barlow, AIAI, 1985, p. 38.

<sup>83</sup> Cited in I. Clendinnen, *Reading the Holocaust*, The Text Publishing Company, Melbourne, 1998, p. 25.

<sup>84</sup> I. Young, 'Communication and the Other: Beyond Deliberative Democracy', in eds. M. Wilson & A. Yeatman, *Justice and Identity: Antipodean Practices*, Allen & Unwin, Sydney, 1993, p. 147.

exclude a whole quadrant of the landscape'.<sup>85</sup> According to Huggins, it is the responsibility of historians to make some kind of commitment to the inclusion of Aboriginal people, as long as they go about the process in a culturally appropriate way.<sup>86</sup>

A view exists that white historians have based their careers, obtained doctorates and made money out of books by 'ripping off' Aborigines of their life stories, of their evidence, of their history.<sup>87</sup> Often however, white historians have been employed by Aboriginal bodies and expected to work with cultural sensitivity and to deliver the required product. This approach represents a shift in power relations, for Aboriginal organisations are in the role of employer and the historian as service provider.<sup>88</sup> Attempts are being made to strengthen the Aboriginal voice by co-opting the work of researchers and ensuring that the research remains under the control of the Aboriginal communities, to be used for their own purposes.<sup>89</sup> The perceived need to control research can be seen as a strong reaction against the power held by white researchers and others over Aboriginal communities. It is a strong statement of self-conscious assertion of Aboriginality, the right of self-determination and the right to control information.<sup>90</sup> For me, this approach involved undertaking work 'commissioned' by SNAICC and hence viewed by the Organisation as useful and worthy; a negotiated agreement to use this work for a doctoral thesis; as well as an agreement to rework the thesis into a document accessible to SNAICC as both an organisation and as a collectivity of individuals.

Aboriginal history is constantly under challenge. One dilemma is whether white authors should cease to *collect* Aboriginal life stories. Aboriginal people have argued that such collection violates their privacy. Others point out that the story is inevitably 'channelled' via the white interviewer, with cultural bias shaping the questioning and responses. A second dilemma is whether white authors should cease to *analyse* 'Aboriginal history' on the grounds that this is a continuing appropriation of Aboriginal intellectual property.<sup>91</sup> Clendinnen refers to her endeavours

<sup>85</sup> McGrath, *Contested Ground*, 1995, p. 366.

<sup>86</sup> Huggins, *Sister Girl*, 1998, p. 125.

<sup>87</sup> McGrath, *Contested Ground*, 1995, p. 379.

<sup>88</sup> McGrath, *Contested Ground*, 1995, p. 383.

<sup>89</sup> Choo, *Aborigines, Researchers and the Welfare Industry*, 1991, p. 8.

<sup>90</sup> Choo, *Aborigines, Researchers and the Welfare Industry*, 1991, p. 9.

<sup>91</sup> McGrath, *Contested Ground*, 1995, p. 387.

to analyse holocaust survivor accounts as creating a feeling of trespass.<sup>92</sup> Choo reminds us that the 'discourses of rescarchers, the welfare industry and the Aborigines represent worlds which are far apart in terms of their values, agendas, strategies and politics'.<sup>93</sup>

Although constrained by my limitations as a non-Indigenous researcher, the research, in accordance 'with SNAICC's specifications, aims to 'reclaim' history from an Indigenous perspective and to present an account which emerges from lived experiences. This is a complex task, as representing the viewpoints of Indigenous people by a non-Indigenous person is fraught with inherent tensions. In dealing with these tensions, it is important to confront how our own culture, class position and political worldview shapes the histories we collect.<sup>94</sup> This worldview makes writing history a personal business, and we can only speak in our own voice.<sup>95</sup> Although possessing knowledge acquired over a twenty year period, much of which is derived from Indigenous people, and despite the fact that the research was suggested, endorsed and directed by SNAICC, I was nonetheless faced with encroaching onto what Clendinnen refers to as unfamiliar and guarded territory.<sup>96</sup>

Aboriginal history can be heard or read in many different ways—as a form of further colonistic appropriation and exploitation or as a means of decolonisation, of constructing Aboriginal nationalism as a history for

human rights, as a way of gaining control over the past and present, as a way of holding onto the land. Some might still see it as 'objective', politically disinterested scholarship. The process is as important as the product.<sup>97</sup> Aboriginal history challenges the very parameters of history as a discipline. It highlights its cultural embeddedness and it throws up many questions regarding the nature and universality of knowledge: the importance of the interpreter and participant's perspectives, its ownership, manufacture and dissemination.<sup>98</sup>

<sup>92</sup> Cited in Freeman-Greene, 'Bearing Witness', 1998, p. 2.

<sup>93</sup> Choo, *Aborigines, Researchers and the Welfare Industry*, 1991, p. 3.

<sup>94</sup> J. Sangster, 'Telling Our Stories: Feminist Debates and the Use of Oral History', in eds. R. Perks & A. Thomson, *The Oral History Reader*, 1998, p. 92.

<sup>95</sup> Sangster, 'Telling Our Stories', 1998, p. 93.

<sup>96</sup> Clendinnen, *Reading the Holocaust*, 1998, p. 6.

<sup>97</sup> McGrath, *Contested Ground*, 1995, p. 390.

<sup>98</sup> McGrath, *Contested Ground*, 1995, p. 391.

## Capturing the story and centrality of narrative

Paul Thompson encapsulates the essence of the benefit of oral history:

(Oral history) can give back to the people who made and experienced history, through their own words, a central place.<sup>99</sup>

Interview participant, Julie Tommy, states that 'storytelling is such a crucial thing now in practice' (interview 17 Dec. 97). It is the tool that historians have used in recent years to give ordinary men and women their voice in written histories.<sup>100</sup> Oral evidence records all those important things that the written documents ignore, and above all, obtains the Aboriginal point of view.<sup>101</sup> For Brian Butler, 'history can be told in many ways, not just through history books'.<sup>102</sup>

However, it is important not to reify oral history, as it is full of tensions and dilemmas for the committed researcher and is a fraught task in a number of ways. For example, Hamilton asserts that the interview can also be a site of struggle between what the interviewee states from memory and what the researcher has gleaned from written documentation.<sup>103</sup> There is also the issue of the multiplicity of voices, whose juggling requires consideration of 'thorny' problems.<sup>104</sup> To insist that the collective voice is the 'true voice' masks the study's many voices including the vested interests of participants and variations, as well as theoretical explanations and my own explanations, interpretations and insights.<sup>105</sup> Shnukal tells us that in Indigenous oral history it is also necessary for the researchers to relinquish their 'expert status' and see themselves as 'secondary contributors to its creation', and as the junior partner:

The senior partners are the community members who have shared their knowledge.<sup>106</sup>

<sup>99</sup> P. Thompson, 'The Voices of the Past', 1998, p. 22.

<sup>100</sup> Taylor, *Telling It Like It Is*, 1996, p. 34.

<sup>101</sup> Taylor, *Telling It Like It Is*, 1996, p. 35.

<sup>102</sup> B. Butler, 'Aboriginal Children: Back to Origins', 1993, p. 11.

<sup>103</sup> Hamilton, 'The Knife Edge', 1994, p. 15.

<sup>104</sup> Hyde, 'Reflections on a Journey', 1994, p. 182.

<sup>105</sup> These are some of the issues raised by Hyde in relation to her research into feminist organisations, which she discusses in page 182 of her paper.

<sup>106</sup> A. Shnukal, 'It's All About Respect: The Etiquette of Recording Indigenous Oral History', *Crossing Borders*, no. 20, Oral History Association of Australia, 1998, p. 17.

In so doing, the researcher has to abandon the traditionally privileged perspective as the 'knower'.<sup>107</sup> Some of the dilemmas of imposing my own frameworks and interpretations were outlined in the previous chapter. But the question remains of how to turn the 'stories' into 'scholarship', to move from a narrative to a conceptual model. Aspiring to such is challenged by Childress who argues that we should not strive for a privileged position.<sup>108</sup> Jackie Huggins suggests that written academic discourse can be used as a kind of medium and an agency whereby the oral evidence is not tampered with and filtered. She suggests that 'you can shape all the words around it, but don't touch or tamper with that vibrant, rich and purposeful, natural, spontaneous language'.<sup>109</sup> On the other hand, Denzin refers to the need to connect biographies and lived experiences to groups and social relationships.<sup>110</sup> For Perry the best oral data is obtained when the researcher and the informant enter imaginative territory and explore it jointly, secure in the knowledge that both are vitally interested in the process.<sup>111</sup> However, dilemmas still remain including the risk of 'imperial translation'.<sup>112</sup> There is furthermore, a risk inherent in the romanticising of narratives and the concomitant retreat from analysis.<sup>113</sup>

Before the white invasion, Aboriginal and Torres Strait Islander cultures were transmitted through oral tradition.<sup>114</sup> Collection of oral histories of Indigenous people have been recognised as a vital technique and the contribution of memory to research is increasingly recognised. A number of writers have adopted an approach to Indigenous oral history which respects the pivotal role of narrative, with little interference from the writer.<sup>115</sup> The *Bringing Them Home* report, although drawing extensively on documentation and legislative provision, allowed Indigenous voices to predominate. It was these voices which had the most impact on the wider

<sup>107</sup> Manning, 'Authenticity in Constructivist Inquiry', 1997, p. 106.

<sup>108</sup> H. Childress, *Kinder Ethnographic Writing*, 1998, p. 251.

<sup>109</sup> Huggins, *Sister Girl*, 1998, pp. 122-123.

<sup>110</sup> N. K. Denzin & Y. Lincoln, *Handbook of Qualitative Research*, Sage Publications, Thousand Oaks, 1994, p. 82.

<sup>111</sup> Perry, 'Little words and big ears: Aborigines, intellectual sparks and oral history in the town of Stawell', in eds. M. Crick & B. Geddes, *Research Methods in the Field: Eleven Anthropological Accounts*, Second edition, Deakin University Press, Geelong, 1998, p. 281.

<sup>112</sup> Denzin & Lincoln, *Handbook of Qualitative Research*, 1994, p. 80.

<sup>113</sup> Denzin & Lincoln, *Handbook of Qualitative Research*, 1994, p. 80.

<sup>114</sup> Taylor, *Telling It Like It Is*, 1996, p. 11.

<sup>115</sup> For example, A. Jackomos & D. Fowles, *Living Aboriginal History of Victoria: Stories in the Oral Tradition*, Cambridge University Press, Melbourne, 1991; S. Rintoul, *The Wailing: A National Black Oral History*, William Heinemann Australia, Melbourne, 1993.

community when the report was released. For me the interviews comprised the 'flesh and blood' for the organisational story,<sup>116</sup> with the documentary evidence as supplementary.

Perry argues that one cannot lay down a tight and exact formula for doing oral history, a method which does not equate with 'the solemn investigation of Great Questions pertaining to the destiny of Great Nations by the method of following the tracks left by Great Men'.<sup>117</sup> Martin refers to the level of subjective truth about life events that transcends the absolute facts of a situation as the level of veracity oral historians seek most.<sup>118</sup> To be an effective ethnographer, Perry states, one needs a receptive ear and the ability to stay tuned in to talk. Stories start on the spoor, and you get the sniff of things from narratives, then it is up to you to use your nose and follow the trail. Intimations and hunches need to be followed up.<sup>119</sup> In following and encouraging the twists and turns, I then had to deal with how to reconcile sometimes contradictory information. I adopted a similar approach to Hyde in her study of feminist organisations and chose to 'bypass the difference'.<sup>120</sup> The differences were in fact usually minor, such as dates or places, and did not interfere with the story being recounted.

For Perry, the researcher recording oral histories must prod and provoke and develop an intuitive 'feel' for what is locked up in another person's head and might be revealed given the right prompt.<sup>121</sup> In relation to his work in Stawell, Perry notes that he could not have done his research without going into written sources and I concur with his view that both the written and the spoken have been part of 'cerebral combustion, igniting and hotting up the intellectual chase'.<sup>122</sup> In her work with women with HIV/AIDS, Lather suggests that participants' words become the 'motor of inquiry'.<sup>123</sup> In working with oral history, it is necessary to work from the words of informants to written texts, weaving back and

<sup>116</sup> Hyde, 'Reflections on a Journey', 1994, p. 171.

<sup>117</sup> Perry, 'Little words and big ears', 1998, p. 268.

<sup>118</sup> R. R. Martin, *Oral History in Social Work: Research, Assessment and Intervention*, Sage Publications, Thousand Oaks, 1995, p. 52.

<sup>119</sup> Perry, 'Little Words and Big Ears', 1998, p. 268.

<sup>120</sup> Hyde, 'Reflections on a Journey', 1994, p. 182.

<sup>121</sup> Perry, 'Little Words and Big Ears', 1998, p. 268.

<sup>122</sup> Perry, 'Little words and big Ears', 1998, p. 270.

<sup>123</sup> Lather, 'The Validity of Angels', 1995, p. 49.

between what is spoken and what has been put down on paper.<sup>124</sup> There are no fixed methodological rules, as each piece of fieldwork is different and has its own challenges.<sup>125</sup>

Anderson and Jack assert that the spontaneous exchange within an interview offers possibilities of freedoms and flexibility for researchers and narrators alike.<sup>126</sup> Oral interviews are particularly valuable for uncovering women's perspectives, as 'anthropologists have observed how the expression of women's interests and experiences are at variance with those of men'.<sup>127</sup> Yet, Salazar warns that when we finally glimpse the backstage production of oral histories, we find that monologues are unveiled beneath the semblance of dialogues, with authorial control found lurking beneath promises of the free interplay of voices.<sup>128</sup> Replacing the promised emancipatory project, a text is produced which is incomplete, insufficient and lacking.<sup>129</sup> She highlights the need for a critique which articulates elements of minority literature that subvert or negate the power of hegemonic culture.<sup>130</sup> Among the richest sources of literature which achieves this in the Indigenous context are Aboriginal autobiographies.

Discourse analysts have long been concerned with how spoken language can be effectively restructured as written language.<sup>131</sup> Thompson acknowledges that the presentation of written material only demonstrates the privileging of the written over the spoken in the academy. All cultures in the world were oral throughout most of their existence, and it is only in the last few hundred years that written culture has dominated the way knowledge is transmitted.<sup>132</sup> As the dominant form of history transmission in our society is written, this has served to exclude Indigenous perspectives. Indigenous people have sometimes noted that it is 'the white expert' who is heard and the mainstream does not heed the words of Indigenous people. In order to address this issue as much as possible the oral histories are given a leading position in the SNAICC story to ensure Indigenous voices are given prominence. The danger of

<sup>124</sup> Perry, 'Little Words and Big Ears', 1998, p. 271.

<sup>125</sup> Perry, 'Little Words and Big Ears', 1998, p. 271.

<sup>126</sup> K. Anderson & D. Jack, 'Learning to Listen: Interview Techniques and Analyses', in eds. S. Gluck & D. Patai, *The Feminist Practice of Oral History*, Routledge, New York, 1991, p. 11.

<sup>127</sup> Anderson & Jack, 'Learning to Listen', 1991, p. 11.

<sup>128</sup> Salazar, 'A Third World Woman's Text', 1991, p. 100.

<sup>129</sup> Salazar, 'A Third World Woman's Text', 1991, p. 100.

<sup>130</sup> Salazar, 'A Third World Woman's Text', 1991, p. 102.

<sup>131</sup> Thompson, *Telephone-mediated Academic Discourse*, 1994, p. 12.

<sup>132</sup> Taylor, *Telling It Like It Is*, 1996, p. 11.

'privileging' the written was also minimised by the fact that the documents examined were mainly SNAICC records, with other documentation utilised as a context-setting medium.

As Thompson argues, the emphasis on appreciating what those being studied say, think and perceive is an integral aim of such research.<sup>133</sup> She refers to the work of Parlett and Hamilton, who wrote of organising their work heuristically, with the researcher progressively focusing and redefining the areas of study as the study unfolds in the light of accumulating experience as crucial issues to be studied become uncovered.<sup>134</sup> She refers to this as being 'eclectic, adaptive and responsive to individual research milieu'.<sup>135</sup> This is the antithesis of the linear, clearly defined hypothetico-deductive method. Instead, a variety of methods are employed and the research design will not be fixed at the outset, but will evolve.<sup>136</sup>

Another aspect of oral history which became evident in the interview process with SNAICC participants is that oral cultures tend to see the world as a whole,<sup>137</sup> and thus the worlds of education, work, play and family life were not put into separate compartments, and religious and spiritual knowledge is not separated from other aspects of life.<sup>138</sup> This meant I had to create a balance of what was required for the organisational story, taking into account the need for a holistic perspective. It created some dilemmas as to what to discard in the interests of irrelevance or controversy, judgments which were difficult to make. This issue has been explored by Salazar in relation to third world women's autobiographies. She suggests that such autobiographies tend to allocate the private and domestic experiences of the narrator to the historical and public context of their social-political struggles.<sup>139</sup> She posits that the private/public dichotomy becomes blurred in a textual move that is politically motivated.<sup>140</sup> The personal is political is thus expressed by individuals as a collective self-engagement in a common struggle.<sup>141</sup>

<sup>133</sup> Thompson, *Telephone-mediated Academic Discourse*, 1994, p. 76.

<sup>134</sup> Cited in Thompson, *Telephone-mediated Academic Discourse*, 1994, p. 78.

<sup>135</sup> Thompson, *Telephone-mediated Academic Discourse*, 1994, p. 78.

<sup>136</sup> Thompson, *Telephone-mediated Academic Discourse*, 1994, p. 79.

<sup>137</sup> Taylor, *Telling It Like It Is*, 1996, p. 12.

<sup>138</sup> Taylor, *Telling It Like It Is*, 1996, p. 12.

<sup>139</sup> Salazar, 'A Third World Woman's Text', 1991, p. 94.

<sup>140</sup> Salazar, 'A Third World Woman's Text', 1991, p. 95.

<sup>141</sup> Salazar, 'A Third World Woman's Text', 1991, pp. 95-96.



In the Canadian context Morrisette, McKenzie and Morrisette have noted the preoccupation of most research with empirical data which is particularly inadequate in capturing the nature of Aboriginal reality. These authors further suggest that:

What is required is an emphasis on the intersubjective experiences of Aboriginal people and methods that can both trace these experiences and interpret them within the context of the social reality of Aboriginal people.<sup>142</sup>

Over the last two decades, social historians have come to view oral sources as important and have moved from a focus on the 'facts' revealed in an interview to the wider processes of memory, for individuals and communities, particularly in the context of their engagement in power relations of the past and present.<sup>143</sup> An ideological dissatisfaction exists with modernist epistemologies and from the desire to empower otherwise muted groups.<sup>144</sup> In quality human inquiry the intention is to raise issues and questions that are normally excluded from public consciousness.<sup>145</sup> Recognition has been given to both the richness of oral sources, and to their complexity.<sup>146</sup> Perry similarly has argued that literary orthodoxy in western society has supposed that autobiographies are best written by 'Great White Men' who hold positions of power, or whose lives are held to be exemplary in terms of a dominant discourse.<sup>147</sup> It is little wonder then, as Benmayor has commented, that minority and feminist scholars are now challenging traditional disciplinary paradigms of social research.<sup>148</sup> Culture speaks itself through an individual's story, and by way of interpretation, personal narratives are reconstructed by the receiver and relocated from the private to the public domain.<sup>149</sup>

<sup>142</sup> V. Morrisette, B. Mackenzie & L. Morrisette, 'Towards an Aboriginal Model of Social Work Practice: Cultural Knowledge and Traditional Practices', *Canadian Social Work Review*, vol. 10, no. 1, Winter, 1993, p. 106.

<sup>143</sup> Goodall, 'The Whole Truth and Nothing But', 1992, p. 109.

<sup>144</sup> P. Atkinson & D. Silverman, 'Kundera's Immortality: The Interview Society and the Invention of the Self', *Qualitative Inquiry*, vol. 3, no. 3, 1997, pp. 311 & 312.

<sup>145</sup> Reason, 'Reflections on the Purposes of Human Inquiry', 1996, p. 22.

<sup>146</sup> Goodall, 'The Whole Truth and Nothing But', 1992, p. 110.

<sup>147</sup> Perry, 'Hear Me Talking To You', 1998, p. 220.

<sup>148</sup> R. Benmayor, 'Testimony, Action Research and Empowerment: Puerto Rican Women and Popular Education', in eds. S. Gluck and D. Patai, *The Feminist Practice of Oral History*, 1991, p. 159.

<sup>149</sup> C. K. Riessman, *Qualitative Studies in Social Work Research*, Sage Publications, Thousand Oaks, 1994, p. 69.

## Memory, history and narrative

Oral histories are sometimes presented as products of collective memories. Yet, it is my experience that they are also 'selective' or 'selected' histories. The time and context of the recording process has an impact on the outcome. An example of this is evident from my research. In 1997, when the majority of interviews were conducted, the *Bringing Them Home* report had just been released. The content of the report and the events which followed drew particular attention to the inappropriate policies and practices of governments, as well as to their lack of empathic and action-oriented responses to the report. One of the questions in my 'running sheet' related to the role of churches and I was aware, from my reading and previous research, that the churches had played a pivotal role in the removal of Aboriginal children. Yet, most respondents glossed over this aspect. In retrospect, I believe it was because, in the light of the release of the report and the lead-up to it, that many churches had made apologies and were putting measures in place to redress the past and improve the future. Hence the focus for interviewees was on the present, including the continuing lack of response by governments, especially the Federal Government. This is consistent with Taylor's assertion that 'since nobody can remember everything, memories that are no longer important to the present are dropped to make room for new ones and old stories get reworked to suit present needs'.<sup>150</sup> McCalman explores this further, arguing that 'the essence of human intellect is not that it absorbs experience like a *tabula rasa*, but that it at once structures and selects experience'.<sup>151</sup>

In his study of holocaust memorials, James Young uses the term 'collected memory' rather than 'collective memory'.<sup>152</sup> He refers to the many discrete memories that are assigned common meaning and thus, a society's memory in this context might be regarded as an aggregate collection of its members many, and often competing, memories. He further states:

<sup>150</sup> Taylor, *Telling It Like It Is*, 1996, p. 13.

<sup>151</sup> J. McCalman, 'The uses and abuses of oral history', *Canberra Historical Journal*, no. 21, March, 1998.

<sup>152</sup> J. Young, *The Texture of Memory: Holocaust Memorials and Meanings*, Yale University Press, New Haven, 1993, p. xi.

For a society's memory cannot exist outside of those people who did the remembering—even if such memory happens to be at the society's bidding, in its name.<sup>153</sup>

Differences which arise in the remembering of SNAICC respondents can in part be attributed to what Young refers to as the fact that:

... even though groups share socially constructed assumptions and values that organise memory into roughly similar patterns, individuals cannot share another's memory any more than they can share another's cortex. They share instead the forms of memory, even the meanings in memory generated by those forms, but an individual's memory remains hers alone. By maintaining a sense of collected memories, we remain aware of their disparate sources, of every individual's unique relation to a lived life, and of the ways our traditions and cultural forms continuously assign common meaning to disparate memories.<sup>154</sup>

Marques, Paez and Serra raise the important issue of the different collective memories in terms of victims and oppressors. They state that for the victims, commemorating a collective catastrophe may give it a positive meaning including remembering the unjustness and that it should not happen again. Yet for those responsible for the events, they argue, avoiding that memory or conventionalising it has the same function, although its contents may be different.<sup>155</sup> Gandhi refers to Bhabha's view that remembering is never a quiet act of introspection or retrospection. It is rather a 'painful re-membering, a putting together of the dismembered past to make sense of the trauma of the present'.<sup>156</sup> At this point in time, it is difficult for white society, the 'oppressors', to deny the events of the past which were outlined in Chapter 2. Yet the removal of Indigenous children has to a large extent been 'normalised' to argue that 'they were policies of the time' or that 'Aboriginal people benefited'.

<sup>153</sup> Young, *The Texture of Memory*, 1993, p. xi.

<sup>154</sup> Young, *The Texture of Memory*, 1993, pp. xi-xii.

<sup>155</sup> J. Marques, D. Paez & A. F. Serra, 'Social Sharing, Emotional Climate and the Transgenerational Transmission of Memories: The Portuguese Colonial War', in eds. J. Pennebaker, D. Paez & B. Rime, *Collective Memory of Political Events: Social Psychological Perspectives*, Lawrence Erlbaum Associates Publishers, Mahway, New Jersey, 1989, p. 273.

<sup>156</sup> H. Bhabha, cited in L. Gandhi, *Postcolonial Theory: A Critical Introduction*, Allen & Unwin, Sydney, 1998, p. 9.

Many now accept the destruction of Aboriginal society as the dominant narrative of Aboriginal history, although accepting responsibility is another matter.<sup>157</sup> In this instance, memory has successfully 'unsettled the past', leaving questions unanswered about what else has been strategically forgotten.<sup>158</sup> Yet the SNAICC account largely revolves around current accounts of removal which are not featured in the dominant Australian story at the present time. Nor are these accounts seen as having relevance in the political mainstream for present and future policy considerations.

The question arises as to whether oral tradition should be written down, rather than kept in the community and passed on by word of mouth. As Taylor notes, citing Aboriginal historian Wayne Atkinson, this can be difficult particularly where traditional values and customs were condemned for years by missionaries and managers. Moreover, as people were moved around and much oral tradition was lost, it is important for it to be recorded and written down.<sup>159</sup> Some pertinent comments about Aboriginal remembering are made by Hamilton:

We have begun to perceive organised structures of forgetting in relation to Aboriginal people, structures which the historians both helped to erect, and many years later break down. There is however, the sustaining of Aboriginal memory through community and culture (despite attempts to break it down); we also see its re-invention through memory-writing and other cultural forms—autobiographies, novels, reminiscences, films. In addition, oral histories have been significant particularly to both black and white historians, anthropologists, linguists; and so has the music and songs of Aboriginal singers ... Memory has successfully challenged history and in the process of that challenge white Australia repeats 'we had no idea' thus constituting a shift in historical consciousness.<sup>160</sup>

The life history is a significant genre. For example Sally Morgan<sup>161</sup> and Ruby Langford<sup>162</sup> focus on telling a largely white readership how it was, and is, to be black.<sup>163</sup> For Hamilton:

<sup>157</sup> Hamilton, 'The Knife Edge', 1994, p. 14.

<sup>158</sup> Hamilton, 'The Knife Edge', 1994, p. 14.

<sup>159</sup> Taylor, *Telling It Like It Is*, 1996.

<sup>160</sup> Hamilton, 'The Knife Edge', 1994, p. 13.

<sup>161</sup> Sally Morgan's 1987 autobiography *My Place* (Fremantle Arts Centre Press, Fremantle) has received international acclaim.

<sup>162</sup> Ruby Langford, now known as Ruby Langford Ginibi, tells her story in the 1988 autobiography, *Don't Take Your Love to Town* (Penguin, Melbourne).

<sup>163</sup> Hamilton, 'The Knife Edge', 1994, p. 16.

... there is always a moment of tension: each one writes as an individual at the moment of their story, yet each is also writing or speaking as part of the collective indigenous peoples, a social, political position understood to be shared. From the oral history too, group biographies begin to emerge and this has combined with questions about the nature of remembering as a collective or social phenomenon ...<sup>164</sup>

Hamilton suggests that many scholars have found popular memory a valuable framework to deal with individual or group stories that refuse to fit the dominant historical narratives. Group memory is passed on to other generations and when oral historians interview people, they tap into the collective memories with an individual's story. They are constantly reminded of how 'the narrative of one's life is part of an interconnecting set of narratives.'<sup>165</sup>

Memory and history will continue to be sometimes seamless, sometimes set apart ... For those of us who research it, one of memory's enduring qualities is its elusiveness: it will continue to unsettle the historian's task and probably always remain just out of reach.<sup>166</sup>

### The research process

The research adopted the multimethod approach advocated by Shulamit Reinharz:<sup>167</sup>

- Interviewing
- Archival analysis
- Observation and participation

This is also consistent with the technique of Triangulation, the use of multiple sources to explain an event, which is common in organisational research.<sup>168</sup> Although my research did not include a quantitative component, I have adopted a method espoused by Denzin in which he treats triangulation as an approach in which 'multiple observers, theoretical perspectives, sources of data and methodologies' are combined.<sup>169</sup>

<sup>164</sup> Hamilton, 'The Knife Edge', 1994, p. 16.

<sup>165</sup> Hamilton, 'The Knife Edge', 1994, p. 19.

<sup>166</sup> Hamilton, 'The Knife Edge', 1994, p. 27.

<sup>167</sup> Reinharz, *Feminist Methods in Social Research*, 1992, p. 46.

<sup>168</sup> Hyde, 'Reflections on a Journey', 1994, p. 184.

<sup>169</sup> N. K. Denzin, cited in A. Bryman, *Quantity and Quality in Social Research*, Routledge, London, 1992, p. 131.

### Interviewing (oral histories)

The thirty-two interviews conducted by me took place throughout Australia. All but two were recorded.<sup>170</sup> The interviewees were not 'representative' in the sense that this term is used in sociological research,<sup>171</sup> nor were they intended to be. Of relevance to practitioner-researchers are strategies which relax the requirements of representativeness.<sup>172</sup> Hence a purposive sampling technique was adopted which involves the selection of respondents based on their ability to provide needed information.<sup>173</sup> The purposive sampling represented a guided selection.<sup>174</sup>

In discussing how to select participants, Martin suggests that the interviewees could have held influential or non-influential positions at the time of the event, or might have viewed the event as outsiders. The researcher is more interested in what people are available to tell the stories about events and give meaning to the stories than in social standing or absolute firsthand experience.<sup>175</sup> I also took account of Martin's suggestion that the research should be diversified. Researchers may want to avoid selecting and interviewing only participants with similar perceptions or beliefs about a topic that affects many people in one community. Homogeneity can generate bias. People will often present the subjective reality about issues. Therefore, as much as possible, researchers should try to hear all sides of an issue.<sup>176</sup> Although I was not fully aware of divergent viewpoints at the start of the interviews, minutes of meetings, conversations within the Organisation and the decision to include some non-Aboriginal participants contributed to a widening of the interview net. Even though the SNAICC story was primarily to gain Indigenous perspectives, a number of non-Indigenous people were interviewed who were significant in the life of the Organisation. Non-Indigenous interviewees included public servants who had worked for the former Office of Child Care and were involved in the early stages of the AICCA and SNAICC. These interviews elicited some

<sup>170</sup> Two former non-Aboriginal Office of Child Care employees, still working for the Commonwealth Public Service, requested that the interviews not be taped.

<sup>171</sup> L. Passerini, *Fascism in Popular Memory: The Cultural Experience of the Turin Working Class*, Cambridge University Press, Cambridge, 1987, p. 9.

<sup>172</sup> R. Fuller & A. Petch, *Practitioner Research: The Reflexive Social Worker*, Open University Press, Bristol PA, 1995, p. 40.

<sup>173</sup> D. Padgett, *Qualitative Methods in Social Research*, Sage, London, 1988, p. 51.

<sup>174</sup> Fuller & Petch, *Practitioner Research*, 1995, p. 40.

<sup>175</sup> R. R. Martin, *Oral History in Social Work*, 1995, p. 52.

<sup>176</sup> Martin, *Oral History in Social Work*, 1995, p. 52.

contrasting views on funding and accountability issues raised by the Indigenous participants. In particular, they highlighted issues of accountability for Government funds from the perspective of a bureaucratic organisation. Another non-Indigenous interview participant was Richard Chisholm, a long-time advocate in Aboriginal affairs which stemmed from his previous employment as an academic lawyer from the early 1970s. Christine Choo, who researched and wrote a report on Aboriginal child poverty for SNAICC, was also interviewed.

The interview participants were selected in conjunction with the long-standing Executive Officer of SNAICC, Nigel D'Souza (1984-1999) and the previous Chairperson, Brian Butler (1984-1997). I also examined minutes of meetings to gain an understanding of people who had been significant in the Organisation. At times, interview participants gave me other leads, a 'snowballing' technique, where interviewees were asked to identify others who played important and significant roles. This enabled building up a network of informants from a small number of initial contacts.<sup>177</sup> I also drew on my own networks and knowledge. In selecting interview participants I remain acutely aware of omissions. There were indeed many others who were significant in the formation of SNAICC. Some were unavailable or not contactable and some had died. The constraints of the research limited the number of research participants. This limitation is partially compensated for by those participants who, in their recounting of their experiences, referred to others who had played a pivotal role.

An open ended series of questions were provided, with a series of prompts where needed. The interview schedule is attached as Appendix 1. With minimal interference as an interviewer I allowed the participants a free flow in their narrative. A thematic analysis was adopted, and this is evident in the construction of subsequent chapters. However, in recognising the blurring of boundaries between the personal stories and the collective organisational stories, there have been some tensions. I was reassured however, by Passerini who suggests that there remain 'passages of autobiography that cannot be codified, explained or interpreted'.<sup>178</sup> In writing the story, I again concur with Passerini who

<sup>177</sup> Fuller & Petch, *Practitioner Research*, 1995, p. 40

<sup>178</sup> Passerini, *Fascism in Popular Memory*, 1987, p. 9.

asserts that the order in which memories are recalled undermines the notion that the chronological order is inherently 'natural and automatic'.<sup>179</sup> The story of SNAICC is not written as a chronological history, but as an account of struggle and achievement which weaves its way between topics, time-lines and people. It is not possible to tell tidy narratives, but the fragments from interviews lead to emergent themes.<sup>180</sup> Although participants were often unable to refer to specific dates when recalling the life of the Organisation, this did not interrupt the thematic, as opposed to a chronological approach, particularly as SNAICC has had a very short life.

### **Archival analysis**

A range of SNAICC documentation was examined. This comprised:

#### *Newsletters*

Newsletters are a major form of dissemination of information by the Organisation. They are circulated to relevant organisations, members and other interested subscribers. They frequently incorporate major SNAICC events, as well as contemporary issues and critiques relevant to the Organisation.

#### *Correspondence*

This included Ministerial correspondence, correspondence to members and correspondence to organisations. Mainly 'out' correspondence was examined, as this highlighted issues initiated by SNAICC, but incoming was incorporated where relevant.

#### *Minutes of meetings*

SNAICC has, on average, two meetings of members per year—an Annual General Meeting and a conference of member organisations. The minutes of meetings incorporate issues of concern, generated by SNAICC and its member organisations, and include resolutions which were passed at those forums.

#### *Policy documents and reports*

SNAICC has written policy statements on a variety of issues, and these were examined and incorporated.

<sup>179</sup> Passerini, *Fascism in Popular Memory*, 1987, p. 27.

<sup>180</sup> Lather, 'The Validity of Angels', 1995, p. 57.



*Conference papers*

Papers presented by SNAICC at national and international conferences have been drawn on.

*SNAICC submissions*

SNAICC submissions to a variety of inquiries instigated by governments and other bodies have been included.

*Media releases*

SNAICC has issued media releases on a range of topics.

**Observation and participation**

My full-time location within SNAICC for a six month period in 1997 contributed to my role as a participant observer, and to a research process based on immersion.<sup>181</sup> I was fortunate to attend the Second Child Survival Conference held in Townsville in May of that year. This conference assisted in orienting me to current debates which had arisen from both historical events and contemporary practices. I also attended a variety of meetings in Melbourne with stolen generations themes.

In addition, I answered the telephone, dealt with queries and ran errands, tasks which although not overtly incorporated in the SNAICC story, contributed to my socialisation and understanding of the Organisation and the people involved.

Where possible, when interstate for interviews, I involved myself in events and visits which enhanced my knowledge. Part of this process was driven by a consciousness that although I had some understanding of the overall Australian context, my direct policy and practice experience was limited to Victoria. The generosity of research participants and others facilitated visits which included a range of Aboriginal children's services, the Cherbourg community, a Brisbane City Council ceremony in which the Indigenous community was given the key to the city in the spirit of reconciliation, a cultural awareness training program in Roebourne (Western Australia) and the site of former Aboriginal institutions in Darwin and Perth.

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<sup>181</sup> Ponticelli, 'The Spiritual Warfare of Exodus', 1996, p. 199.

## CHAPTER 5 WE ALL HAD THE SAME STORIES: STRUGGLE AND SUCCESS

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... the national body ... increased my consciousness of all the social and political factors affecting Aboriginal children across the nation ... We all had the same stories ...<sup>1</sup>

### Introduction

Indigenous activism can be seen as arising from a passion for justice for Aboriginal and Islander people. This passion has never been quelled or silenced and is indeed reaching new proportions, as Indigenous peoples contest their rights. The expression of this activism is most frequently acted out through formally constructed organisations. In the child welfare arena these are the state and territory Aboriginal and Islander Child Care agencies, supported by SNAICC as their national peak body. The stories of the individual agencies and SNAICC are intertwined.

Although there had been early forms of Aboriginal organising and protest<sup>2</sup>, the growth of 'modern' Aboriginal organisations from the 1970s 'marked a new and deliberate attempt to revoke a century of subjection to paternalistic control and policymaking'.<sup>3</sup> At regional and national levels, the course of Aboriginal lives has been significantly determined by politicians and administrators not of their own culture.<sup>4</sup> The formation of Aboriginal organisations has provided a means of asserting Aboriginal rights and advocating for self-determination, autonomy and community control. The establishment of the organisations has also represented a response to the failure of governments to provide adequate measures and services.<sup>5</sup> The vast majority of organisations are managed by Indigenous

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<sup>1</sup> Interview with Julie Tommy, 17 Dec 1997.

<sup>2</sup> These included the Federal Council for the Advancement of Aboriginal & Torres Strait Islanders (FCAATSI), the Australian Aboriginal Progressive Association and League and the Australian Aboriginal League. The earlier organisations did not provide direct services, but engaged primarily in political lobbying. For example, FCAATSI was instrumental in the quest for the 1967 referendum. Non-Aboriginal people were also influential in the running of some of the earlier organisations, unlike current Aboriginal organisations which are operated in accordance with principles of community control and whose membership is usually drawn from Indigenous people.

<sup>3</sup> P. Nathan, *A Home Away from Home*, PIT Press, Melbourne, 1980, p. 20.

<sup>4</sup> J. Reid & D. Lupton, 'Introduction', 1991.

<sup>5</sup> Freedman, *The Pursuit of Aboriginal Control*, 1989, p. 83.

people, in accordance with principles of community control.<sup>6</sup> As areas of need were identified by Indigenous groups, organisations emerged in Australia in the fields of health, education, legal services and child welfare. National peak bodies were established across each area. Notwithstanding the earlier forms of resistance and action, the 'modern' phase of Aboriginal resistance can be linked more closely to the rise on a national scale of the Aboriginal rights movements. This movement contributed to the formation of the AICCA's which emerged to question and stem the massive institutionalisation of Aboriginal children.<sup>7</sup> The AICCA's were seen as a means of ensuring that Aboriginal people could exercise their rights to self-determination in relation to their children and families. Despite ongoing government resistance to the enactment of this principle, SNAICC has continually asserted the rights of Aboriginal people to self-determination.<sup>8</sup>

The importance of the principles of Aboriginal community control and self-determination has been reinforced by others. H.C. Coombs was one of the few senior Commonwealth public servants who, as early as the late 1960s, had the vision that Aboriginal organisations could go beyond service delivery organisations to become a basis for political campaigning and new forms of power within Aboriginal communities.<sup>9</sup> He regarded the exercise of political power through these organisations as a counterbalance to official attempts to bring Aboriginal family groups and communities under political control.<sup>10</sup> In 1991 Commissioner Elliott Johnston, in his report on Aboriginal Deaths in Custody, argued strongly in favour of Aboriginal organisations, opposing the mainstreaming of services.<sup>11</sup> The *Bringing Them Home* report of 1997 asserted the importance of self-determination principles, noting the failure of current government approaches in the areas of child welfare and juvenile justice.<sup>12</sup>

<sup>6</sup> In the organisational context, I am defining community control as the management by members of the development and implementation of the directions of the organisations.

<sup>7</sup> SNAICC, *Documents Regarding Issues of Major Concern*, 1996.

<sup>8</sup> N. D'Souza, *Indigenous Child Welfare*, 1994, p. 88.

<sup>9</sup> Dr Coombs, an economist, was a founding member of the Council for Aboriginal Affairs which was established in 1968. It was not until 1972 that a Federal Department of Aboriginal Affairs was established when Gough Whitlam was Prime Minister.

<sup>10</sup> N. D'Souza, *The Impact of Competition Policy on Aboriginal Non-Government Organisations*, SNAICC, 1999, p. 25.

<sup>11</sup> Royal Commission into Aboriginal Deaths in Custody, *National Report: Overview and Recommendations*, 1991, p. 24.

<sup>12</sup> HREOC, *Bringing Them Home*, 1997.

The establishment of Aboriginal organisations has provided a vehicle for both the development and delivery of culturally appropriate services, as well as formal structures from which to influence the broader policy arena. Most of these organisations were created from the early 1970s on. Self-determination approaches under the Labor Government of Prime Minister Gough Whitlam, from 1972-1975, flourished. Although Aboriginal organisations continued to form following the defeat of his Government, a more limited self-management approach was introduced under the Prime Ministership of Malcolm Fraser and his Liberal Coalition Government. The rhetoric accompanying this policy implied that Aboriginal communities would have more say in the running of their communities and enterprises, but within a framework laid down by Government.<sup>13</sup> However, all governments have been subjected to criticism by a range of commentators. Under the Whitlam Government changes were introduced in most spheres of Aboriginal affairs. However, these changes did not transfer power and control to Aboriginal people.<sup>14</sup> Whatever the rhetoric, government control has survived up until the present time, even following the development of the Aboriginal and Torres Strait Islander Commission in 1990 which has not realised Aboriginal hopes of increased autonomy. In addition to the contest over autonomy and self-determination, the AICCA's have been caught up in political battles for state rights. As the Commonwealth began funding Indigenous child welfare services, previously the domain of the states and territories, tensions arose in some jurisdictions about this 'encroachment' on their affairs.

Most Aboriginal organisations, whatever their primary function, tend to become involved in an array of issues which impact on their constituents. Resisting being locked into funded functions alone, their approach is holistic and their activities are part of the broader social movement for Indigenous rights. Unlike many non-Aboriginal non-government organisations they are not simply a matter of service delivery, but carry out and express the political aspirations of Aboriginal people.<sup>15</sup> To date organisational theorists have given scant attention to the unique features of Aboriginal organisations. Aboriginal perspectives on organisations are

<sup>13</sup> L. Lippman, 'The Aborigines', in eds. A. Patience & B. Head, *From Whitlam to Fraser: Reform and Reaction in Australian Politics*, Oxford University Press, Melbourne, 1979, p. 181.

<sup>14</sup> Freedman, *The Pursuit of Aboriginal Control*, 1989, p. 53.

<sup>15</sup> D'Souza, *The Impact of Competition Policy*, 1999, p. 12.

not based on a literature concerned with theoretical reflection on the nature of organisations, but rather on the distinctive Aboriginal view of organisations which is grounded in Aboriginal history and the relations between Aboriginal people and state organisations.<sup>16</sup>

Aboriginal people have long resisted attempts at social control and engineering perpetrated by colonial and subsequent governments,<sup>17</sup> and SNAICC's story is one of resilience and resistance. The account is shaped by a struggle that has been 'at the core of the battle for survival of Aboriginal people.'<sup>18</sup> The struggle by Aboriginal men and women against the removal of their children constituted a protection of the only guarantee for their survival when they had little or no material possessions and negligible civil rights.<sup>19</sup> The establishment of SNAICC resulted in the formal recognition, documentation and political activism which framed this struggle. The dominant narrative of the Organisation is one of contest, particularly against government and bureaucracy.

This chapter analyses the establishment phase of SNAICC. It incorporates the stories of participants who refer to the endeavours resulting in the formation of state and territory organisations to advance the cause of Indigenous children's rights, particularly rights to their culture and rights to their families. The common concerns in each jurisdiction provided the momentum for the establishment of the national body. Although the scope of my research does not permit a comprehensive analysis of the formation of each of the SNAICC member organisations an overview of some, through oral testimony, provides some leads to the challenges they faced, challenges which provided stimulus for the formation and continuation of SNAICC. In order to illustrate the unique nature of each of the organisations, vignettes from selected organisations highlight themes and differences arising from the memories of participants.

<sup>16</sup> A. Jones & J. May, *Working in Human Service Organisations: A Critical Introduction*. Addison Wesley Longman, Melbourne, 1992, pp. 68-69.

<sup>17</sup> SNAICC, *Documents Regarding Issues of Major Concern*, 1996.

<sup>18</sup> SNAICC, *Documents Regarding Issues of Major Concern*, 1996, p. 4.

<sup>19</sup> SNAICC, *Documents Regarding Issues of Major Concern*, 1996, p. 4.

## An Indigenous challenge: The formation of SNAICC

On 11 November 1983, Faye Carter, Chairperson of the Board of Directors of the Victorian Aboriginal Child Care Agency, received a letter from the Department of Social Security offering funding for SNAICC:

I wish to advise that approval has been given by the Minister for Social Security, Senator the Hon. Don Grimes, to a capital grant of \$4,000 and a recurrent grant of \$57,000 p.a. for the Secretariat of National Aboriginal and Islander Child Care (SNAICC). The Minister has agreed to VACCA accepting responsibility for the grant as an interim measure, pending incorporation of SNAICC.<sup>20</sup>

SNAICC was formed two years earlier than the receipt of this letter by a group of Indigenous people from around Australia representing Aboriginal childrens' services. Their major quest was to halt the number of Aboriginal children being fostered or adopted into the non-Aboriginal community. These concerns had previously been addressed at the First Australian Conference on Adoption, held in February 1976 at the University of New South Wales, where the link had been presented between Aboriginal adults in the criminal justice system and their past, which 'almost inevitably showed a history of fostering, adoption or institutionalisation'.<sup>21</sup> At that conference, Melbourne academic Elizabeth Sommerlad presented a summary of consultations held in the states and territories. Themes emerging from the consultations included the need for culturally relevant approaches to Aboriginal child placement and adoption, concerns that current adoption laws and practices reflected white standards and the importance of Aboriginal self-determination as a guiding principle.<sup>22</sup> More than twenty years later, many of the issues raised at that time still form a prominent component of SNAICC's agenda.

Following the 1976 conference, an Aboriginal Task Force worked to establish child and family services for Aboriginal families.<sup>23</sup> Former Director of the Victorian Aboriginal Child Care Agency, Mollie Dyer,

<sup>20</sup> Correspondence from the Department of Social Security to the Victorian Aboriginal Child Care Agency, 11 November, 1983.

<sup>21</sup> N. D'Souza, *The Secretariat of the National Aboriginal and Islander Child Care*, 1994, p. 27.

<sup>22</sup> Sommerlad 'Homes for Blacks', 1976, pp. 163-165.

<sup>23</sup> M. Dyer, 'Victorian Aboriginal Child Care Agency', in ed. C. Picton, *Proceeding of Second Australian Conference on Adoption*, Committee of Second Australian Conference on Adoption, May, 1978, p. 182.

commented on the wide support provided in those early developmental stages:

Many agencies—Federal, State and voluntary—committed themselves to supporting us in our efforts. Statutory bodies responsible for child welfare in each State guaranteed to consult our people in an attempt to find 'solutions' for the problem.<sup>24</sup>

The momentum consolidated three years later during the International Year of the Child in 1979, when the First Aboriginal Child Survival Seminar was held in Melbourne. The seminar brought together around 240 people, from all states and territories. Representatives included state officials involved in the planning and implementation of programs for Aboriginal children and youth, court representatives, Aboriginal legal services and church agencies. A delegate from the Association of American Indian Affairs, the Yakima Indian Nation, was in attendance.<sup>25</sup> The report of the seminar noted that the occasion was 'an unprecedented opportunity for participants from all over Australia to share their experience and knowledge in the area of Aboriginal Child Welfare'.<sup>26</sup> Brian Butler from Adelaide made a plea for other Australian states to follow the lead of Mollie Dyer in Victoria by setting up ACCAs around Australia.<sup>27</sup> Despite differences of background, geography and experience, shared stories of removal, deprivation and racism emerged, all of which had a significant impact on the quest to establish a national organisation.

The 1981 SNAICC Conference established the original Aims and Objectives of the Organisation, with the 1979 Aboriginal Child Survival Seminar providing much of the impetus. A period of inactivity came to an end at the 1981 Conference, where a call was made for the immediate establishment of SNAICC 'to ensure the survival of the present generation and the well-being of future generations of Aboriginal and Torres Strait Islander children'.<sup>28</sup>

<sup>24</sup> Dyer, 'Victorian Aboriginal Child Care Agency', 1978, p. 182

<sup>25</sup> B. Jackson, *The First Aboriginal Child Survival Seminar: If Everyone Cared*, Report from an International Seminar on Aboriginal Family Life and the Welfare of Aboriginal Children, Aboriginal Child Care Agency and Office of Child Care, Melbourne, 1979, p. 4.

<sup>26</sup> Jackson, *The First Aboriginal Child Survival Seminar*, 1979, p. 4.

<sup>27</sup> Jackson, *The First Aboriginal Child Survival Seminar*, 1979, p. 5

<sup>28</sup> Resolution, SNAICC Conference, 1981..

At the first SNAICC Conference for 1982, held in Brisbane, a resolution established a national secretariat.<sup>29</sup> At the second national gathering for 1982, held in Canberra in November, delegates accepted both the existing Aims and Objectives of SNAICC and previous resolutions.<sup>30</sup> Marjorie Thorpe, from the Victorian Agency, explained that the purpose of the Conference was to discuss issues of concern within any or all agencies, and to look at ways of resolving those issues as a united national body.<sup>31</sup> Delegates accepted the proposal that the national body would be an umbrella organisation for all ACCAs/Aboriginal Childrens' Services throughout Australia, that Statutory boundaries (state divisions) would not be recognised and that the national body would be structured along similar lines as the National Aboriginal and Islander Health Organisation.<sup>32</sup> Delegates proposed that the body would not be reliant on Government funding, but would depend on funding from independent sources (donations). As such, it was agreed that all Agencies should launch an extensive fundraising campaign in order to raise funds for the national body.<sup>33</sup>

This meeting elected an Executive comprising Brian Butler (Chairman), Pamela Hausman (National Convenor), Bill Belling (National Coordinator) and Isobel Coe (Publicity Officer).<sup>34</sup> The following motion was passed:

That the meeting recommends the immediate establishment of the Secretariat of National Aboriginal and Islander Child Care (SNAICC), the formation of which will ensure the survival of the present generation and the well being of the future generations of Aboriginal and Islander children.<sup>35</sup>

Mollie Dyer has presented her recollections on the establishment of the Organisation:

Nigel, I guess you know how SNAICC was conceived. In early 1979, Senator Guilfoyle<sup>36</sup> convened a 5-day meeting in Canberra, attended by all ACCA's Children's Services, some funded already, others with submissions already put in. The problem at the time that those that were funded, except South Australia and Victoria, were funded through other avenues—ie Queensland was funded

<sup>29</sup> Resolution, SNAICC Conference, June 1982.

<sup>30</sup> Minutes SNAICC Conference, November 1982.

<sup>31</sup> Minutes SNAICC Conference, November 1982.

<sup>32</sup> Minutes SNAICC Conference, November 1982.

<sup>33</sup> This suggestion did not eventuate, and SNAICC is funded by the Commonwealth Government.

<sup>34</sup> SNAICC Conference File 1982.

<sup>35</sup> Resolution, SNAICC Conference, November 1982.

<sup>36</sup> Then Minister for Social Security.



from extra funds given to the Health Services for the purpose. Senator Guilfoyle said she would consider funding all agencies but suggested there be uniformity. We all agreed a national body be set up—spent some time discussing a name and ended up with SNAICC.<sup>37</sup>

Delegates to the 1981 SNAICC Conference decided that the Victorian Agency should take responsibility for implementing the Aims and Objectives of SNAICC during the first twelve months.<sup>38</sup> Marjorie Thorpe recalls the embryonic stages when she took on the National Coordinator role until the granting of funds occurred.<sup>39</sup> In recognising the need for a national body, the distinction between doing the work at hand, and working for longer-term change was recognised. She explained her roles as both Program Director of VACCA and National Director of SNAICC:

Although it was a lot of work, it didn't detract one from the other. I think they complemented each other actually because although we were working with the problem at hand, we had to find solutions to situations we were facing. We just couldn't cope with the work. Workers were burning out. We needed to have a better way of doing things (interview 27 Aug. 97).

The solution to this pressure was partially found at the June 1982 SNAICC Conference in Brisbane, where the decision emerged to share the workload more evenly with Victoria taking responsibility for workloads, South Australia for statistics and information and New South Wales and Western Australia for regionalisation. At the Canberra meeting held in November of that year, a model for a National Executive was drawn up.<sup>40</sup> Former VACCA employee Graham Atkinson (1978-81)<sup>41</sup>, recalls the early days of the Victorian Aboriginal Child Care Agency and events which facilitated the formation of SNAICC. He comments that as one of the first ACCAs to be formed, the Victorian agency spent considerable time networking with ACCAs in other states. He notes how the Victorian agency was often used as a model for establishing agencies in other states. The networking went beyond Australia, with much of the impetus for establishing the agencies emanating from interest in a model adopted in the United States. Graham Atkinson outlines this process:

<sup>37</sup> This letter from Mollie Dyer (undated) to Nigel D'Souza was reproduced in the SNAICC *Newsletter* of June 1996.

<sup>38</sup> Minutes SNAICC Conference 1981.

<sup>39</sup> Once funding was received, Bill Belling took on this role.

<sup>40</sup> Minutes SNAICC Conference, November 1982.

<sup>41</sup> Initially Senior Social Worker, and subsequently Program Director.

I did a National tour with a visiting speaker on Native American Child Welfare Rights that enabled me to link up with other Committees or groups that were operating or trying to establish similar structures in other states. That experience, I suppose, led us into thinking about a more formal national structure or network of Aboriginal child care agencies (interview 16 Oct. 97).

Graham Atkinson's views on the instrumental role of the Victorian agency were reinforced by Julie Tommy from Western Australia:

Structurally, when the ACCA set up their agency in Western Australia, a lot of their constitution, objectives were the same. We shared the same objectives. I think the Victorian ACCA at that time played a crucial part in providing direction in that area and that's where I think the link initially was made. And that link was already there before this national body came into being (interview Julie Tommy 17 Dec. 97).

Graham Atkinson saw key support for the formation of a national organisation, arising from a workshop held in Wollongong, New South Wales. He explains the process of that workshop:

It would have been around about late 1979 or even early 1980. The workshop brought together representatives from formally established agencies which were already operating in South Australia, Victoria, New South Wales and I think Tasmania. These were just committees—groups of interested people in the other states. The idea behind the national workshop was to bring together the various representatives to share information, and lend their expertise and experience and knowledge to those states that hadn't established their organisation or agency structure yet. At that workshop the idea of a more effective national structure, such as SNAICC, was initially discussed. The workshop was initiated by the functional agencies at that time, with VACCA playing the lead role. We did have a broad vision and that was for a national peak secretariat as we called it then, that would co-ordinate and represent the interests of Aboriginal child care agencies (interview 16 Oct. 97).

How the concerns and philosophies of the Victorian ACCA contributed to the formation of SNAICC is told by Marjorie Thorpe, who succeeded Graham Atkinson as Program Director of ACCA. She saw VACCA as 'one little organisation, not as resourced as we should have been'. She stated that 'we were fairly new to this', lacking experience and with staff coming from different perspectives. Despite this perceived lack of experience the quest was strong and developed from a strong belief and hope for change. Action was considered essential:

... because these were young kids who we were working with, we really tried to make sure that we could get the resources to improve that situation and to stop the removal of Aboriginal children from their families, to try and put in place support structures so that families weren't breaking down to the point where their children were being put in care (interview 27 Aug. 97).



## The operations of SNAICC

Since its inception, SNAICC has had a broad brief and has consistently challenged the system of child welfare that continues to operate under all the various state and Federal jurisdictions. The demand for national legislation has been a consistent theme of SNAICC's activities, and this call is outlined in Chapter 9. In line with its holistic approach, SNAICC has participated in a wide variety of activities and projects including raising concerns about issues of domestic and family violence, child poverty and measures for preventing child abuse and neglect in Indigenous communities. It has been active in wider concerns, including pressing the Government to ratify the United Nations Convention on the Rights of the Child. Nigel D'Souza, sees the Organisation in this way:

Our approach as an organisation has been that we don't see ourselves as speaking on behalf of Aboriginal people, but we are an advocacy group that speaks on issues that are of concern to a constituency so our membership is very small. We could never have pretended to speak on behalf of the whole Aboriginal community. We speak on behalf of our members occasionally, but usually we address issues that affect Aboriginal children and families. That's why I suppose you are always in the role of criticising those things (interview 7 Aug. 97).

Through its collective approach to representing Indigenous communities in relation to Aboriginal and Islander child care, SNAICC has been structured to ensure that the communities which demanded the formation of the national body maintain control of its decision-making. The role of the SNAICC membership and the National Executive has been central to the directions and operations of the Organisation:

A major reason for our resilience and strength as an organisation is undoubtedly our membership and our National Executive. Our organisation genuinely reflects the desires and views of our membership. Our Executive in turn has great experience and expertise in the field of children's rights and rights that we operate in. Through a significant degree of continuity in the membership of the National Executive we have been able to have stable guidance of the organisation over the years. Above all there is a strong sense of commitment to SNAICC and the aims of the organisation.<sup>42</sup>

At the time of writing, there were fourteen members on the SNAICC Executive, voted in at Annual General Meetings. The SNAICC office is located in Melbourne, and the Organisation receives its funding from the Commonwealth Department of Family and Community Services for the

<sup>42</sup> SNAICC, *Documents Regarding Issues of Major Concern*, 1996, p. 4



positions of full-time Executive Officer and part-time Administrative Assistant. The Annual General Meeting and Conferences change state venues for each meeting.

SNAICC member agencies have been involved in providing a range of services for Indigenous children and families, including youth services, holiday programs, family support, 'link-up' services, foster care, adoption and counselling.<sup>43</sup> At the time of writing, there were twenty-eight member organisations. A list of current members is attached as Appendix 2. The Multipurpose Aboriginal Children's Services (MACS), which had previously been affiliate members of SNAICC have, since a resolution at the 1998 Annual General Meeting, been able to participate as full members. These organisations focus on the child care aspects of children's services, such as day care and play-groups, rather than child welfare. Unlike mainstream child care services, the Multifunctional Aboriginal Children's Services are not targeted at working parents but to those on low incomes and the most needy sections of the Indigenous population. They are seen as playing an important role in preparing children for the education system, as well as providing community activities which enhance the self-esteem of Indigenous people and children.<sup>44</sup>

The Aims and Objectives of SNAICC, formalised into a *Statement of Purposes*, were developed in 1981, accepted in 1982 and slightly amended in 1986. Provisions include national legislation, elimination of abusive child welfare practice, access to records and information, Indigenous control of fostering and adoption, abolition of oppressive legislation and enforcement of the UN Charter on the Rights of the Child.<sup>45</sup> Appendix 3 presents the amended *Statement of Purposes*.

In a report to the National Children's Services Forum in August 1997, SNAICC summed up its roles and responsibilities:

For the benefit of those who are unfamiliar with us the Secretariat of the National Aboriginal and Islander Child Care (SNAICC) is the only national non-government Aboriginal organisation that deals broadly with A & TSI children's issues. Our membership comprises the spectrum of children's services types that exist in Australia and that serve A & TSI people and their

<sup>43</sup> C. Choo, *Aboriginal Child Poverty*, Brotherhood of St Laurence, Melbourne, 1990, p. v.

<sup>44</sup> B. Butler, 'Aboriginal Children: Back to Origins', 1993, p. 10.

<sup>45</sup> SNAICC, *Statement of Purposes* (amended), 1986.

children. They are the Aboriginal Child Care Agencies that deal broadly with children and families who are at risk although many of these agencies have diversified into other areas; Multifunctional Aboriginal Children's Services which have a core function of centre based long-day care supported by nutrition and cultural enrichment programmes, mobile services, playgroups and early childhood education centres. At our recent national conference in Townsville sixteen MACS joined as affiliates. Our role over the years has largely been one of advocacy at a national level. However, we work with a wide variety of agencies like the Commonwealth Government, the Family Court, the Australian Council of Social Services and the Human Rights and Equal Opportunity Commission. In 1991 SNAICC initiated a campaign that led to the establishment of the National Inquiry into the Separation of A & TSI Children from their Families.<sup>46</sup>

## Remembering SNAICC

Those interviewed by me recall the early stages of the development of SNAICC in a variety of ways, full of incident and humour. Their anecdotal accounts illuminate the complexities involved in endeavours to wrest power, control and funding from governments, as well as the strength evident in national collaborative action. From her Northern Territory perspective, Betty Pearce refers to an incident at the Townsville meeting of March 1984 when it was decided to establish SNAICC:

You're not going to believe this, but we had the biggest row that you would ever come across. This Palm Island woman jumping up and down claiming that she was a real Aboriginal person and that half-castes had no right getting involved with this Aboriginal conference. I eventually said to her 'we're all full of blood so what the hell was she talking about'. The worst thing I ever have said to her was that to me she didn't look like a full-blood. To me, she looked like she had Torres Strait Islander blood in her. And wow! She was bigger than me and I was only about 8 stone 3 in those days and she really attacked me (interview 15 Nov. 97).

Jackie Oakley, formerly of Western Australia, talked about how the ACCA representatives 'subverted' the agenda of the Commonwealth Government in the early stages:

All the ACCAs that had been established or that were in the process of being established, it was just a recognition by the Commonwealth funding agency which was the Office of Child Care. And I suppose it fit with their requirement in terms of accountability—if we're giving all this money out, we've got to make these fellows accountable. So they called us all to a meeting in Sydney and what they were going to do was do a lot of administrative work with us, so that we all knew how to acquire the funds so

<sup>46</sup> SNAICC, *Report to the National Children's Services Forum*, 1997, p. 1.



then they wouldn't end up with any blood on their hands giving us all this money. We were all quite prepared to turn up and get that, but over the three days of the workshop, then the political lobbying started to happen at the workshop and we just said we need a national network going here, and that's where the concept evolved from, out of that workshop. But it wasn't the objective of the workshop initially (interview 23 Sep. 97).

A key theme arising from the interviews was the networking and learning from organisational representatives from different parts of Australia. Differences with the Eastern states and the learning that such contacts provided for her, were recalled by Doreen Collier:

Well, it made me aware that the people over in the East were more into doing things. We in Western Australia were pretty well backward and they were more get up and go and do things. And over here, we just more or less went along at a slow pace which is what we had done all the time I think. Now we get a few radicals, well some of them don't like it. It's a bit too much for some of them. It was an eye opener for me finding out how much they knew and what there was to learn about different things, different organisations and how you can go about getting in contact with different organisations and things like that. It was a real education (interview 16 Dec. 97).

Highlighting the benefits of her involvement at a national level as a Western Australian representative, Julie Tommy refers to the common themes despite the cultural differences:

... one of the things the national body did for me, I think it increased my consciousness of all the social and political factors affecting Aboriginal children across the nation. The irony of it was, even though there were cultural differences, in terms of our tribal background and upbringing and stuff like that. I think that in terms of the experience of what has happened to Aboriginal children and Aboriginal families, it was consistent throughout. We all had the same stories ... There were some slight differences. I think Marje<sup>47</sup> made some comment about my accent. I didn't know I had an accent but apparently I do. Then they wanted me to talk.

She elucidates the differences in child welfare practices in some jurisdictions, referring to her home State of Western Australia which, together with Queensland, has been held up as a jurisdiction which has resisted the advancement of Aboriginal rights. Her narrative focuses on the practice aspects of how those differences were played out in Western Australia:

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<sup>47</sup> Marjorie Thorpe.



But one of the other good things—like child welfare in Western Australia was secretive—like I felt the Department was very secretive and it was dominated from this bureaucracy ... And I think they did it in a conservative, secretive manner and all their practices were very subtle. They were racist but they were very subtle about it. They didn't actually come out and commit a racist act but they subtly did it. One of the things I felt like with ACCA or the national body that was good was that it was able to expose all this racism in the system ... (interview 17 Dec. 97).

Queenslander Mary Graham further highlighted the contrast between different jurisdictions which became evident to her from national contact. Similarly to Julie Tommy's view of Western Australia, she saw Queensland as being a restrictive State. She told me:

Things were terrible here in Queensland. We were amazed when we did actually get together, with say New South Wales and other states, that they seemed to have a lot more leeway to do what they wanted to do (interview 4 Feb. 98).

Queensland has been described as 'the most recalcitrant State in conferring citizenship rights upon Aborigines.'<sup>48</sup> The 1897 *Aboriginal Protection and Restriction of the Sale of Opium Act* which comprehensively regulated the lives of Indigenous Queenslanders,<sup>49</sup> was not repealed until 1965, and only after pressure from the Commonwealth. While the *Aborigines and Torres Strait Islanders Act* which replaced the legislation in that year, resulted, in theory, in Indigenous people regaining guardianship of their children, the Director could still order the compulsory removal of people, including children, between reserves.<sup>50</sup> Replacement legislation was introduced in 1971<sup>51</sup> but the power to expel people from reserves was not abolished until 1979. Until then, family members could be prevented from living together. The vestiges of such draconian powers of intervention helped frame the view the Queensland AICCAs had of their struggles. The formal policy of assimilation continued into the 1980s, with adverse policies towards Aboriginal children continuing until at least 1985 when there was a commitment to implementing the Aboriginal Child Placement Principle.<sup>52</sup> In a research paper prepared for the Royal Commission into Aboriginal Deaths in Custody, O'Connor concluded that empirical evidence in Queensland

<sup>48</sup> Chesterman & Galligan, *Citizens Without Rights*, 1997, p. 31.

<sup>49</sup> Chesterman & Galligan, *Citizens Without Rights*, 1997, p. 39.

<sup>50</sup> HREOC, *Bringing Them Home*, 1997, p. 78.

<sup>51</sup> *Aborigines Act, 1971 & the Torres Strait Islanders Act, 1971*.

<sup>52</sup> A. Armitage, *Comparing the Policy of Aboriginal Assimilation*, 1995, p. 54.

indicated that the situation for Aboriginal and Islander children was deteriorating. Despite a policy commitment to the contrary, Indigenous children were still substantially over-represented in state institutions and in placements with white caregivers.<sup>53</sup>

The Director of the Office of Child Care from 1976 to 1981, Marie Coleman, spoke of some of the battles the Commonwealth Government had with the Queensland Government to support the setting up of the AICCA in that State. She talked about a request she had received from an employee of the Department of Social Security in Brisbane to establish an agency in Queensland. Referring to the proposal, Marie Coleman states:

It went to the Minister and it was approved in principle and I think we can loosely say that all hell broke loose. The Queensland Government was deeply offended and there was very extensive communication between the then Queensland Premier, Joh Bjelke Petersen<sup>54</sup> and the Prime Minister of Australia, the Honourable Malcolm Fraser on the general issue of (a) Commonwealth involvement with Aboriginal Affairs and (b) the funding specifically of this Aboriginal Child Care Agency in an area which the State regarded as an exclusive state responsibility (interview 22 Sep. 97).

Mary Graham further describes the 'intervention' of the Commonwealth, and the issue of states rights which continually emerged.

I think ... some time in the early eighties or late seventies, the Federal Government got stuck into the states at their treatment of Aboriginal children, especially through the family services, the various family and child welfare departments. They got stuck into them because basically they weren't doing their job. They were neglecting the well-being of Aboriginal children, so of course in the thick of this splitting up families and taking Aboriginal children away and not trying to find other avenues or other ways of trying to tackle if there were problems there.

Basically there were abuses of Aboriginal people's rights and Aboriginal children's human rights too, to know their own family, be brought up by their own mob and so on and so on. They basically threatened the states that if they didn't come up with proper legislation, the Commonwealth had come up with legislation for them. And I know that in Queensland, that made them really move and got them going. So they were forced to work with us.

<sup>53</sup> Cited in D'Souza, *Indigenous Child Welfare*, 1994, p. 71.

<sup>54</sup> Premier of Queensland (National Party) from 1968-87.





And I think that was going on at the same time as SNAICC was formed. It had to be formed really. It wasn't just something that we wanted at the time. It was really a case of having to because the Commonwealth was starting to step into it (interview 4 Feb. 98).

The reaction to Commonwealth funding of the AICCAs as challenging previous state responsibility was not evident in all jurisdictions. Marie Coleman comments that when the Melbourne office of the Department of Social Security put forward a proposal for the funding of an ACCA in Victoria, 'that went through with not a lot of difficulty and we proceeded to move towards the establishment of that Agency'. The South Australian move 'was associated with very bitter fights with the South Australian bureaucracy but not at the order of political interference'. In Western Australia, she comments that the problems of 'states rights' emerged (interview 22 Sep. 97).

The strength of collective action has been paramount in the benefits espoused by those involved with the ACCAs, particularly those coming from states which were seen as being less supportive. This was evident for Carolyn Munns in her involvement with the Mt Isa ACCA:

... at the State level, we could see the inconsistency. And I can understand too that a lot of the other ACCAs had been established a lot longer than us, but being out there where it is very difficult for support because we didn't have a fax, we didn't have all those kind of things, to be able to gather support, it was very very hard. So I suppose through really pushing and lobbying for our own Mt Isa ACCA, was when I became involved in SNAICC and was elected as Queensland's rep on SNAICC. So they thought, here she goes, she's got a big mouth. Let's put her up.

So yeah. In all that lobbying, I actually learnt about Government departments and how the Government operates, so there was some knowledge that I did have to get into that. I think the first time I was on there, I got voted in as the Treasurer. I said yes as long as they are not asking me to sit down there and do the books (interview 5 Feb. 98).

Part of the collective action was enabling individual organisations to see 'the big picture' and Carolyn Munns believed that this occurred for her by looking at the issues nationally. She saw the national level as 'a whole new ball game' because looking at things nationally meant 'taking in' all of the ACCAs:

Sitting down and talking to people who came from Western Australia who basically were just existing. And we thought, gees, we think we've got it hard in Mt Isa, look at what these services have. They have absolutely nothing. I mean it really put things in perspective for me ... Also with children



what was happening too, the laws and the legislation that affected kids in the different states, especially Western Australia compared to Queensland, I think those two States were virtually the same in the same boat. Very stringent (interview 5 Feb. 98).

Shireen Malamoo recalls the impact of the SNAICC conference held in her home town of Townsville in 1984 in getting things moving, saying that was how things started 'by mushrooming, by setting up child care agencies throughout Australia.' She saw that conference as the beginning of ACCAs throughout Australia. 'You had key people like Mollie Dyer ... but that conference really opened it up (interview 25 Oct. 97). She alludes to the powerlessness of working alone, noting that it was thought necessary 'to get the people together, and that's how it happened' (interview 25 Oct. 97).

### Connecting the SNAICC jigsaw

Aboriginal and Torres Strait Islander community-run children's services throughout Australia play a crucial role in the welfare of Aboriginal children and their families. Services provided include family counselling, court advocacy, substitute care, vacation care, after school care and family day care.<sup>55</sup> The New South Wales Law Reform Commission notes that the AICCAs have been characterised as carrying on the long tradition of resistance by Aboriginal people, challenging the notion of Aboriginal people as passive victims of policies. According to the Commission, it is in such organisations that the roots of Indigenous self-determination in child care can be found.<sup>56</sup>

As the comments from interview participants reveal, the Victorian Aboriginal Child Care Agency was a model for subsequent organisations. Established in 1976, it was followed by other organisations during the late 1970s. According to Brian Butler:

As I understand it was Victoria, South Australia and New South Wales, Queensland (Brisbane, Townsville, Cairns), Perth, Alice Springs and Darwin, I think in about that order that got their agencies going (interview 1 July 97).

<sup>55</sup> NSW Law Reform Commission, *The Aboriginal Child Placement Principle*, 1997, p. 72.

<sup>56</sup> NSW Law Reform Commission, *The Aboriginal Child Placement Principle*, 1997, p. 72.



Brian Butler observes that people really started to get serious 'about developing the strongest possible movement in this country to try and address the problem that was evidently and obviously a nationwide problem' in the 1970s. He states that even in the early part of the development of the ACCAs, around 1978, there was talk of an inquiry into the forced removal of children (interview 1 July 97).

The following overview of a selection of organisations, outlines the issues seen by interview participants as memorable in the development of the SNAICC constituency. Many of the issues raised by them have been followed through by the national body. The participant vignettes do not represent all agencies, but present focused viewpoints on organisations in Victoria, New South Wales, the Northern Territory, Queensland, South Australia and Western Australia. The vignettes contribute to piecing together the struggles which revealed the necessity for representation through a national body.

### **Victorian Aboriginal Child Care Agency (VACCA)**

Given the groundbreaking role of the Victorian organisation, some detail is provided on the impetus and quest for its establishment. This recognition of the role of the Victorian organisation also provides acknowledgment to the achievements of Mollie Dyer in her quest for culturally appropriate services for Aboriginal children. When I interviewed Mollie in August 1997, she was seriously ill and the interview was by necessity brief. Mollie Dyer died in 1998. I have drawn on a variety of means to piece together her contribution including comments by other interview participants, correspondence and papers, both published and unpublished.<sup>57</sup>

The Victorian Aboriginal Child Care Agency was established in February 1976 following encouragement given by delegates to the First Australian Adoption Conference held in Sydney that same year.<sup>58</sup> At that time, the Agency committed itself to reversing the system of removal of Aboriginal children from their kinship networks. The stimulus for establishing ACCAs came from the Aboriginal Legal Service in Victoria in the 1970s which identified a need for an Aboriginal placement service,

<sup>57</sup> More detail on the life and work of Mollie Dyer will be available in her forthcoming autobiography.

<sup>58</sup> Jackson, *The First Aboriginal Child Survival Seminar*, 1979, p. 3



with the formation of the ACCAs becoming a reality following the First National Conference on Adoption in 1976<sup>59</sup> Aboriginal legal services were at the forefront of the consultations which contributed to the workshop on Aboriginal community and adoption held at the 1976 First Australian Conference on Adoption.<sup>60</sup>

The basic philosophy of the Agency was to reduce the loss of children from the Aboriginal community and provide them with their cultural identity; to reaffirm the role of the Aboriginal extended family; to involve Aboriginal adults and youth in traditional helping roles; and the recognition that the problems identified and dealt with in adolescence would inhibit delinquency and the over-representation of Aboriginal people in prisons.<sup>61</sup> At the First Aboriginal Child Survival Conference in 1979, Graham Atkinson, Senior Social Worker for the Victorian Aboriginal Child Care Agency, and later Program Director, spoke of the situation in Victoria as being 'very alarming.' He referred to the destruction of Aboriginal people through institutionalisation, commenting on the magnitude of the breakdown rate for Aboriginal children placed in non-Aboriginal settings.<sup>62</sup>

The development of VACCA is documented in the proceedings of the first Aboriginal Survival Conference 1979. The report states:

The Victorian Aboriginal Child Care Agency was initially established in February 1976 following the First National Adoption Conference in Sydney. The experiences of Victorian Aboriginal people along with Social Workers from all over the state indicated a strong need for an alternative provision for Aboriginal children within their own community. Evidence from the Victorian Aboriginal Legal Service emphasised the need for action with regard to the over-representation of Aboriginal youth in corrective institutions most of whom had a history of foster-care breakdown and several changes of placement.<sup>63</sup>

Financial support from the Commonwealth Department of Social Security's Office of Child Care for the establishment of the Victorian ACCA followed persistent lobbying and the rejection of submissions to the Federal Department of Aboriginal Affairs and the Victorian Department of Social Welfare. In 1978, the Social Welfare Department

<sup>59</sup> NSW Law Reform Commission, *The Aboriginal Child Placement Principle*, 1997, p. 71.

<sup>60</sup> Sommerlad, 'Homes For Blacks', 1976, pp. 159-160.

<sup>61</sup> Jackson, *The First Aboriginal Child Survival Seminar*, 1979, p. 3.

<sup>62</sup> Cited in Jackson, *The First Aboriginal Child Survival Seminar*, 1979, pp. 4 & 5.

<sup>63</sup> Jackson, *The First Aboriginal Child Survival Seminar*, 1979, p. 2.



recognised VACCA as the official Aboriginal consultants on Aboriginal child welfare matters, and instructed Departmental staff to provide VACCA staff with full access and co-operation in all Departmental facilities and regional offices.<sup>64</sup> At the 1979 Child Survival Conference it was noted that this mandatory consultation did not always occur.<sup>65</sup>

Prior to the official establishment of the Victorian organisation, Mollie Dyer, with the assistance of an Aboriginal Study Grant from the Australian Department of Education, visited Canada and the United States in June 1976 to study programs designed to meet the needs of culturally and socially different groups of children. During this visit Mollie saw the advantages of 'special' and 'separate' agencies for Native American and black-families and children.<sup>66</sup> These organisations had programs designed to lessen problems arising from cross-cultural and cross-racial foster-care and adoption. Mollie was largely influenced by the Ku-Nak-We-Sha program, developed by Native American Social Worker of the Yakima Indian Nation, Maxine Robbins. She noted that in the two years of operation of that program, which was based on a philosophy of maintaining a child within its family and supporting the family as a unit, not one Indian child was removed from the Reservation, compared with previous removals of 35-40 children per year. She states:

I was sure then that this was the programme which would most meet the needs of our Aboriginal people all over Australia, and I returned home confident that we could establish such a programme in Victoria.<sup>67</sup>

She recalled the resilience of the quest in Australia, as during the time she was away the committee received no encouragement, but still managed to maintain the identity of the Aboriginal Placement Agency<sup>68</sup>. On her return, she was invited to speak to various agencies about her overseas experience, and the interest and encouragement received resulted in the calling of a further meeting to establish the Agency. Early submissions were rejected and, when the newly registered Victorian Aboriginal Child Care Agency received a funding grant from the Office of Child Care, Mollie Dyer remarked:

<sup>64</sup> D'Souza, *Indigenous Child Welfare*, 1994, p. 63.

<sup>65</sup> Cited in Jackson, *The First Aboriginal Child Survival Seminar*, 1979, p. 6.

<sup>66</sup> Cited in Jackson, *The First Aboriginal Child Survival Seminar*, 1979, p. 2.

<sup>67</sup> Dyer, 'Victorian Aboriginal Child Care Agency', 1978, p. 183.

<sup>68</sup> Original name of the Victorian ACCA.



It is interesting to note that the Office of Child Care has no particular responsibility to Aborigines and this tends to bear out the view that those who are directly responsible are reluctant to give us the means to loosen their control.<sup>69</sup>

The successes of the agency, as well as the pressures placed upon it, were immediately evident. In 1978 Mollie Dyer reported that the agency had 62 active files. The agency also handled additional inquiries and staff were involved in numerous activities to inform the community of the operations of the organisation.<sup>70</sup>

Mollie Dyer soon realised that 'the Department didn't care much about where the kids were'. She recalls how she was encouraged by others to look at the types of programs existing for children (interview 15 Aug. 97). Marjorie Thorpe recalls the vision of Mollie Dyer in establishing the Victorian agency:

... you saw so many people and so many kids in care, kids being left sometimes on our doorstep because they'd become unattractive or uncontrollable by the non-Aboriginal people who had taken them in, either by fostering them or adopting them and we started realising there was something seriously wrong and I think that was what Mollie had first identified in that saying that 90% of those people going to the Legal Service had been removed from their families. So we looked at this within ACCA, looking at the problem that we had with looking after these kids and coming back into the community in that sense. And the kids that we were finding that were spread throughout all of these institutions in Melbourne and what we wanted to do was to give them some sense that they did belong somewhere, that they were Aboriginal kids and then a lot of our work was involved in trying to re-unite these children with their families. Basically that was our primary objective, of reuniting these children and then it went on to trying to work with families to stop them from breaking down and that was the bulk of our work (interview 27 Aug. 97).



<sup>69</sup> Dyer, 'Victorian Aboriginal Child Care Agency', 1978, pp. 183-184.

<sup>70</sup> Dyer, 'Victorian Aboriginal Child Care Agency', 1978, p. 185.

### Aboriginal Children's Services, Sydney

The vestiges of the early system of control, emanating from the New South Wales Aborigines' Welfare Board, which had significant power over Aboriginal families and children, were slow to disappear. Although the Board was abolished in 1969, there remained more than a thousand children in institutional or family care.<sup>71</sup> One of the children's homes, Bombaderry remained functioning until 1980.<sup>72</sup> The quest for an Aboriginal child welfare service in the 1970s arose from concerns about those leaving institutional care. In an interview with Nigel D'Souza in 1993, New South Wales Aboriginal activist Isobel Coe stated that the Aboriginal Children's Services grew out of the Aboriginal Legal Service:

We were finding there were a number of people coming to the Legal Service who had just come out of institutions and had nowhere to go. They came to the Aboriginal Legal Service looking for some answers. That is how the Aboriginal Children's Services came about. We eventually set up the Aboriginal Children's Services in 1975.<sup>73</sup>

Jenny Munro recalls the establishment of the Aboriginal Children's Services and the battles to negotiate through bureaucratic barriers. She saw the Office of Child Care as presenting greater hurdles than the State Government authority:

They actually started up in 1976 as a voluntary organisation. They went for in excess of twelve months just on voluntary funds and then submitted to the Federal Department of Aboriginal Affairs for funds I think, but because of the 27A Allowances—that's what we helped establish here in New South Wales, the State Government claimants for foster kids. Some of the funds came from DAA. Some of the funds came from the State Department of YACS. The Office of Child Care—that was a bastard of a funding body. Every 't' had to be crossed, every 'i' had to be dotted. You always had problems with them over funds. Funds that came through the Department, I mean you had your hassles but they were a lot more straightforward, but the Office of Child Care, they were really rigid. I mean you'd present with overwhelming evidence that there was an area where you needed to employ people and they just wouldn't fund it. They did it consistently. We actually got funds over the years (interview 25. Oct 97).

<sup>71</sup> Submission of Peter Read to the National Inquiry, cited in HREOC, *Bringing Them Home*, 1997, p. 49.

<sup>72</sup> HREOC, *Bringing Them Home*, 1997, p. 49.

<sup>73</sup> Cited in D'Souza, *Indigenous Child Welfare*, 1994, p. 110.



Unlike the more moderate stance of the Victorian ACCA, Jenny Munro refers the campaigns conducted in New South Wales:

There were a lot of conferences the women here would organise. Isobel<sup>74</sup> actually organised sit-ins down at the Minister's office and things like that. There's a photo of Isobel's baby in the paper sitting up on the Minister's table and Nioka is what, seventeen? They took the kids in and had a sit in with all the kids in the Minister's Office, demanding something. I can't remember what it was. It was the State Minister, I can't remember who or when it was. There were lots of other babies there. I think it was over the 27A allowance.

That was a struggle with the State Department, just getting Aboriginal families accepted onto that. Payment for looking after their grandkids or members of their extended family. In that instance where my grandmother raised all those kids, basically it was just informal placements and all we did to make sure that they got payment was formalise the placements, formalise the fostering through the Department (interview 25 Oct. 97).

Richard Chisholm recalls ways in which Aboriginal people in New South Wales worked within the system for their own purposes. He gives a particular example of a case conference involving Aboriginal children, when the local Aboriginal community outnumbered Departmental officers. He talks about the significance of this event:

It was a wonderful case conference in which the Koories really had the numbers and were very sharp, and knew all about it ... Pat Weatherall was there. She was working at the time with the Aboriginal Children's Services in Redfern and she was very smart and knew how the system worked. It was wonderful seeing her not allow the non-Aboriginal people there to pull the wool over their eyes (interview 23 Oct. 97).




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<sup>74</sup> Isobel Coe.



**The Northern Territory: Karu,<sup>75</sup> Darwin and Alice Springs ACCA**  
 We've always had a battle to survive. Poor old Karu.<sup>76</sup>

The establishment of Karu, the Aboriginal child welfare organisation in Darwin, emerged from the need to provide an alternate care program by Aboriginal people in response to the *Child Welfare Act 1983* (NT), which established guidelines and principles when dealing with the placement of Aboriginal people. The most significant of these provisions relates to the incorporation of the Aboriginal Child Placement Principle.<sup>77</sup> Barbara Cummings comments on early unsuccessful attempts to establish an organisation in Darwin noting that 'there was real demand, but I think it never got up simply because the Aboriginal community didn't have a general understanding of child welfare issues other than that policing type stuff'. Yet she and others persisted, and Barbara Cummings recalls the struggle and the moderate success in wresting funds from the Northern Territory Government:

We attempted again in 1983 and we had a draft sort of submission. There were about five of us I think—Vi<sup>78</sup>, myself—I can't remember those other founding members. It seemed like me and Vi were running round and talking to each other continuously to offer some sort of structure before we could run with it and we could never get to that point. There was no support even from within community welfare. It was a new concept. In the end, we got incorporated about 1985 and the State welfare department gave me about \$11,000 and I said 'well what's that going to do?' And, this fellow who gave it to us said, well you can buy a car and set up a pool of foster families under the Child Placement Principle.<sup>79</sup> I said 'well, you know that's not going to do us any good.' So basically that's how we battled one position. The Committee had to do the administrative work and this one position. That one position increased to, I think we got in the end about \$30,000, about a year later, but that still would employ one person and some administrative costs. ... And it wasn't until the Royal Commission<sup>80</sup> started, that ATSIC gave an extra position for Link-Up.<sup>81</sup>

<sup>75</sup> Karu means child in the Gurindji language. Karu was named in remembrance of the Gurindji children forcibly removed from their families and placed at the Darwin Kahlin compound around 1913.

<sup>76</sup> Interview Barbara Cummings 25 Oct 97.

<sup>77</sup> B. Cummings, *Family, Culture and Bureaucracy: A Cross Cultural Perspective on the Delivery of Family Services in the Northern Territory*, Alicia Johnson Memorial Lecture, Darwin, 1996.

<sup>78</sup> Vi Stanton.

<sup>79</sup> The Aboriginal Child Placement Principle is discussed in Chapter 7.

<sup>80</sup> Royal Commission into Aboriginal Deaths in Custody.

<sup>81</sup> The HREOC Inquiry report also made reference to the fact that Karu provided a family tracing service without specific funding from 1985 until 1989.



Christine King talks about the dual problems of funding and control which, despite goodwill, confronted Karu, commenting that the organisation 'was always under-funded and I believe it still is today':

... the Government was willing to be seen to be doing the right thing by the Aboriginal people, but wanted to hold on to the power and the purse strings, and the ACCA had to really fight for its existence and its right to exist. And the mainstream welfare, child welfare system felt threatened by the ACCA because they were seen to be losing that power, which was a huge power ... (interview 17 Nov. 1997).

She raises the issue of the limited autonomy granted to Karu, an autonomy where the limits were drawn at the line of use to the public welfare authorities:

I know that there was always a big fight in Karu, on what Karu could and couldn't do on their funding. It was always terrible. And then they wanted to have control. It was almost like they used the ACCA because they had to place Aboriginal kids with Aboriginal homes, so therefore the ACCA could find the people and actually do the assessments and then it would go to the mainstream to then approve it or disapprove it. So they could then use the foster parents. So I kind of got the impression that still Karu was being very much used by the Welfare System in that way, and it wasn't being given the real recognition and I believe, the real power that it should have been given to be autonomous. There was just no real autonomy about it at all (interview 17 Nov. 97).

Betty Pearce discusses her involvement, firstly in Darwin and subsequently in Alice Springs. She refers to her involvement in Darwin from the very first stages of endeavouring to establish Karu, recalling that Brian Butler was one of those involved also from the start. She recollects that the first child care agency established in Darwin, the Darwin and Regions Aboriginal Child Care Agency, did not eventuate as the Department of Aboriginal Affairs and the Department of Social Security did not want it established. She comments further that 'we only got funded to do a study whether it was needed or not'. This was in the mid 1970s, but 'it was late seventies when things got started'. She adds:

I think it was 1979 because Victoria ACCA had been going a fair while and South Australia ACCA was just getting on to its feet when we were getting on our feet. But the powers that be here, I felt they weren't really interested because they've put obstacles in our way right along the way. While they were saying there is money there, they would also turn around and say 'you've got to justify this, you've got to justify that', and so on.



And then in 1982 I got a job with the Central Australian Congress in Alice Springs, and then I was right out of the Darwin scene and I think Barbara Cummings and some others took over then and they set up Karu. But even then, Karu wasn't really set up 'til 1984 or something like that. They had really big obstacles put in their way right along the way (interview 15 Nov. 97).

Betty Pearce continues her account with her experiences in Alice Springs:

Then in Alice springs, in 1983 I think it was, Nora Kempster, who had been working with the Victorian ACCA, came back to live and work in Alice Springs as a child care worker, and she approached me to help set up Alice Springs ACCA and then we set that up (interview 15 November 97).

Unlike the broader political and bureaucratic problems referred to by other people in establishing their ACCAs, Betty Pearce saw problems existing at the community level as inhibiting the agency's establishment. She personally dealt with some of those problems with determination:

The biggest problem in Alice Springs though was the lack of understanding of what an Aboriginal child care agency was, as against an Aboriginal child care centre. That was the biggest problem. So it was really a big problem between Aboriginal people. And the men! The men in the Aboriginal organisation were really obstructive. One man even said to Nora Kempster: 'Your problem is that you are frustrated. You need a good man to give you a couple of kids of your own.' This kind of stuff. I hauled off and said 'right you—you say that again and I'll have you'. Because at that time the harassment laws were just coming in and were just new, and it was the only way to make the men listen and support us. Anyway, by 1985, Alice Spring ACCA was registered and on its way (interview 15 Nov. 97).



### Queensland: Townsville AICCA and Brisbane AICCA

A number of AICCA were established in Queensland, reflecting the vastness of the State and the numbers of Aboriginal and Islander people. Shireen Malamoo<sup>82</sup> refers to similar bureaucratic complexities which faced other organisations in trying to obtain funding:

I think it started off just steadily. It was a constant quest by the community to get funding. Where do you look from? Well, the support of the other states around. Where did they get their funding? Does Aboriginal Affairs come in here? Does Education come in here? Does any number of the various departments come in here? Does state Government, Federal Government and then the whole stress of where we get the money? And if it were from one Department, it would have been great, but it doesn't happen in real life (interview 25 Oct. 97).

<sup>82</sup> Shireen Malamoo now lives in Sydney where the interview took place.

Focusing specifically on Townsville, Jenny Pryor comments on the concerns and the processes resulting in the establishment of the Townsville AICCA, a process which started from reports about the way Indigenous children were being treated by the system:

But I started working as a Welfare Officer and one of my main tasks was working in the Children's Court and there I saw all our kids going in and out and at the time we had no AICCA here and we had to fight against the Children's Services they called it, the State Welfare Department. And just the way that they were treating our kids. And so at that time we had Peg Hadnan running a community welfare course for Indigenous people and we started collating statistical data and a few of us were associated with the Legal Service and the Medical Service. We set up an interim committee and formed the North Queensland Aboriginal and Torres Strait Islander Corporation for Child Care and that was back in 1982. We started the ground work in 1980, and in 1982 we got it incorporated and then in 1984 we started receiving some funding and that was firstly from the Department of Social Security who was then responsible for funding to AICCAs and that was money for placement of children. So you can imagine then our resources were very limited and the type of services that we could provide was very limited too. As you know that was four years of voluntary work to get it going before we actually got the funding (interview 27 June 97).

The strategies adopted in Townsville spanned both the development of an AICCA, as well as finding ways to use the 'system' for their own ends. Although the area of employment of Indigenous people within the bureaucracy has been controversial,<sup>83</sup> Townsville activists believed that the two-pronged approach had the potential to be more effective. Jenny Pryor explained the process to me:

We also negotiated with the Welfare Department here, Children's Services for having four gazetted positions where we could train our own people up in their departments. So how we looked at it was we were going to be responsible for our own kids. We had to learn their system.

So we selected four community people—one came from Townsville and one came from Ayers and one came from Palm Island and one came from Ingham. With that we received twelve months training with the Department of Family Services and from there, the condition was that after the twelve months, they would then come on board and work with the AICCA. Out of the four there were only two of them that survived (interview 27 June 97).

Jenny Pryor highlighted the problems of not being able to deal with increasing need because of the wide geographic area serviced by the Organisation. The approach taken to deal with this reflected the

<sup>83</sup> This controversy is outlined in Freedman, *The Pursuit of Aboriginal Control*, 1989.

philosophy of the AICCA 'that if any of our communities in the region that we service wanted assistance to establish their own organisation, well that's what we're on about, that's empowerment to your own local community'. A further problem highlighted is the lack of capacity to meet competing demands from other organisations and to work within a holistic approach:

You try and accommodate all community needs. I mean it's impossible because not just from the demands from your own local Aboriginal Torres Strait Islander people, but also from other non-Indigenous community and Government departments. They assume because it's a black kid well then it's a child care problem. Regardless that it might be a health problem or whatever, it's all referred to the AICCA so in the end it's horses for courses. The top priority is juvenile justice and child protection issues and it's sad that we cannot do any of the preventative work (interview 27 June 97).

Brisbane AICCA had its own set of problems, and Mary Graham recalls some of the early struggles in Brisbane, referring to the time when the Queensland Government did not recognise the Organisation. Her narrative presents a different story, one where support emanated from the worker level in the bureaucracy, without Departmental policy backing:

It was all very much almost full of intrigue. For example, child care workers from the family services departments, they would actually come and meet with AICCA people after dark or on weekends, always under cover, because they weren't actually legally allowed to talk to us. So it was a very weird situation looking back on it. Even with the involvement of car chases on the street—because somebody in their Department suspected there was a meeting going on and they'd follow someone else. White workers. They were quite brave actually. They went against their own Department heads to do these things because there was nothing else they could do. They were absolutely hamstrung by their own legislation, by their own policy of their departments and of course at the other end, they were getting nowhere with the families and children that they were working with. That is children and adolescents, teenagers. They absolutely had to talk to Aboriginal people. I suppose that much needed heavy handedness coming from the Commonwealth was just right at the time, so it forced them to co-operate (interview 4 Feb. 98).



### South Australian ACCA

Restrictive legislation in South Australia provided a focus for the development of the South Australian ACCA. Assimilation practices had effectively been in place since the 1940s, although not formally adopted as policy until 1951 by the Aborigines Protection Board.<sup>84</sup> In 1954 institutional care of Indigenous children was phased out, only to be replaced by non-Indigenous foster homes. Although the guardianship of all Indigenous children was repealed by the *Aboriginal Affairs Act* of 1962, the numbers of Indigenous children removed for reasons of lifestyle and poverty under general child welfare legislation continued.<sup>85</sup>

The South Australian ACCA has been a forceful influence in the development of ACCAs in other states. The role of Brian Butler was of fundamental importance in the establishment of both the South Australian organisation and SNAICC. He was Chairperson of SNAICC from its inception until 1997. Brian Butler recalls the formative stages in the creation of the South Australian organisation in 1978, including the influence of Mollie Dyer:

Mollie Dyer invited me to come across to Melbourne from Adelaide and it was soon after that, that learning how they had done things in America, spurred me on ... and she encouraged me to take what I had learned back to South Australia and see if we couldn't develop a similar agency there.

I did that—went back to South Australia. From a staff of two we launched that program. I was engaged by the then Director of the Aboriginal Community Centre in Wakefield Street, Adelaide to do the program because they found that because of the number of tribal groups that were brought together in Adelaide—there were about seven different groups—and over the years they had been trying to get our people to stand up against the government in relation to resisting the Department of Community Welfare's continued intervention into Aboriginal families and the consequent separation that happened as a result of that intervention. She was actually the Family Director of the South Australian Aboriginal Child Care Agency, Gladdie Elphick, and unfortunately she's deceased now. It was Gladdie Elphick that employed me on the basis that I would not favour any particular group and I would be impartial as one should be when working with a community that is made up of a number of tribal groups.

From there we developed the program. We managed to get funding and gained a tremendous amount of credit to the agency from government departments and the greater community and we were able to develop it pretty quickly after that time in 1978 (interview 1 July 97).

<sup>84</sup> HREOC, *Bringing Them Home*, 1997, p. 125.

<sup>85</sup> HREOC, *Bringing Them Home*, 1997, p. 127.



Brian Butler highlights the issue of the isolation which existed before the various organisations came together in a unified peak body. His account reinforces the strength of a collective approach:

We think we started up round about the same time as New South Wales. I know that MumShirl in Sydney was certainly very active much earlier than that time. There were lots of people who were around the country in Queensland, Western Australia, who were actually doing things. By that time we didn't have the networks in place to be able to piece together the collective efforts. Obviously they were concerned about the same things that we were (interview 1 July 97).

### **Western Australian ACCA**

The Western Australian ACCA evolved from a similar scenario facing other states regarding the separation of children, and was similarly spurred on by concerns emanating from the Aboriginal Legal Service in that State. Jackie Oakley comments on how networking between states led to the establishment of the model adopted. Although the same concerns about 'the incarceration of Aboriginal kids and the separation from families' emerged, the Western Australian activists initially looked to see whether a child care facility would have been the appropriate development to strive for. With this end in mind, visits took place to Murrawina in New South Wales. Hearing about how the Victorian ACCA provided a service to children, as opposed to the state welfare system, changed their mind. She explained the development which then occurred:

... and we then got one of the workers over there, Mollic Dyer to come over to Western Australia and give us an outline of what the service was over there. At the end of the day that is the model that we opted for rather than the day care one as such like Murawina and it sort of evolved from there. We got a Steering Committee together. In fact Rob Riley<sup>86</sup> was our first Chairperson and the ACCA in Western Australia sort of grew out of that. So that was my first involvement. It would have been the late seventies (interview 23 Sep. 97).

Like the other organisations, funding was a major issue:

The bureaucracy in WA was fairly supportive as long as it didn't cost them anything. They were committed to the idea but not committed in terms of extension of resources. The Commonwealth was committed to funding the infrastructure of the Agency but not providing resources in terms of the

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<sup>86</sup> The contribution of Rob Riley, now deceased, was referred to by a number of participants.



service that we wanted to set up. So the kids were still caught in limbo because of the unwillingness of funding agencies to respond to what we wanted to set up (interview 23 Sep. 97).

The current situation in Western Australia continues to be criticised by policy analysts and the media. Beresford and Omaji suggest that the principles of the assimilation era 'appear to be firmly lodged in the attitudes of Western Australia's political elites not to mention sections of the community at large'.<sup>87</sup> Providing an example of the strength of this legacy, they refer to a proposal, fortunately rejected, by the Minister for Education in that State that a system of hostels to enforce better educational standards for Aboriginal children be established. These would be in rural areas and children would only go home on weekends.<sup>88</sup> Past policies and practices in Western Australia also reveal that this jurisdiction followed closely behind Queensland in introducing measures which went against the interests of Aboriginal communities. Haebich notes that measures based on biological absorption were introduced by the Northern Territory and Queensland administrations. However, it was Western Australia which went the furthest in espousing the policy in legislation and practice, specifically the 1936 *Native Administration Act* (WA). Among the provisions of this Act was that virtually any child of Aboriginal descent could be forcibly removed from his or her family, and placed in government institutions to be trained in the ways of 'white civilisation'.<sup>89</sup> Other legislation intruded on the rights of Indigenous people in that State, including the *Aborigines Act* of 1895 and the *Native Welfare Act* of 1954.<sup>90</sup> As in other parts of Australia, Western Australia practiced the systematic removal of Aboriginal children from their families and culture repeated in the rest of Australia. The children removed were sent to distant homes, orphanages, missions and government institutions.<sup>91</sup>

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<sup>87</sup> Beresford and Omaji, *Our State of Mind*, 1998, p. 232.

<sup>88</sup> Beresford and Omaji, *Our State of Mind*, 1998, p. 233.

<sup>89</sup> A. Haebich, *Submission to the Human Rights and Equal Opportunity Commission*, 1996, p. 6.

<sup>90</sup> T. Buti, 'They Took the Children Away', *Alternative Law Journal/Aboriginal Law Bulletin*, vol. 20, No. 1, vol. 3, no. 72, 1995, p. 35.

<sup>91</sup> T. Buti, *History That Must be Told: The removal of Aboriginal children from their families in Western Australia*, Address to History Teacher's Association of Western Australia State Conference, Aboriginal Legal Service of WA, 1996, p. 1.



The establishment stages of the AICCAs were beset with problems at a range of levels. Political 'footballing' between the Commonwealth and the states threatened to sabotage the process. Once established, the AICCAs did not have an easy time in getting the states to recognise their needs or to pass on power and control. Funding remained limited. There was often minimal support from the bureaucracies and where it did occur, it was seen as limited by various factors including policy dictates, unwillingness to relinquish power and rigid program parameters. The formation of SNAICC was a means for the individual organisations to work together to overcome some of the barriers. As these barriers are multi-layered, and the perceived 'enemy' varied from jurisdiction to jurisdiction, this has not been an easy quest. Recurrence of some of the inappropriate policies in some jurisdictions, combined with the ongoing over-representation of Indigenous children in the child welfare<sup>92</sup> and juvenile justice systems, also highlights the need for ongoing vigilance through the national body. Despite the difficulties, D'Souza has commented that 'stability, continuity, commitment and expertise have been and are the characteristics of our organisation through our recent history'.<sup>93</sup>

Past and present struggles of the Indigenous activists in the child welfare field have not dampened the determination to form, and to maintain, the state and territory organisations and SNAICC. One of the biggest hurdles to overcome was to gain government funding to implement the defined goals. This has been singled out for attention in the next chapter, as it is an ongoing theme of the struggle highlighted by many of the research participants.

<sup>92</sup> This over-representation is expanded in Chapter 9 on the 'unfinished business' of SNAICC.

<sup>93</sup> D'Souza, 'The Secretariat of National Aboriginal and Islander Child Care', 1994.



## CHAPTER 6 CONTESTED GROUND: FUNDING AND ACCOUNTABILITY

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The funding problems of the AICCA's are a symptom of the wider malaise that is the child and family welfare system in Australia.<sup>1</sup>

### Introduction

The funding of Indigenous organisations in Australia is fraught with difficulties. Depending almost entirely on the financial support of governments, Indigenous organisations have complained of the funding constraints which have plagued them from the outset, particularly the resultant inadequacy to perform their functions and the restrictive accountability mechanisms of government. Confrontation, compromise and acquiescence have characterised the way in which Indigenous organisations have responded to the impositions of government. One issue which has been raised by Indigenous groups in this country is that Aboriginal organisations should be accountable to their own communities and not to government,<sup>2</sup> an argument which has had little impetus at either a policy or community level. Funding issues which have troubled the Aboriginal non-government community sector in Australia have never been resolved and, in the late 1990s, were having an increasing impact on Aboriginal organisations, with the emergence of such concepts as provisions as tenders, performance indicators, output based measurement and best practice.<sup>3</sup> In the current climate, minority groups have been targeted as the cause of Australia's economic problems with accusations of wasteful spending on Aboriginal affairs.<sup>4</sup>

The New South Wales Law Reform comments that 'the AICCA's continue to struggle for recognition of their role in the welfare of Aboriginal children and for the resources to sustain their work, with the

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<sup>1</sup> SNAICC, *Newsletter*, August 1993.

<sup>2</sup> Freedman, *The Pursuit of Aboriginal Control*, 1989, p. 159.

<sup>3</sup> N. D'Souza, *Competition Policy and Aboriginal Non-Government Community Services, Discussion Paper*, 1999, p. 2.

<sup>4</sup> E. Adams, 'Howard's Approach to Aboriginal Affairs in 1996: An Analysis', 1997.

major problems of inadequate resources, excessive caseloads, lack of recognition by the appropriate authorities to determine the future of Aboriginal children and total reliance on government funding'.<sup>5</sup>

Given the limited amount of funding which SNAICC and its constituent organisations have gained, their activities and achievements, documented in subsequent chapters, are an indication of the relentless pursuit for justice. SNAICC has lobbied for its own funding and that of its members, with SNAICC's story closely bound to its struggle for financial resources from government. SNAICC's submission to the Industry Commission Inquiry in 1995, commented on the specific set of problems confronting the funding of Aboriginal community services organisations. These included the narrow and specific focus of funding programs, the lack of room for negotiation, the difficult submission process, the dual accountability issues to the funding body and to the community and Commonwealth-state government funding disputes.<sup>6</sup>

A number of commentators have analysed the funding issues confronting Aboriginal organisations. Elsewhere I have argued that it is evident that reforms to the system of child welfare, particularly the implementation of community control, cannot occur satisfactorily without adequate financial resources. Some of the factors which have restricted funding include the fear of a white 'backlash', a 'sell-out' to powerful vested interest groups and the emergence of right-wing political influences. These have combined with a political agenda which serves to benefit powerful sections of Australian society.<sup>7</sup> Chisholm suggests that funding and other supports for Aboriginal organisations is one of the most direct expressions of the policy of self-determination.<sup>8</sup> Little appears to have changed since he argued, in 1985, that uncertain funding for Aboriginal child welfare agencies limited their capacities to carry out their responsibilities as they saw them, as distinct from the view of the funding bodies.<sup>9</sup>

<sup>5</sup> NSW Law Reform Commission, *The Aboriginal Child Placement Principle*, 1997, p. 73.

<sup>6</sup> SNAICC, *Newsletter*, April 1995, p. 7.

<sup>7</sup> Freedman, *The Pursuit of Aboriginal Control*, 1989, p. 163.

<sup>8</sup> R. Chisholm, *Black Children: White Welfare?* Social Welfare Research Centre, Sydney, 1985, pp. 50-51.

<sup>9</sup> Chisholm, *Black Children: White Welfare?* 1985, p. 113.

Broome suggests 'at the dependence of Aboriginal organisations on government funding means they are often at the mercy of insensitive government bureaucracies.<sup>10</sup> He comments on the 'backlash' which has been encouraged by economic recession, the fear of what land rights might entail and the influence of extreme groups which preach racial hatred.<sup>11</sup> More recently this backlash has been manifest in Pauline Hanson's One Nation Party, which has again fuelled debates about spending on Aboriginal affairs. The discourse of 'special privilege' abounds, which, in real terms equates to no more than the granting of basic human and sovereignty rights.<sup>12</sup>

Reparation for past wrongs has been argued to justify responding to Aboriginal demands for funding. As Parbury has noted:

Many white Australians say it is wrong to give any group in the community special treatment, though Aborigines have had special treatment for almost 200 years—dispossession and genocide, prejudice, poverty, 'protection' and legal discrimination.<sup>13</sup>

Foley refers to the commonly held belief that Aboriginal organisations are given exorbitant funding which is used inefficiently. He comments that this view is reinforced by the media.<sup>14</sup> The claims have generally been without foundation. For example, the ATSIC Annual Report of 1998 revealed that the appointment by the Minister for Aboriginal Affairs to investigate ATSIC funding to Aboriginal organisations, resulted in 95% of these organisations being cleared to receive funding.<sup>15</sup>

Funding battles continue to be waged despite clear evidence that Aboriginal organisations perform an effective service. The Final Report of the Royal Commission into Deaths in Custody, for example, spoke highly of their role, affirming that 'they have performed much more effectively than the mainstream agencies have performed in relation to Aboriginal people'.<sup>16</sup>

<sup>10</sup> Broome, *Aboriginal Australians*, 1982, p. 199.

<sup>11</sup> Broome, *Aboriginal Australians*, 1982, p. 182.

<sup>12</sup> Beresford & Omaji, *Our State of Mind*, 1998, p. 243.

<sup>13</sup> Parbury, *Survival*, 1986, p. 157.

<sup>14</sup> Cited in Freedman, *The Pursuit of Aboriginal Control*, 1989, p. 169.

<sup>15</sup> Cited in D'Souza, *The Impact of Competition Policy*, 1999, p. 10.

<sup>16</sup> Cited in D'Souza, *The Impact of Competition Policy*, 1999, p. 26.



As demonstrated in the previous chapter, the formation of SNAICC and the ACCAs was dominated by a contest between the organisations and funding bodies. Given the emphasis which has been placed on this struggle, this chapter expands on these themes, including drawing on the views of both the Organisation and 'the other side', the funders, in order to unravel some of the complexities involved. Comments from interview participants on funding barriers highlight issues of control, lack of trust and scant political will. The concerns expressed raise questions as to social costs of not providing resources, including the over-representation of Indigenous children in the welfare system.<sup>17</sup>

### Relationship with funders

A wide range of funding issues have been presented at SNAICC meetings since its establishment. The early ACCAs and SNAICC were initially funded through the Federal Office of Child Care, located within the Department of Social Security.<sup>18</sup> After 1986, the Commonwealth ceased funding new ACCAs, believing that its commitments to the existing organisations were sufficient, and the state and territory governments were expected to pick up this role. This was in direct contrast to the view of the Minister for Social Security in the late 1970s, Senator Margaret Guilfoyle, who had taken on the funding as the states were not taking action about the levels of Indigenous children coming into care.<sup>19</sup> Carolyn Munns comments:

Some were funded by the Commonwealth. And looking at things nationally if you were funded under state, it was a different set of rules to the Commonwealth, so there was a big difference in funding there (interview 5 Feb. 98).

Inconsistencies between organisations in one state also occurred according to the New South Wales Law Reform Commission which refers to the 'ad hoc manner in which the Commonwealth and New South Wales Governments fund the ACCAs in NSW'.<sup>20</sup> As early as 1982, SNAICC members raised the question of the lack of consistency

<sup>17</sup> See Chapter 9 for discussion of the over-representation.

<sup>18</sup> Now funded through the Federal Department of Health and Family Services.

<sup>19</sup> SNAICC *Briefing Notes to National Executive*, 16 Nov 1996.

<sup>20</sup> NSW Law Reform Commission, *The Aboriginal Child Placement Principle*, 1997, p. 75.

for SNAICC member organisations, within the operations of the Office of Child Care. The members noted that the different methods between states were in conflict with direction and advice from the central office.<sup>21</sup>

A Commonwealth Review of ACCAs in 1991 found that state funding was far less than the Commonwealth contribution, even though the activities performed by the agencies were seen to be within the realm of state/territory responsibility.<sup>22</sup> The lack of effective integration and co-ordination between funding sources was a factor identified as hampering the effective operation of the ACCAs.<sup>23</sup> In its submission to the Industry Commission Inquiry, SNAICC criticised the structural grant arrangements. According to SNAICC, Untied Grants meant that nothing was done to ensure that money provided by the Commonwealth to the states or territories for special needs or disadvantage of Indigenous citizens, was in fact spent to meet those needs or address that disadvantage. Tied Grants did not ensure that account was taken of Aboriginal and Torres Strait Islander needs.<sup>24</sup> Although Aboriginal people were 'expected to be responsible and accountable for every cent of public money, they do not determine who has positions in the bureaucracy and who is meant to be responsive to their needs, plans and aspirations'.<sup>25</sup>

An examination of SNAICC documentation, particularly minutes of meetings, provides an indication of the magnitude of the problem. The Commonwealth/state funding issues were dealt with at a number of meetings, with the lack of trust in the ability of state governments to 'deliver' to the forefront. At the August/September 1983 Conference in Canberra it was mooted that funding for AICCAAs should be channelled through SNAICC.<sup>26</sup> This proposition was seen as reflecting the AICCAAs' continuing lack of confidence in the desire and ability of state and territory governments to do the 'right thing' for Indigenous children. At a SNAICC Conference the previous year this issue had been raised, with the meeting identifying the safest location being with the Commonwealth

<sup>21</sup> Minutes SNAICC Conference, November 1982.

<sup>22</sup> NSW Law Reform Commission, *The Aboriginal Child Placement Principle*, 1997, p. 76.

<sup>23</sup> NSW Law Reform Commission, *The Aboriginal Child Placement Principle*, 1997, p. 76.

<sup>24</sup> SNAICC, *Response to Industry Commission Inquiry*, n.d., c. 1995.

<sup>25</sup> SNAICC, *Response to Industry Commission Inquiry*, n.d., c. 1995.

<sup>26</sup> Minutes SNAICC Conference 1983.

Government, while allowing a partnership to develop between AICCAs and state/territory governments which respected local Aboriginal and Islander communities.<sup>27</sup>

At the Launceston AGM in 1993 participants repeated the call for SNAICC administration of funding, arguing that under no circumstances should the states and territories have control over the funding of the AICCA program.<sup>28</sup> SNAICC noted that with the current arrangements 'the balance tips heavily towards Government controlled programs and away from community controlled organisations like SNAICC'.<sup>29</sup> SNAICC never achieved its quest for greater control over the funding to the AICCAs.

SNAICC meetings continually exposed the inadequacy of funding levels. The national Conference in Canberra in November 1982 argued that the amount of funding restricted AICCAs to 'band aid' work, replacing white welfare with black welfare.<sup>30</sup> At the 1983 Conference, the Victorian agency talked about having to scrape together some of its funding through monies provided by a training scheme.<sup>31</sup> Delegates from Western Australian agency noted that their four staff were inadequate to handle the workload, given the 45-51% increase of placements.<sup>32</sup> In 1983, delegates from the New South Wales North Coast ACCA talked about the despair at the endless discussions and arguments held with different departments in their quest for funding. A huge over-representation of Aboriginal children in New South Wales country areas compounded the problem.<sup>33</sup> Conference delegates demanded that questions be asked in the Parliament as to the 'meagre amounts of money available to SNAICC'.<sup>34</sup>

The issue of servicing rural, isolated and remote communities emerged at the 1984 Conference in Adelaide, with support requested for the development of community controlled AICCAs in rural areas.<sup>35</sup> This

<sup>27</sup> Minutes SNAICC Conference, November 1982.

<sup>28</sup> Minutes SNAICC AGM 1993.

<sup>29</sup> Minutes SNAICC AGM 1993.

<sup>30</sup> Minutes SNAICC Conference, 1982.

<sup>31</sup> Minutes SNAICC Conference 1983.

<sup>32</sup> Minutes SNAICC Conference 1983.

<sup>33</sup> Minutes SNAICC Conference 1983.

<sup>34</sup> Minutes SNAICC Conference 1983.

<sup>35</sup> Minutes SNAICC Conference 1984.



meeting also raised the issue of funding for preventative services, particularly family support services, as well as accommodation services for children 'at risk'.<sup>36</sup>

The following narrative accounts illustrate perspectives of interview participants working in an area where government funds were extremely restricted. Jackie Oakley refers to the frustration of trying to get financial resources to meet the needs of families and children, taking a long-term view of the situation:

The main thing is I don't think the funding situation from that day to this has ever been resolved and I think that drives home the frustration that Aboriginal people face everyday when the solution is so simple. And we are talking like twenty something years from when we believed as a community—longer, that we had the answer in terms of our Aboriginal kids to save them from all the heartache, stress and pressures of society. But no-one supported us and they are still not supporting it today and we are ending up with more kids caught up in the juvenile justice system. More kids on drugs and substance abuse and we are just threatened with losing more kids in the Aboriginal community than we have ever been threatened with and we were putting solutions on the table over twenty years ago through the ACCA process, through the SNAICC process and everyone was saying yeah, yeah, but no-one responded in terms of the resources that were required to do that. Even when you cited cases like \$800 per week to keep a kid in an institution, we were saying give us \$100 per week to give to our foster parent and we still couldn't get the returns that we wanted and the support. That's still happening today. You just wonder (interview 23 Sep. 97).

Mary-Ellen Passmore-Edwards expands on funding concerns. Her comments suggest that the approach of governments was to set up Aboriginal organisations which were doomed for failure, by cutting back successful programs:

So ....programs need to be initiated and continued on because if a program is working, then why cut the funds to stop it from working. I honestly believe that SNAICC is also hampered by funding, very much so. Because if a project is seen to be working or progressing in any way, the funds are cut in the next year. It is a huge problem right across Australia. Like I said, any projects that start to work or they are seen to be progressing in any way, slash it.

She also looks specifically at the impact of funding restrictions on the capacity of the organisations to employ well-qualified workers:

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\* Minutes SNAICC Conference 1984.



Funding is a huge issue in all organisations. A lot of the community based organisations are just getting their dribs and drabs of funds and a lot of organisations have closed down because they are not operating. Funds are not being made available to create a greater professionalism at a community level so you are having people being employed into some of these organisations that have a lot of skills in one area but limited skills in another area, like budgeting. So that is a huge problem for a lot of the ACCAs, a lot of community based organisations and I think that is a ploy by the Government to discredit Aboriginal society. It is right across this country (interview 16 Dec. 97).

Jenny Pryor comments that the funding constraints restrict the capacity of organisations to undertake preventative work. This has resulted in an inability to bring about long-term change:

I mean as part of the big solution Government departments will have to start changing their attitudes and really assessing the preventative measures and the funding and resources for that because that's the only way that we're really going to break the cycle. At the moment we are only doing hands on work and you are not going to succeed that way or change the cycle (interview 27 June 97)

Imposition of programs and lack of consultation by the funding bodies has been a recurring theme. For example in April 1986, The Director of the Office of Child Care wrote to SNAICC stating disappointment that the Organisation had decided to reject the proposal for the development of a management support and training package for Aboriginal Services. In her response she noted that SNAICC's concern related to lack of advance consultation.<sup>37</sup> SNAICC stated in a letter to Senator Grimes:

... for too long have non-aboriginal people come to blacks with plans that they consider good for blacks. Neither will SNAICC countenance the role of a 'rubber stamp' for the OCC. These attitudes display a contempt and disregard for the expertise and capabilities of Aboriginal and Islander people involved in child care.

The role of SNAICC must of necessity be one of an equal partner. The independence and autonomy of our decision-making structures must be recognised as must the right of self-determination. In a practical sense this means that if the Department wants SNAICC involvement in proposals ... then we would expect to be involved from the formative stages ...<sup>38</sup>

<sup>37</sup> Correspondence from Office of Child Care to SNAICC, 12 April 1986.

<sup>38</sup> Correspondence from SNAICC to Senator Grimes, 2 April 1986.

Joe Agius, at the time a Project Officer with the Office of Child Care, recalls SNAICC rejecting the proposal for the training package:

It was very hard for me. I could see where SNAICC was coming from but I could also see where the Department was coming from. It was their money, they were putting up the money for training ... So in some ways I was bit annoyed with SNAICC but basically I could see later on down the track when I took my Departmental hat off, well they were the best ones to do their own training (interview 21 Oct. 97).

Holistic approaches to funding, consistent with Aboriginal family values, are important to Heather Shearer. The matters she raises about the funding and the structures in the United States, are far removed from the limited concessions to autonomy applied in Australia:

I remember we met Maxine Robert and Steve Unger way back in 1979 and the achievements of the Indigenous people in the Americas. They have their own courts, they have their own judicial system. What is to stop us from being able to implement those kind of structures. The bottom line is to work with the family as a whole, not isolate the childrens' issues from the parents' issues, but to really look at co-ordinating. I've always seen that the issues that SNAICC as an organisation has taken on, has really highlighted the need to break down the barriers between the divisive categories of funding bodies, to be able to look at co-ordinating of services to the family as a unit, rather than, that's a health issue, or that's a kid's issues or this is an adolescence issue. To really look at co-ordinating (interview 20 Oct. 97).

The lack of both consultation and effective representation has been raised by SNAICC members. At the 1983 meeting in Canberra, delegates were informed that the Office of Child Care received advice from the Department of Aboriginal Affairs rather than from Aboriginal communities.<sup>39</sup> At that meeting an Office of Child Care representative told delegates that consultation with communities had been included in the way in which recommendations were formulated.<sup>40</sup> The Secretariat expressed the view that money the Department of Aboriginal Affairs funds to state departments was being misadministered, and wanted a commitment from the Minister to meet with delegates of the Secretariat.<sup>41</sup> In 1986, correspondence from SNAICC to the Office of the Minister for

<sup>39</sup> Minutes SNAICC Conference 1983.

<sup>40</sup> Minutes SNAICC Conference 1983.

<sup>41</sup> Minutes SNAICC Conference 1983.

Aboriginal Affairs raised the matter of a review of Commonwealth/state financial arrangements, particularly the lack of Aboriginal representation on the review body.<sup>42</sup>

Accountability concerns have continually dogged the organisations. SNAICC has argued for accountability requirements which respected community values and protocols, and which reflected the obligations of these organisations.<sup>43</sup> Mary-Ellen Passmore-Edwards highlights the insensitivity of governments:

'See the blacks have done it again.' 'They don't know how to spend their money.' 'They are hungry for money all the time.' 'They just blow it.' So those sorts of issues, it's a huge worry for me and it's not just for me but a huge worry for a lot of organisations across Australia (interview 16 Dec. 97).

The pressure of government accountability requirements had its toll on organisations which have been struggling to survive on minimal resourcing. Marjorie Thorpe states:

... at the time we used to operate as a national body with basic resources and they were resources that were shared between the organisations that had the resources. You know in terms of people. You know you are talking about basic things like telephone and photocopier. But as we received funding, we found that we were continually tied up in our time to being accountable for the funding we received, and I think that was the example with Bill. Bill Belling I mean. We employed Bill to do research but we were receiving funding from the Department of Aboriginal Affairs. The accountability requirements took up more of our time than the actual project, so it got to the point of being difficult for us and we had major problems (interview 27 Aug. 97).

Specific needs of individual organisations have been raised at SNAICC meetings from the earliest days. At the 1983 Conference the New South Wales North Coast ACCA despaired at its endeavours to obtain ongoing funding, expressing frustration at the endless discussions and arguments held with different Departments.<sup>44</sup> In 1986, delegates to the Annual General Meeting, were concerned that if any organisation rejected the conditions of grants, they may not receive money.<sup>45</sup> At the November 1992 Canberra Conference, the Tasmanian delegates raised concerns that their funding from the Department of Employment, Education and

<sup>42</sup> Correspondence from the SNAICC Executive Officer to the Office of the Minister for Aboriginal Affairs, 2 April 1986.

<sup>43</sup> SNAICC, *Newsletter*, April, 1995, p. 8.

<sup>44</sup> Minutes SNAICC Conference 1983.

<sup>45</sup> Minutes SNAICC AGM, 1986.

Training for specialised child care workers was approved on the condition that the trainees receive rigorous office training: 'TACCA fails to see how those skills can be of benefit to trainees who will be working with children'.<sup>46</sup>

SNAICC has played an advocacy role on behalf of its member organisations. For example, in 1986 SNAICC wrote to the Federal Minister for Community Services, Senator Don Grimes, about the decision to defund the North Coast Aboriginal Child Care Agency (NACCA), commenting that the Department had made 'a hasty and ill-informed decision based on information that in its paucity certainly did not give a true picture of the situation in Coffs Harbour'.<sup>47</sup> The inadequate salary levels of AICCA staff has also been raised.<sup>48</sup>

Annual reviews of the organisations by funding bodies have come under attack from SNAICC. At the Adelaide AGM in 1991, a call was made for a longer review period, controlled by the agencies.<sup>49</sup> In the view of the delegates, a review could not be justified just because an agency may be experiencing difficulty in one year. Difficulties were encountered by the work of agencies being measured in terms of dollars, with tangible indicators or performance measures.<sup>50</sup> The meeting further advocated that Indigenous people should be involved in AICCA evaluations.<sup>51</sup>

Controversy over the form of government funding occurred at the Annual General Meeting held at Monash University in February 1986, where a Department of Aboriginal Affairs document on rules relating to grants for assistance to or for Aboriginal and Torres Strait Islanders was rejected out of hand. The rejection emerged from the notion that the rules cut deeply across the principles established by Indigenous communities for self-management, self-determination and Indigenous rights to control their own lives and destinies.<sup>52</sup> Delegates criticised a provision giving the Department the right to tell organisations who could be employed, and to

<sup>46</sup> Minutes SNAICC Conference 1992.

<sup>47</sup> Correspondence from Nigel D'Souza, to Senator Grimes, 2 April 1986.

<sup>48</sup> Minutes SNAICC Conference 1994.

<sup>49</sup> Minutes SNAICC AGM 1991.

<sup>50</sup> Minutes SNAICC AGM 1991.

<sup>51</sup> Minutes SNAICC AGM 1991.

<sup>52</sup> Resolution SNAICC AGM, February 1986.



give notice to people the Minister saw as not being fit for that office or employment. The Resolution resulted from a fear that the same conditions may be introduced by the Office of Child Care.<sup>53</sup>

Some years later, discussions took place about ATSIC taking over the role of funding SNAICC, with the stipulation that adequate resources were provided. This matter was raised formally at the Launceston AGM in 1993.<sup>54</sup> However, at that meeting the SNAICC Executive Officer commented that it would not be in the best interests of the Organisation for the funds to be transferred to ATSIC. With SNAICC's funds coming from the Department of Health, Housing and Community Services, it ensured that SNAICC continued to play a role in what the Department did.<sup>55</sup> If ATSIC took over the funding, SNAICC delegates feared that the Organisation would lose its status as a national body, as ATSIC tended not to directly fund national organisations.<sup>56</sup>

SNAICC and member organisations have lamented the degree of control exercised by the Commonwealth funding body. At the 1996 AGM in Uluru, criticism arose about a directive from the Department of Health and Family Services that an ATSIC delegate could not attend the meeting. A motion was passed:

That SNAICC objects to Y<sup>57</sup> dictating to the SNAICC body about who it can or cannot invite to our workshop to talk about important issues that affect our children. Furthermore, members of SNAICC were appalled at the way in which Y presented herself to the meeting with regard to her racist, paternalistic attitudes by misleading Aboriginal people in regards to our rights. This meeting strongly demands we meet with the Minister in regards to the matters raised at the meeting by Y.<sup>58</sup>

The Departmental officer in question was criticised for only agreeing to fund the Uluru meeting if organisations agreed to the agenda she had drafted, and if the AICCAs responded in writing to their draft agreements before that meeting.<sup>59</sup> At the Uluru Conference there was widespread

<sup>53</sup> Minutes SNAICC AGM, February 1986.

<sup>54</sup> Minutes SNAICC AGM 1993.

<sup>55</sup> Minutes SNAICC AGM 1993.

<sup>56</sup> Minutes SNAICC AGM 1993.

<sup>57</sup> Name deleted to protect anonymity.

<sup>58</sup> Resolution SNAICC AGM 1996.

<sup>59</sup> Correspondence from N. D'Souza to the Directors of AICCAs, n.d., c. 1996.

opposition to the draft agreements and SNAICC suggested that its members lobby senior officers of the Department of Health and Family Services, as well as the Minister and local Members of Parliament.<sup>60</sup>

The election of the Howard Federal Government in 1996 was a major setback for SNAICC, with its budget cut by 10%, down from \$119,000 to just over \$107,000.<sup>61</sup> This was the second cutting of SNAICC's core grant in the 1990s, with the first occurring after the House of Representative's Review of National Peak Bodies by the previous Labor Government, which slashed SNAICC's funding of \$135,000 by \$28,000 in 1991,<sup>62</sup> an act which SNAICC described as 'criminal' in the light of recent reports which highlighted the needs of Aboriginal children.<sup>63</sup> SNAICC commented:

The latest round of cuts means that we cannot afford to hold any National Executive Meetings and certainly not any National Meetings of our membership.<sup>64</sup>

Funding cutbacks have had a considerable impact on the work of SNAICC and the ability of the member organisations to meet collectively. This process in fact commenced at the April 1995 meeting in Sydney, when twenty-two member organisations funded their own travel as SNAICC was unable to provide assistance.<sup>65</sup> The problem is still evident, and from time to time has resulted in difficulties in ensuring that a quorum is in place at Annual General Meetings.

In late 1997, the issue again emerged as to who was to fund SNAICC. Moves were afoot for the Children's Services Branch to pass over the responsibility to the Office of Aboriginal and Torres Strait Islander Health. Although there were no proposed changes at the time of writing, there is no guarantee that similar proposals will not be imposed at a later date.

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<sup>60</sup> Correspondence from N. D'Souza re Funding Agreements with the Department of Family Services and Health, 22 January 1996.

<sup>61</sup> Minutes SNAICC Conference 1996.

<sup>62</sup> Minutes SNAICC Conference 1996.

<sup>63</sup> Correspondence from SNAICC Chairperson, Brian Butler, to the Minister for Health and Family Services, Brian Howe, 8 July, 1991.

<sup>64</sup> Minutes SNAICC Conference 1996.

<sup>65</sup> SNAICC, *Newsletter*, April 1995, p. 2.

## Views from the inside

Interviews were conducted with Commonwealth Public Servants who had worked for the Office of Child Care at the time the ACCAs and SNAICC were being developed. The only Aboriginal person employed by the Office was Joe Agius who, in the mid 1980s, held a position as Project Officer within the Special Services Branch at the Office. At the time he saw himself as 'very much a bureaucrat' (interview 21 Oct. 97). He comments that people in the area where he worked were unaware of Aboriginal culture and had little community involvement. Traversing the role as bureaucrat and community member was fraught with difficulties:

I was allowed to go to the meeting and just sit there. We all went. I was the black face in the Department. Here he is. Joe Agius. Little Office of Child Care person meeting with us. Sit down there, shut up and don't say anything basically. So when the talks were about the ACCAs and swapping over to ATSIC, the tooing and froing, we don't like this and we don't like that basically, I was just there. The good little Department boy with his hat on.

The expectations to have all the answers caused a great deal of frustration:

... i was the Aboriginal expert. I knew everything about Aboriginals. You want to know anything about Aboriginals, come and ask Joe ... Many a lunchtime I was sick and tired of answering Aboriginal questions because I was very limited in a lot of that history myself, being brought up in a non-Aboriginal culture and non-Aboriginal ways, that I didn't know myself. So you bluffed your way through the Department.

He expressed the view that 'I wished I'd worked for the ACCAs prior to going to the Department, then I would have had more understanding when it comes to justification and argument. If I didn't really have a full grasp of what the ACCAs role were, how can I really argue for the case.' To illustrate his point, he tells what he remembers as 'a nice little story':

This girl from Special Services Branch. She leaned over one day and she goes, 'Can I ask you a question?' I said 'Yeah, no worries'. 'Why don't Aboriginal people go bald?' I said 'what!' From that day I said I'd better learn something about my own culture (interview 21 Oct. 97).

Criticising some of the bureaucrats, Joe Agius comments that a lot of those within the Special Services Branch 'never went out of the boundaries of Canberra'. He suggests 'they wouldn't know what an Aboriginal community was and how to deal with those sort of issues'. He saw Eileen Baker, a Project Officer in the same Section, as an exception:



If it wasn't for Eileen I would have chunked it in a long time ago. She would be one of the backbones ... She's been working on and supporting Aboriginal projects and she's still there ... She was the one that fought the system all the time. Because she knew the game, she was always fighting within the system and it caused a lot of problems within the hierarchy (interview 21 Oct. 97).

Eileen Baker<sup>66</sup> recalls her personal struggle over the issue of accountability. She remembers agonising over a letter she wrote to SNAICC, asking them to be more accountable. The difficulty, as she saw it, was striving for a balance between accountability and not being too bureaucratic. She acknowledges that the theme of accountability has remained right up until the present. She recalls a meeting where 'there was some discomfort, an undercurrent between the bureaucracy and SNAICC members who somehow were not making it together' (interview 23 Sep. 97).

Former Director of the Special Services Branch, Jenny Thomas,<sup>67</sup> comments that the ACCAs were always seen as being outside the mainstream and conflict occurred within the Office of Child Care over funding. Yet, she believes things were easier at that time than they are now with 'the intuitive ways of Office of Child Care Director, Marie Coleman, and Senator Margaret Guilfoyle, combined with their belief that something could be done at that time'. She believes there is now more of a climate of caution about the spending of public money. Although there was support for 'doing things differently', Aboriginal organisations were caught in the accountability mechanisms and some were not delivering. When problems emerged between the Department and the ACCAs, 'we lost the battle'. Jenny Thomas is convinced that the ACCAs were funded as a result of the endeavours of Guilfoyle and Coleman, the latter who fitted the definition of 'reformer' rather than 'good public servant' (interview 23 Sep. 97).

Marie Coleman recalls the pressures associated with trying to establish the Aboriginal child care agencies when she was the Director of the Office of Child Care, from 1976 to 1981. Her comments, from an interview I conducted with her on 22 September 1997, are presented in some detail as they provide a valuable account of both the tensions and the support at that time. The issues raised are consistent with those raised

<sup>66</sup> This interview was not taped.

<sup>67</sup> This interview was not taped.



by SNAICC, but demonstrate an insight from the 'inside'. Marie Coleman has been a well-known supporter for social justice and Indigenous rights in Australia. Her earlier experience had been as Chairperson of the Australian Government Social Welfare Commission (1973-76) and as Director of the Victorian Council of Social Service (1968-73).<sup>68</sup> Her contribution to the development of ACCAs is well regarded. As one of the first agencies to receive funding from the Office of Child Care, Graham Atkinson recalls his time at the Victorian ACCA, commenting on the 'very supportive relationship' with both Margaret Guilfoyle and Marie Coleman (interview 16 Oct. 97). Although Marie Coleman was no longer in the position of Director of the Office of Child Care when SNAICC was formally established, her comments set the political and bureaucratic context for the development of the ACCAs:

... from early 1976 I was in the newly established position of Director of the Office of Child Care that had been created by the Fraser Government after the abolition of the various commissions which the Whitlam Government has established ... After discussion with Margaret Guilfoyle I was confident that she was supportive of my view that we should move to try to be much more responsive to issues to do with Aboriginal Australia and we set up a number of pieces of machinery to try to get better coordination with what was then the Department of Aboriginal Affairs, and our state office folk were given advice that we were extremely interested in trying to support, in an appropriate way, Aboriginal programs.

I might say that through this period there was a constant tension with Mr Perkins from the DAA whose general line was that if any other agency was supporting Aboriginal projects, those funds should be excised from that agency and transferred to his Department. This was not the way my Minister felt but it was a constant source of tension.

Commonwealth/state tensions, with Queensland at the forefront, dogged the development of the organisations.<sup>69</sup> She describes some of these tensions and the process she undertook to resolve them:

Now, there were different sorts of tensions around the states. In West Australia we fell into the standard states rights argument between Western Australia and the Federal Government and a different level of personality problems between the then Western Australian Minister and Fred Chaney. Fred was asked by Margaret Guilfoyle to act as some kind of mediating figure but in fact he was of course regarded as an anathema by the ruling elements in the Western Australian Liberal Party.

<sup>68</sup> A. Lofthouse, *Who's Who of Australian Women*, Methuen Australia, Sydney, 1982.

<sup>69</sup> Additional comments by Marie Coleman about this issue are in relevant sections of Chapter 5 & Chapter 9.

... I guess the thing moved on. I moved around the states negotiating with heads of state welfare departments and meeting with state ministers to try to persuade them that this was not the end of the world, and engaged in bitter arguments which were along the lines of 'we're only willing to give white children 'first class' human services in adoption and foster care arrangements. Are you really telling me Marie that you are going to finance black agencies to offer second class non professional services.' I think I could shoot that particular statement home to the Director General of the South Australian Government Department to which my answer was 'I am not going to accept that they are second class but I'm prepared to argue for the importance of culturally appropriate solutions'. So I guess there were a lot of hiccups. In some states we found it harder than others to get Indigenous groups ready and able to set up such agencies and I think we prodded in the Northern Territory for a long time to find a group that would be willing to focus on this.

She reflects on the conflict between different views on what communities considered to be the key priority areas, as opposed to what white Australia was prepared to offer at particular points in time:

In retrospect this doesn't bug me because I'm very conscious that at any given time well intentioned European Australians are inclined to say to Aboriginal groups, 'such and such is a terribly important issue' and the local Aboriginal groups are inclined to say, 'well it might be important to you but I have three other things which are higher priority for me' and I think one has to accept that.

Marie Coleman had not seen the establishment of a national body as a priority at the time for the ACCAs, which she saw as being caught up in their own concerns. Part of this perception may have been that she was primarily involved with supporting the establishment of individual organisations:

I think there was some encouragement by the other ACCAs. I can't really comment on that beyond saying that they were all so overwhelmed by their own individual problems by getting going that it was hard for them to work at a national level. I gather, I can't cite any references for this, that some of the inspiration for setting up a national group for the ACCAs did come out of one of the training programs that was being run at Balmain by the Aboriginal Training and Cultural Institute when Mollie Dyer was there and I think Mollie began to get people together on a National level. I don't have a lot of clear memories of the growth of the national group. My memories are much more of the stresses and strains trying to get the individual state groups up and running.

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She recalls the difficulties in Queensland, including funding inconsistencies and the large geographic areas to be serviced:

I might say that once we got the Queensland group beyond what we might loosely call the Joh Bjelke Petersen interference, it began to work very effectively but it was not for some years that I met up with some of the other Aboriginal Child Care Agencies which had been established in places like Cairns and Mt Isa and so forth. I've been struck too I might say by the idiosyncratic basis on which these agencies have had their funding bases determined and I've been perturbed and alarmed by the extent to which a body such as say the Isa group, which had huge problems locally in terms of disputes within the local Aboriginal community. It was fundamentally being asked to deal with all of the child welfare problems in a huge region, including problems that were being generated in places like Mornington Island, without any resources being provided to look at what were the problems in situ which might have been attempted to be resolved there, rather than waiting until these families hit Isa and it strikes me that this has been one of our problems in terms of looking at the ACCAs. There has been a great deal of uncertainty (interview 22 Sep. 97).

Even in earlier times, mainstreaming was on the political agenda. This combined with the tension of a Government Department seeking to move out of its traditional arena:

Now of course in the early period of the Hawke Labor Government when Don Grimes was Minister for this area, there was a great deal of pressure for what we might loosely call the mainstreaming of the children's services program. There had always been this tension between those in the—well there were a series of tensions. One was between those who were the purists if I can call them that, who believed that the children's services program should never have paid for anything except day care, and therefore everything else should be got rid of, and then another group who were arguing that the Commonwealth had no right over anything to do with children, therefore it should be got rid of ...

... So I think the mainstreamers as it were have still tried to force Aboriginal children's services into a particular straightjacket which hasn't necessarily been very sensible and I think they've been very uncomfortable with the ACCAs themselves, uncomfortable because it took the Children's Services Program away from nice tidy concept of day care into an area which that particular agency, that particular element in the Department was unable to deal with. And of course the ACCAs do deal with problems to do with domestic violence, children at risk of sexual and physical abuse and so forth. That particular part of the Commonwealth has never been able to bring that into any kind of harmony with the responsibility it had thrust upon it with child protection and child abuse issues and so forth.

It seemed that Aboriginal children were caught in a policy gap, or policy trap, as well as caught between the ways different funding and policy-making departments saw their role:

I think there is a failure to resolve the policy issues as they exist there, but at the same time there has never been a willingness to push the stuff back to DAA or ATSIC because of the unwillingness of ATSIC to deal with those systemic types of problems and the fact that ATSIC has always relied on Regional Councils to decide on an annual basis what might be the funding for this kind of service. So I think the Aboriginal Child Care Agencies find themselves in a curious policy gap at the Commonwealth level. They are not quite seen as mainstream, they are not quite seen as about child protection, they are not quite seen as goodness knows.

Marie Coleman raised the issue of how both politicians and bureaucrats included supporters and opponents of developments in Aboriginal affairs. At the political level, an enlightened Minister and able Office of Child Care bureaucrats saw a conservative Federal Government confronting conservative state governments. State rights in this instance seemed to predominate over party political affiliations:

... I think the early period was extremely interesting and we would not have seen that support for those agencies had it not been for the very positive input from Margaret Guilfoyle and behind her the tacit support of Malcolm Fraser who did after all stand up to the batterings from Johannes Bjelke Petersen on that topic and I would assume probably also told Charles Court from Western Australia to bag his head on those topics.

Despite Federal Ministerial support, there was resistance from some parts of the bureaucracy. According to Coleman, there was a great deal of resistance from bureaucrats in the Department of Prime Minister and Cabinet to the spending of any of the Children's Services Program money on anything other than 'day care proper'. To add to this:

... was this constant sniping from DAA which was not too bright about doing anything in this field itself but felt that if another agency as I said spent some money, then that money should be transferred across to DAA without any ongoing guarantees of support. The Department of Social Security itself was very ambivalent about having the Office of Child Care ... it was seen as too radical.

There were some deeper ideological and political issues which meant that Indigenous people did not get an equitable share of the available funding:

I guess I thought it was an equity issue and I was as I said, supported in that by Guilfoyle. I mean it was also a period when, if you recollect it, there was the Galbally Report on Migrants and there was (now let's not be silly about this)

also a concern to make sure that the ethnic vote went to the Liberal Party. I don't think anyone gave a stuff about the Aboriginal vote if indeed it was thought to exist. But certainly people like Guilfoyle and Fraser were very concerned that while every effort was made to obtain sympathetic treatment of ethnic minorities, that that did not take place at the expense of Indigenous Australians. So I think there was some sympathy at the Ministerial level for what I was trying to do. But no it wasn't standard (interview 22 Sep. 97).

## Discussion

Similar issues have been identified in interviews with both SNAICC and Office of Child Care members. Tensions highlighted by both 'sides' include Commonwealth/state boundaries, accountability, lack of political will and differences in perceived need. Although there appeared to be some understanding by those former Office of Child Care staff who were interviewed, they were significantly constrained by the bureaucracy, particularly in regard to accountability mechanisms. As Rowley so aptly commented, 'any bureaucratic organisation has a prime concern with its own continuity', arguing that a Government Department cannot be a prime mover in the promotion of change and can often be a hindrance.<sup>70</sup> Bennett points out that Aboriginal people have been subjected to the implied requirement that they change their behaviour in order to receive government monies. Associated with this is the accusation from Aboriginal groups that the imposition of bureaucratic practices results in delays or ineffective program implementation.<sup>71</sup>

A puzzling feature of the politics of Aboriginal child welfare is that the initial support for funding the ACCAs was steered by a conservative Coalition government. This view contradicts informed accounts (including my own), which suggest that Labor Governments exercise the most discretion and initiative in regard to Indigenous needs. For example, the 1986 ALP Platform made some far ranging commitments to Aboriginal people, in line with the aspirations, but these were never fully realised.<sup>72</sup> The fact that Marie Coleman was leading the bureaucratic charge was no doubt an influential factor in convincing the politicians, conservative as they might have been, of the justness of the cause. The Minister for Social Security, Senator Margaret Guilfoyle, with whom she

<sup>70</sup> C.D. Rowley, *Recovery: The Politics of Aboriginal Reform*, Penguin Books, Melbourne, 1986, p. 37.

<sup>71</sup> S. Bennett, *White Politics and Black Australians*, 1999, p. 139.

<sup>72</sup> Freedman, *The Pursuit of Aboriginal Control*, 1989.

worked closely, was another influential factor. That Malcolm Fraser, a long-time supporter of Aboriginal rights, was Prime Minister at the time was a likely influence in the progress made. As Stratton reminds us, it was the Fraser Government which introduced the liberal-pluralist organisational form of multiculturalism.<sup>73</sup> Bennett postulates that the Liberal Party, although containing a greater range of opinion towards Aboriginal affairs than Labor, incorporated a number of Liberal politicians who have been receptive to Aboriginal needs. These include both Ian Viner and Fred Chaney, who were Ministers for Aboriginal Affairs in the 1970s.<sup>74</sup> At the other end of the spectrum, have been less sympathetic Liberal politicians including Prime Minister John Gorton (1968-71).<sup>75</sup> Charles Perkins has referred to politicians on both sides of the political fence who expressed goodwill towards Aboriginal people. These include Prime Ministers Gough Whitlam and Harold Holt.<sup>76</sup> Unlike the more uniform support in the Labor Party, the internal differences in the Liberal Party account for their slower response in formulating detailed Aboriginal affairs policies.<sup>77</sup> It is also worthy of note that after the demise of the Whitlam Government in 1975, expenditure on Aboriginal programs, during the rule of Malcolm Fraser, was significantly cut.<sup>78</sup> However, the funding contest goes beyond Federal will. This issue will be picked up in chapter 9 in analysing the limits to Federal 'interference' in 'state issues'.

But the issues, I contend, go deeper than this. Despite the 'supporters' and 'enemies', it is apparent that Government policies and funding mechanisms have never met the needs and aspirations of Indigenous communities. The comment by Heather Shearer on the contrast with the situation in the United States, is an example of an ongoing reluctance by a succession of Australian Governments to relinquish power and control. The situation is in effect much the same as when Tatz posited, in 1977, that 'despite endless token mechanisms' Aboriginal Affairs has always been a white activity.<sup>79</sup>

<sup>73</sup> Stratton, *Race Daze*, 1998, p. 23.

<sup>74</sup> Bennett, *White Politics and Black Australians*, 1999, p. 63.

<sup>75</sup> Bennett, *White Politics and Black Australians*, 1999, p. 63.

<sup>76</sup> Perkins, *A Bastard Like Me*, 1975.

<sup>77</sup> Bennett, *White Politics and Black Australians*, 1999, p. 63.

<sup>78</sup> Lippman, 'The Aborigines', 1979.

<sup>79</sup> C.M. Tatz, 'Aborigines: Political Options and Strategies', in ed. R.M. Berndt, *Aborigines and Change*, Humanities Press Inc., New Jersey, 1977.

The issue of independence and autonomy of Indigenous organisations, while bound to and dependent on governments, is not easy to resolve. The impact of these factors is of ongoing concern, detracting from appropriate cultural responses, community needs and community accountability requirements.

The reaction of Australian Governments has often been 'knee-jerk'. Accusations, often misguided, of funding mismanagement, combined with a backlash in support for Aboriginal people, have resulted in harsh measures, including audits and funding cutbacks, which further limit the capacity of Aboriginal organisations to achieve their goals.

Although the funding issues which beset SNAICC and the AICCAs remain unresolved, they have not deterred SNAICC from the pursuit of its main mission of retaining Indigenous children in their communities. This quest is the subject of the next chapter.



## CHAPTER 7 THE REFORM AGENDA: KEEPING CHILDREN WHERE THEY BELONG

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Well, our vision was that all Aboriginal children would be safe and stay with their families, rather than be taken away into welfare or into care.<sup>1</sup>

### Introduction

The quest to keep Indigenous children with their families and communities has been at the forefront of SNAICC's activities. Underpinning this quest has been a demand for Indigenous control and self-determination in accordance with Indigenous cultural values. This chapter assesses SNAICC's initiatives and responses to Aboriginal substitute policies and practices, and the development of the Aboriginal Child Placement Principle which developed from those concerns.

Fostering and its precursor, 'boarding out', and adoption have been a feature of the Australian child welfare landscape throughout the twentieth century, for both Aboriginal and non-Aboriginal children. For non-Aboriginal children, the motive was usually seen as 'child rescue' whereas for Aboriginal children it has been seen as a form of racial assimilation. The introduction of family based substitute care for children developed as institutional care became discredited. A major distinction between foster care and adoption is the degree of permanency implicit in the concepts. Foster care is a more temporary form of care, or at least a form of care which does not pass on to the foster family the legal backing of guardianship. Adoption is the transfer, generally by order of a court, of all parental rights and obligations from natural to adoptive parents.<sup>2</sup> Although forms of foster care were in place in Australia in the nineteenth century<sup>3</sup>, adoption practices were, in Australia, an invention of the twentieth. Although adoption is a much rarer form of substitute care in Australia today, fostering practices remain a strong feature of the current child welfare system.

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<sup>1</sup> Interview with Betty Pearce, 15 Dec. 97.

<sup>2</sup> HREOC, *Bringing Them Home*, 1997, p. 463.

<sup>3</sup> An account of the development of 'boarding out' policies and practices is documented in R. Van Krieken, *Children and the State: Social Control and the Formation of Australian Child Welfare*, Allen & Unwin, Sydney, 1991.



The emphasis in this chapter is specifically on the practices of foster care and adoption, as they have been the major forms of substitute care placement since SNAICC and most of the AICCA's have been in existence, with the phasing out of institutional care.<sup>4</sup> Foster care and adoption, although singled out at times, are largely dealt with together in this chapter, as most Aboriginal writing, and indeed my interviews, tend to merge the two. This is despite the fact that different legislation and policy forms exist in each case in the various jurisdictions. The focus of this chapter is largely on the effects, rather than the policies and practices themselves, as this has been the thrust of SNAICC's attention in endeavours to bring about change. Alongside this emphasis has been a focus on halting the ongoing practices by ensuring that Indigenous organisations and communities have control over the placement of their children. The effects of placements of Aboriginal children outside the Aboriginal community have been documented as including the high incidence of alcoholism, suicide, mental illness, lack of parenting skills and over-representation in the criminal justice system.<sup>5</sup> The Aboriginal Child Placement Principle, a response to inappropriate policies and practices, relates to all areas of substitute care involving Aboriginal children.

Sweeney has argued that, based on notions of 'protection', 'prevention' or 'in the best interests of the child', measures which have pervaded the child welfare system have focused on an approach of 'government versus the family'. Responses by governments have frequently involved the removal of children from families, which it has been argued do not place value on their children and who could be resocialised and moulded into 'good citizens' if they were isolated from 'unsuitable environments' and provided with the experience of 'suitable family life'.<sup>6</sup> For Aboriginal families, Frederico asserts that instead of assisting families to maintain their strong family system and social structure, erosion of their family life occurred.<sup>7</sup>

<sup>4</sup> Information about institutional forms of care can be obtained from a number of sources, including the HREOC 1997 report.

<sup>5</sup> See New South Wales Law Reform Commission, *The Aboriginal Child Placement Principle*, 1997, for a summary of these effects.

<sup>6</sup> T. Sweeney, *Child Care, Child Welfare and Family Supports and Practices of the Commonwealth and the States*, Paper presented at the Australasian Social Policy Administration Conference, August 1985, p. 4.

<sup>7</sup> M. Frederico, 'Child Welfare: A View from Australia', *Child and Adolescent Social Work*, vol. 1, no. 3, 1984, p. 186.

This chapter utilises a range of documentation, combined with narrative. The narratives present specific examples which illuminate the complexities involved, as well as documenting the confrontation with the state, in endeavours to 'keep children where they belong'. The importance of keeping children with their families was highlighted by SNAICC in its submission to the National Inquiry:

Family is one of the most important things to Aboriginal people. Traditionally, the Aboriginal family was a collaboration of clans composed of mothers, fathers, uncles, aunts, brothers, sisters, cousins and so on. Life prior to colonisation was straightforward and love was abundant. The ways were easy, but intelligent, slower but knowledgeable and simple. It was a way of life that survived for hundreds of thousands of years, undisturbed and untouched.<sup>8</sup>

### Substitute care policies and practices

Frederico refers to the damage done by the white welfare system by initially placing Aboriginal children on missions and reserves. This was followed by policies designed to assimilate Aboriginal children into white society, through placements in children's homes or through white foster care and adoption.<sup>9</sup> From an Aboriginal perspective, the form of this damage was outlined by Victorian Aboriginal activist, Marjorie Thorpe in a paper she presented in Sydney in 1986, on behalf of SNAICC:

We have found that Aboriginal children who have been removed from their families and placed in non-aboriginal substitute care, experience feelings of alienation and confusion about their cultural identity: this crisis is compounded by prejudice and discrimination.<sup>10</sup>

Chisholm outlines the characteristics of a child welfare system specifically designed for Aboriginal children. In New South Wales he argued, for example, that the system meant that power remained exclusively in non-Aboriginal hands, there was an assumption that being Christian and respectable were sufficient qualifications for whites involved in the system, there was inadequate recognition of Aboriginal methods of child-rearing, including the extended family, and that the intervention in children's lives formed part of wider policies relating to

<sup>8</sup> SNAICC, *Never Again...Break the Chains*, 1996, p. 34.

<sup>9</sup> Frederico, 'Child Welfare', 1984, p. 191.

<sup>10</sup> SNAICC, *Child Abuse and Neglect from an Aboriginal Perspective*, Paper presented by Marjorie Thorpe at Sixth International Congress on Child Abuse and Neglect, Sydney, 1986, p. 7.

the future of Aboriginals more generally.<sup>11</sup> The situation was little different elsewhere. In research I undertook in 1997, examining records of Aboriginal children removed by church agencies in Victoria, I found that Ministers of religion were significant in recommending 'suitable' placements for children, that extended families were ignored and that the criteria used to assess foster parents frequently related to material prosperity and church attendance.<sup>12</sup>

These examples of past policies and practices stand in sharp contrast to Aboriginal concepts of the care of children which value shared responsibility, the lack of significance of material comforts, the importance of extended family and the naturalness of substitute care within a family and community setting.<sup>13</sup> Barwick's study of Aboriginal families in the early 1970s showed that some elderly Aboriginal women had reared or given intermittent care to twenty or more children.<sup>14</sup>

The quest for culturally appropriate and community controlled foster care has been taken up by SNAICC since its inception. Article 5 of the Organisation's Statement of Purposes (revised), 1986, states:

That fostering and adoption of Aboriginal and Islander children be the sole prerogative of the Aboriginal and Islander communities.<sup>15</sup>

Although much of the account of the stolen generations is bound up with institutional placements, by the time of SNAICC's establishment institutionalisation had largely been displaced in the Australian child welfare system. The replacement of institutionalisation by fostering practices in particular reflected the growing ideology that children were best cared for within a family setting. The past prevalence of adoption of Indigenous children by non-Indigenous families is no longer a feature of Australian welfare practice. However, the effects of past adoption practices linger. More than any other form of substitute care, adoption is

<sup>11</sup> R. Chisholm, 'Aboriginal Children: Political Pawns or Paramount Consideration', in ed. J. Jarrah, *Child Welfare: Current Issues and Future Directions*, Social Welfare Research Centre Seminar Proceedings, July, 1983, pp. 50-52.

<sup>12</sup> Minajalku Aboriginal Corporation, *Home Still Waiting*, 1997, pp. 27-28.

<sup>13</sup> Freedman, *The Pursuit of Aboriginal Control*, 1989.

<sup>14</sup> D. Barwick, 'The Aboriginal Family in South-Eastern Australia', in eds. J. Krupinski & A.

Stoller, *The Family in Australia*, Pergamon Press, Sydney, 1974, p. 162.

<sup>15</sup> This provision also appeared in the original Aims and Objectives of 1981.

considered by Aboriginal people to be alien to their culture and unacceptable.<sup>16</sup> In her interview, Marjorie Thorpe highlighted the magnitude of the problem of children in non-Aboriginal care:

This happened right across the country, and the problems that child care agencies were facing when we came to meet together were the same problems of dealing with huge numbers of children in institutions, the numbers of children that were coming through breakdowns in their foster or adoptive placements. And then on top of that, the breakdown of families where children were at threat of being put into care and the unavailability of Aboriginal foster parents, adoptive parents, the non-understanding of our different cultural values that made child rearing practices different, non-Aboriginal child rearing practices (interview 27 Aug 97).

The lack of Indigenous control of foster care programs has been raised by SNAICC and its members on a number of occasions. For example at the 1983 Conference, held in Canberra, Victorian representatives raised the issue that funding was only received for a foster care worker if the Agency adhered to the set guidelines of the legislation.<sup>17</sup> The North Coast ACCA (NSW) made the point that the Youth and Community Services Department had responsibility in their area, and this was considered unacceptable in determining the best interests of Aboriginal children.<sup>18</sup> Another issue raised by SNAICC members was the practice of non-government bodies advertising children for foster care, a practice condemned by delegates to the 1984 Townsville meeting.<sup>19</sup>

In 1986, the Australian Law Reform Commission released a report on Aboriginal customary law, which included a discussion of Aboriginal fostering and adoption. Brian Butler, made the following comments about that report in an address to the Australian Law Reform Commission in August 1995:

It was the first serious consideration of Indigenous views and aspirations in this country. In some senses, it may be a good thing that the report's recommendations, especially in relation to Aboriginal child welfare were not implemented because they represented the most meagre of concessions to our demand for culturally relevant national legislation relating to Aboriginal child development and could not have been further from recognising the right of Aboriginal people to self-determination.<sup>20</sup>

<sup>16</sup> Freedman, *The Pursuit of Aboriginal Control*, 1989, p. 180.

<sup>17</sup> Minutes SNAICC Conference 1983.

<sup>18</sup> Minutes SNAICC Conference 1983.

<sup>19</sup> Minutes SNAICC Conference 1984.

<sup>20</sup> SNAICC, *Newsletter*, September, 1995, p. 5.

Brian Butler has commented how the naturalness of children moving around extended family members contributes to their well-being:

It is a system that operates quite naturally without the intrusion of government or non-government organisations. It is, I believe, a safety valve for families and a means through which our children are socialised into society. In this system the elders in the family play a very important role, often being the pivotal figures or the focal point in most families.<sup>21</sup>

SNAICC has condemned the policies which gain prominence in the 'mainstream' welfare system, and are in direct conflict with Indigenous cultural values. One policy which has gained such acceptance in recent years is permanency planning, an approach which is seen as inappropriate for Indigenous children. Problems are encountered when the law in some jurisdictions states that after two years in a placement, when the child's family does not appear to be in a position to resume care, those children who are wards of state must be made subject to 'permanent placements' under the law.<sup>22</sup> This time-span has been considered too brief for Aboriginal families to sort out their problems.<sup>23</sup> It is contradictory to what Wharf describes as 'flowing care' where children move in and out of alternative and extended family care.<sup>24</sup> Others have criticised the intrusive foster care assessment techniques of mainstream child welfare services.<sup>25</sup>

Attempts to change adoption practices stemmed from the First National Conference on Adoption, held in Sydney in 1976. At that conference a call was first formally made to end the adoption of Aboriginal children by white families.<sup>26</sup> More than a decade later, at an international conference on adoption and permanent care, Brian Butler stressed that adoption is a concept 'alien to our way of life. It is a legal status which has the effect of artificially and suddenly severing all that is part of a child with itself. To us this is something that cannot happen even though it has been done'.<sup>27</sup> He added:

<sup>21</sup> Butler, 'Aboriginal Children: Back to Origins', 1993, p. 10.

<sup>22</sup> N. D'Souza, 'Aboriginal Child Welfare: Framework for a National Policy', *Family Matters*, Issue no. 35, AIFS, August, 1993, p. 43.

<sup>23</sup> D'Souza, 'Aboriginal Child Welfare', 1993, p. 43.

<sup>24</sup> B. Wharf 1989, cited in Butler, 'Aboriginal Children: Back to Origins', 1993, p. 10.

<sup>25</sup> For example, see Freedman & Stark, 'When the White System Doesn't Fit', 1995.

<sup>26</sup> Freedman, *The Pursuit of Aboriginal Control*, 1989.

<sup>27</sup> B. Butler, 'Adopting an Indigenous Approach, in *Proceedings of International Conference on Adoption and Permanent Care*, Melbourne, Nov/December 1988, p. 46.

Adoption laws were also used to further the process of our destruction, our children were taken from our families on all sorts of pretexts and were adopted out to white families to be brought up as whites. They were scattered far and wide as the four winds ... Adoption of our children to whites has had severe consequences for our children. Most of these placements ended up in breakdowns.<sup>28</sup>

At that time Brian Butler argued that the permanent nature of adoption represents the worst form of separation, as adoption 'in its most common legal forms is also a severance of the link that keeps the child a part of our community':

Adoption has never been a viable option for children whose biological parents could not care for them. In our communities there are inevitably members of the child's extended family available to care for the child. In circumstances where this alternative is not available there are Aboriginal foster-care placements and Aboriginal Family Group Homes which have sprung up all over the country. Adoption never was an option. It was used to continue the policies of destruction of our peoples; this reluctantly is our conclusion. Whether this was the intent of these laws is irrelevant because that certainly was the effect.<sup>29</sup>

In his interview with me in 1997, Brian Butler spoke more of some of the most serious consequences of fostering and adoption practices for Indigenous people:

In a lot of those cases, those Indigenous children grew up feeling that those children, white as they may have been, still regarded them as their brothers and sisters in growing. When their adoption settings and their foster care settings broke down and for whatever reason that caused them to react and act out in an antisocial way—in most times when that occurred they ended up in the juvenile justice system—when that occurred, it was even harder for the families to cope with what was happening. So what really was experienced by Indigenous people was another set of separation, separated from their natural parents in the first instance and then they were separated again from the parents that grew them up and that was a traumatic experience for them as well. They may in a lot of cases not want to see the end of that relationship with their adoptive or foster parents. That's in a lot of cases where there were some positive settings (interview 1 July 97).

The breakdown of Aboriginal placements in white families has been a theme emerging from Aboriginal concerns, where the identity issues emerging in adolescence have resulted in the inability of the white family to cope with the challenges they had not anticipated when taking an

<sup>28</sup> Butler, 'Adopting an Indigenous Approach', 1988, p. 47.

<sup>29</sup> Butler, 'Adoption an Indigenous Approach', 1988, p. 48.

Aboriginal child into their care. Brian Butler also raises the issue of adoption and fostering which occurred in 'harsh families where they experienced a whole range of abuse, including sexual abuse, by the foster fathers or adoptive fathers, and sometimes mothers'. He sees the necessary response coming from a policy level:

And I think that in order for power brokers and policy makers to have a comprehensive understanding, when we put pressure on them and demand that appropriate pieces of legislation be enshrined in all levels of government and policies and procedures in government agencies that deal with out children and implement those appropriate policies, that they can be given the opportunity to have a total understanding of just what this country forced upon these people ... and the effects of those draconian policies will certainly not disappear, not certainly in my generation I don't expect (interview 1 July 97).

Sandy Miller refers to the consequences of adoption practices which she is still encountering in South Australia in terms of the ongoing mistrust by Aboriginal people of the formal system:

I keep meeting people still today—and it isn't my area of work—who need counselling and who need support but won't come here to get it, who are suspicious about the fact that all the paperwork around their life history is being held in adoptions here in FACS<sup>30</sup>, that people have access to this information, there is still a lot of secrecy associated with their adoption, there is still a lot of feelings of mistrust I guess with the Department if you like having their information. They won't even come and talk about it through fear that that information will be used inappropriately. I'm still having people come to me direct asking me to do their link-up for them, rather than through the Adoption Unit and because I've got a long term relationship with that Unit, from having been around for twenty years, they've in fact allowed me to do some of that work (interview 21 Oct. 97).

She highlights the difference between those who were adopted, compared to those who were part of the foster care system, focusing specifically on wards of state where the placements did not have the same permanency implications:

I dealt with all of those and I think none of those are left on the book anymore. They were much easier to deal with because they were part of the whole fostering system. You could find those kids very easily. That didn't mean though that they didn't face the same traumas that kids who were adopted are facing. They had no idea who their families were, not all link ups have happened successfully. It depended on every situation on the individuals

<sup>30</sup> Department for Family and Community Services (South Australia).

involved. Some kids have been happy just to know and meet their family and have then decided not to have any relationship with their actual family (interview 21 Oct. 98).

Sandy Miller explains the mixed experiences encountered by those who were adopted. Some were quite happy in their adopted families, whereas others turned their back on their adopted family, to become totally absorbed into the Aboriginal community. One of the reasons she suggests for this difference is that 'it has a lot to do with how supportive and open the adopted family has been to that child's Aboriginality' (interview 21 Oct. 98). This view was endorsed by the HREOC Inquiry which commented that some witnesses to the Inquiry told of finding affection and happiness in their adoptive families, situations which were described as 'enlightened placements'.<sup>31</sup>

Richard Chisholm told me of some of the practices which he encountered in research, undertaken in the 1980s, when he examined departmental records, including 'sad stories'.<sup>32</sup> Giving a specific case example, he explains how the Department of Community Services in New South Wales had to deal with the consequences of their actions:

... there was a fairly large group of kids—seven or eight in the family—and they were scattered throughout Australia. They were placed in far flung places. This had happened probably during the seventies. I looked in the file to try and find out why on earth these siblings had been placed in such an extraordinary fashion and the only thing that the files indicated was that they were of some religion ... and the argument was that they needed to find white foster parents of that religion. Now it seems to me that's pretty suss because it was a mainstream religion so there would have been a lot of people of that religion around anyway; and secondly, it's a heartbreaking measure to apply to the question where are you going to put these kids. That series of files also told other parts of the story, because in the later documents you could see District Officers trying to help find their siblings, and in some of the files you get a letter from one Region to another saying 'we understand this kid might have gone into your Region. Do you know anything about it. We are trying to help these people.' So you could see in the documentation both the original scattering of these kids, which is a part of the whole tragic thing, and you could also see the officials later on trying to help the people pick up the pieces (interview 23 Oct. 97).

<sup>31</sup> HREOC, *Bringing Them Home: A Guide to the Findings and Recommendations of the National Inquiry into the Separation of Aboriginal and Torres Strait Islander Children from their Families*, 1997 (b), p. 17.

<sup>32</sup> This research was reported in R. Chisholm, *Black Children: White Welfare?* Social Policy Research Centre, Sydney, 1985.



In 1994 the Going Home Conference was held in Darwin, drawing together many people who had been placed in institutions in Darwin in earlier times. Barbara Cummings refers to how the conference forged the ties of those placed in institutions, as much of their sense of belonging was constructed from those placements:

There were 600 people registered, there were at least 400 people that sat every day in their groups. These are people that had never discussed their business in a group situation before but we had to be very careful, like we'd divide them all up in institutions because institutions had become like tribes. They replaced tribes. I'm from Retta Dixon and we all know this is our business and we'll deal with our business the way we feel. We don't need another person from another mission. And the same with them. They've got their business. It's not for Barbara. Like Barbara's role is only to provide resources, let them deal with those issues (interview 26 Sep. 97).

In Queensland, Kathy Fisher recalls practices and their consequences which were seen as an anathema to Aboriginal child-care philosophies, referring to cases of deception.

... Do-gooders from the old days in our Department of Aboriginal and Islander Affairs. Look, we'll get someone to look after your children 'til you get on your feet, especially when a lot of our young women used to leave the mission when we got exemptions. You were able to freely move then or you'd get a permit to go to Brisbane to work, whether in a domestic situation or whatever. And a lot of them used to get pregnant and end up with babies and they were only 17 or 18 or 16 themselves. There were very rarely any hostels set up then for blacks. There used to be one that ran itself in South Brisbane. These girls had no income. There was no pension in those days and they had to work, so they used to be talked into giving their children up and when they tried to get them back, they couldn't. They made them look so bad. They degraded them, humiliated them, so it was easier for them not to pursue getting their children back. And some of those children I had to deal with from that situation. I could name names but I won't, but I was a very angry woman when I found out who these people were who were convincing our young women to give up their babies. Oh but they'll be better off and blah blah blah. They were no better off. In fact they turned out so screwed up for the want of a word. I mean the ones who stayed at home ended up far better than the ones who were put out (interview 5 Feb. 98).

Like other interviewees, Kathy Fisher acknowledged there were some success stories with adoption, including 'some really wonderful people who really took the time out to teach the Aboriginal child the more positive things of Aboriginality, at least made an effort not to demean their own people'. However, it was not only families who were

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influential in how the process worked, as significant others were involved in this process. She talks about a man she knows, who is now 60 years of age:

He used to watch the corroborees along with a lot of the other little fellows we used to have in Cherbourg many many many years ago. He'd go to school the next day and the teacher would say, well I hope you lot weren't up there watching those heathens last night dancing round half naked. And he said they all shrunk. He said 'I was made to ridicule my own culture, to feel ashamed.'

So that's the sort of things that they grew up with. That's why you've got a lot of black fellows if they are half caste or fairer skin, they used to disguise the Aboriginality. It was a sense of survival to be able to feel removed once they got exempted from the missions when they went out to work on different farms or whatever, or towns, mostly as manual labour, they used to disguise their Aboriginality. They'd say they were 'this race' or 'that race'. They thought that this might be a little more acceptable. So a lot of kids grew up not having any contact with their own families or their own people or their own culture or traditions. It's just a survival mechanism. We can't hold that against them. Some people would (interview 5 Feb. 98).

The HREOC Inquiry referred to the continued denigration of Aboriginality and families as a form of racism, characterised by a demand that children reject their families, including being cut off from connection with their heritage and to the expectation to identify as European.<sup>33</sup>

Trying to change policies and practices met barriers. Jenny Munro discussed the difficulties of negotiating with the New South Wales bureaucracy, also raising the question of 'hidden' Aboriginality:

Our regular meetings with the Steering Committee were just screaming matches but it was screaming matches that the black community actually won because there were things being represented at those meetings that the white bureaucracy just couldn't argue. Some of the cases that Lyle and Chris<sup>34</sup> were dealing with at that time on the Department's files were horrific. They basically did a count of kids in the system in New South Wales and found that about 22% were Aboriginal. The work that Chris and I did they actually pointed out how many were not being correctly counted. All these figures were actually under-represented because of the number of kids that were fair skinned, not identifying themselves as Aboriginal, not knowing, but they were actually in that system.

<sup>33</sup> HREOC, *Bringing Them Home*, 1997, p. 200.

<sup>34</sup> Lyle Munro Jnr. and Chris Milne who were involved in the Aboriginal Children's Project in NSW.

So you actually got for the first time a more accurate assessment of those kids than had ever been previously on Departmental files. Other kids that were in institutions that had found out themselves pretty quickly where the kids came from, who they were. So the kids that weren't being identified were being identified by other kids and they actually got a better overview of the number of black kids in care and how badly understated the statistics were at that time.

She presents a case example to demonstrate 'how bad the treatment was of kids in the State':

One famous case that we were talking about was the 'A'<sup>35</sup> case. Sisters that were in care down on the border somewhere. One of them died. They had something wrong with both of them. It was just a matter of time before they would pass away. The eldest one died. The mother sought permission ... to take her home to bury her down there in Victoria. 'The Department'<sup>36</sup> refused. This was after the kid was dead. All she wanted to do was take her home and bury her

... That was part of the thing that was happening in the system through those years. The politicians, the bureaucrats were corrupt. You had a lot of problems. They didn't want to handle things along formal lines here so you had a lot of pressure ... (interview 25 Oct. 97).

Some interview participants told of ways in which they 'subverted' the system to ensure that it worked in the interests of Aboriginal children. Carolyn Munns gives an example, talking of:

... being involved in traditional child rearing practices I suppose and being involved with people from the Northern Territory and that, where payback system still operates and that type of thing, having to take the little girl that was just left with me because of the payback and then having to go to the Department because she was in the Department's care and saying to them, well I've got this little girl. If I don't do as I am told, something can happen to my children and the Department telling me, it's okay Caroline, we can charge them with kidnapping. I mean it was a whole education process then for the Department. It doesn't work that way. I don't care about your kidnapping and that kind of thing. I have more fear of that traditional law than for you and your law. I mean it was a real experience having to learn all that (interview 5 Feb. 98).

Also engaging in 'subversive' activity, Jenny Munro talks about how children were moved around from state to state because they did not want the Government to know where they were. 'The different state ACCAs

<sup>35</sup> Name omitted for confidentiality.

<sup>36</sup> Name omitted for confidentiality.

got together and moved those kids around' (interview 25 Oct. 97). She further explains what she found in her work with the Aboriginal Children's Services in Sydney:

Kids that were coming and looking for families, being rejected by the white family, finding out they were black, finding out they had a family that they never previously knew existed. Coming back with all the esteem problems associated with that indoctrination. So you had basically field officers on call twenty-four hours a day. You had kids that were up at the Cross<sup>37</sup>, you had kids that were coming from institutions, you had kids from everywhere basically looking for people, looking for family, looking for someone. That's what the focus of the field officers and the Children's Service role was then to try and help those kids find their homes, find their families, find someone who they could relate to as family. Making the connection for them ... That's what we used to call it in the late seventies, early eighties—the black grapevine. How to network, to find families. That's what we told them. It's no good going to Government records. They won't help you at all. You have to know—you come from New South Wales, you know family names, where particular people come from just through the bloodline or a surname will give you a signal straight away from what area that kid will come from (interview 25 Oct. 97).

Mick Dodson has succinctly upheld the concept of Indigenous control of children by telling delegates to a SNAICC conference about the succession of inquiries and royal commissions which have been critical of mainstream welfare and juvenile justice systems.<sup>38</sup> Taking a long-term view of the impact of these systems, he stated:

These systems contravene the basic rights of Indigenous children and their families. They fail to uphold the principle of self-determination. They contravene Australia's human rights treaty commitments. They don't even do what they set out to do—protect children in the community. Children who go into the welfare system come out of that system without a sense of self and without a sense of belonging. Children who go into detention come out and reoffend. They graduate from the welfare system to the juvenile justice system and from the juvenile justice system to the criminal justice system.<sup>39</sup>

<sup>37</sup> Refers to Kings Cross in Sydney, a location frequented by homeless people.

<sup>38</sup> M. Dodson, 'Address', *Proceedings of Second Aboriginal and Torres Strait Islander Survival Conference*, Townsville, June 1997, p. 30.

<sup>39</sup> Dodson, 'Address', 1997, p. 31.

## Aboriginal Child Placement Principle

The introduction and implementation of the Aboriginal Child Placement Principle (ACPP) has been a hallmark of SNAICC's activities. Its importance stems from the concerns about Aboriginal placements in non-Aboriginal families. The Principle has made Aboriginal status an important administrative consideration in all placements.<sup>40</sup> It states:

When a child is to be placed out of his or her natural family, then the order for priority for placement should be:

1. A member of the child's extended family;
2. Other members of the child's Aboriginal community who have the correct relationship with the child in accordance with Aboriginal customary law;
3. Other Aboriginal families living in close proximity.

SNAICC has advocated for the introduction of the Principle and, together with its constituent organisations, intensive lobbying of governments has contributed to the enshrining of the Principle in legislation or policy in most Australian jurisdictions. However, implementation has fallen well short of expectations and in 1997 the New South Wales Law Reform Commission documented these shortfalls.<sup>41</sup> The form of the Principle varies across jurisdictions in Australia but is stated policy, in one form or another, in all states and territories with the exception of Queensland.<sup>42</sup> To date, Queensland, Western Australia and Tasmania have not included the Principle in legislation concerning either adoption or fostering of children.<sup>43</sup> However, the Principle does appear in eight of the sixteen pieces of legislation in Australia dealing specifically with the fostering and adoption of children.<sup>44</sup> Betty Pearce comments that most of the past care of children was with non-Aboriginal people and 'kids were losing their identity'. She sees the ACPP as SNAICC's 'main vision' (interview 15 Nov. 97). Armitage has commented that the Principle has made a start in reversing the policies of assimilation and integration which have been

<sup>40</sup> Armitage, *Comparing the Policy of Aboriginal Assimilation*, 1995, p. 66.

<sup>41</sup> For a full account, see the 1997 NSW Law Reform Commission report on the Aboriginal Child Placement Principle.

<sup>42</sup> NSW Law Reform Commission, *The Aboriginal Child Placement Principle*, 1997, p. 55.

<sup>43</sup> NSW Law Reform Commission, *The Aboriginal Child Placement Principle*, 1997, p. 118.

<sup>44</sup> NSW Law Reform Commission, *The Aboriginal Child Placement Principle*, 1997, p. 118.

dominant in Australia.<sup>45</sup> He sees the Principle as responsible for bringing about the end of the adoption of Aboriginal children by non-Aboriginal people.<sup>46</sup>

1980 guidelines on Aboriginal fostering and adoption prepared by the Department of Aboriginal Affairs were the first formal expression of the Principle, although the general direction had been set by a meeting of Aboriginal people and their supporters at the national adoption conference of 1976.<sup>47</sup> Moves to introduce the Principle formally were implemented during a period of Federal Labor rule when Clyde Holding was Minister for Aboriginal Affairs from 1983-1988. The Australian Labor Party amended its policy platform in July 1984 to incorporate a new section on Aboriginal child care. This section stated:

Labor Governments to initiate full and complete consultation with the Aboriginal and Islander communities, with the commitment to implement the principles of those communities regarding the care, custody and control of children and the provision of necessary resources to facilitate the development of community-controlled childcare agencies/services within the Aboriginal and Islander community.<sup>48</sup>

In 1983, the Working Party of State Social Welfare Administrators recommended that each state and territory enact the Principle in legislation.<sup>49</sup> At the SNAICC Conference in December 1984, held in Adelaide, delegates proposed that the ACPP be adopted by all levels of government to stop removals.<sup>50</sup> In late 1984, the Working Party recommendations were presented to the Council of Social Welfare Ministers and endorsed at that meeting.<sup>51</sup> Victoria and the Northern Territory were the first state and territory governments to begin the process of legislative recognition of the Principle, the former in adoption law and the latter in the *Northern Territory Community Welfare Act* of 1983.<sup>52</sup>

<sup>45</sup> Armitage, *Comparing the Policy of Aboriginal Assimilation*, 1995, p. 68.

<sup>46</sup> Armitage, *Comparing the Policy of Aboriginal Assimilation*, 1995, p. 67.

<sup>47</sup> R. Chisholm, 'Towards an Aboriginal Child Placement Principle: A View from New South Wales', in B. Morse and G. Woodman eds., *Indigenous Law and the State*, Dordrecht Publications, Foris, 1988, p. 327.

<sup>48</sup> Cited in correspondence from Federal Minister for Aboriginal Affairs to NSW Minister for Youth and Community Services (Frank Walker), c. July 1984.

<sup>49</sup> D'Souza, *Indigenous Child Welfare*, 1994, p. 65.

<sup>50</sup> Minutes SNAICC Conference 1984.

<sup>51</sup> D'Souza, *Indigenous Child Welfare*, 1994, p. 65.

<sup>52</sup> D'Souza, *Indigenous Child Welfare*, 1994, p. 66.

SNAICC has been sceptical about the implementation of the ACPP. On 17 April 1984, issues raised at the SNAICC National Conference in March were forwarded to the Minister for Social Security, the Hon. Don Grimes. The letter commented that 'community-based, community-controlled Aboriginal and Islander child care agencies are denied a significant role in decision-making processes in regards to the placement and general welfare of Aboriginal and Islander children'.<sup>53</sup> In 1984 SNAICC met with representatives of the National Aboriginal Conference,<sup>54</sup> the Office of Child Care and the Department of Aboriginal Affairs where it was noted:

The acceptance by all Social Welfare Ministers of the Aboriginal Placement Principle is something of a breakthrough. Acceptance is itself only a first step however, and action is needed to implement the Principle effectively.<sup>55</sup>

A report into Children and the Legal Process noted that despite the existence of the ACPP, submissions to that Inquiry were critical of the response of care and protection systems to the needs of children in Indigenous communities. The three main criticisms were that some workers in family services departments held racist attitudes, that there remained a lack of consultation with the communities concerned and that insufficient account was taken of Indigenous child rearing practices when considering whether an Indigenous child had been neglected.<sup>56</sup>

Interviewees told of the struggles to introduce and implement the Principle in their jurisdictions. In Queensland, Kathy Fisher provides a specific example:

... I've seen some really bad situations where a child has been taken out of its environment for neglect or whatever, but no effort had been made to reunite that child with its family or extended family. And this young girl when she eventually found out—it's all right to have a little black golliwog for a while but that child is still going to get abused at school for its colour and they start to notice the difference between their mother who happens to be a white foster mother or adoptive mother and the colour of her skin which is black. So she starts asking questions and she keeps getting pushed aside. In the end she

<sup>53</sup> Correspondence from SNAICC to Senator Grimes on 17 April, 1984.

<sup>54</sup> The National Aboriginal Conference (NAC) existed from 1977-1985 and replaced the National Aboriginal Consultative Committee which had been established by the Whitlam Labor Government in 1973.

<sup>55</sup> Minutes of meeting between SNAICC, NAC, Office of Child Care and Department of Aboriginal Affairs, 8 May 1984.

<sup>56</sup> Human Rights and Equal Opportunity Commission and Australian Law Reform Commission, *Speaking for Ourselves: Children and the Legal Process*, Issues paper 18, AGPS, Canberra, 1996.

became quite hysterical about it. She wanted to know who all her family was. So the mother decided to take her off to the doctor and started her on pills whether its Valium—all those sorts of things and she ended up becoming a drug addict. She became very dependent on that (interview 2 Feb. 98).

Kathy Fisher's narrative highlights the long and difficult process of people's search for their families, an issue which emerged from the stories told to the Stolen Generations Inquiry. The case example presented by Kathy Fisher demonstrates the continuation of practices which fall outside the ideals of the ACPP:

Eventually that girl ended up finding out who all her family was. She went by asking questions out on the street and in the park with blackfellows. She found her mother and a week later her mother was dead. So that really sent her over the edge.

And in the meantime she picked up with a young fellow and he was no good for her. He was a non-Aboriginal fellow and got her more and more involved with drugs. She ended up getting pregnant to him and then her foster mother went and fought it in the family court to have that child taken off her and she's doing the same thing now no doubt to her foster child's daughter (interview 2 Feb. 98).

Other Queensland participants focused on the difficulty of introducing the ACPP in that State, providing an example of just how slow the policy process can be and how this can stifle Indigenous aspirations. Despite the fact that discussions commenced in the 1980s in that State to amend the 1965 *Children's Services Act*, at the time of writing in 1999 the change had not been enacted, although the policy was adopted as early as 1984, in draft form, and again in 1987.<sup>57</sup> Margaret Ahkee communicates the difficulties with the introduction of the ACPP in that State:

Well, the Aboriginal Child Placement Principle—we have worked for years since we started in Queensland to get that in State legislation. But that will only come about next year. It should be in State legislation (interview 2 Feb. 98).

Vicki Cooney further comments that the consultations were conducted as far back as 1993 (interview 2 Feb. 98), and Margaret Ahkee elaborates:

It was supposed to have been coming since 1993. The ACCAs did a big consultation with Aboriginal communities about what sort of changes they would like to see in the legislation and we had two weeks to do that before Christmas. So we went around and did that in December 1993 and it's only going to come about now. We've done a lot over those four years. Some more

<sup>57</sup> HREOC, *Bringing Them Home*, 1997, p. 446.



consultations and negotiation with the Department right up until last September when we said we wanted the Aboriginal Child Placement Principle placement preferences outlined which we got (interview 2 Feb. 1998).

Taking another perspective, Mary Graham talks about the difficulty in trying to get the Queensland authorities to understand the need for the ACPP. She describes the process:

... we could see after working for some time that the policies, especially of the states in their role in what is now called the stolen generation events, we could see it then how disastrous it was, what horrible dreadful problems it had led to, and we had to argue quite a lot and quite hard to the State to change their own policies, so that they would take into account, for example Aboriginal kids either fostered or adopted should only ever go to either a close relative or other Aboriginal people. Should never be given away to anybody else of another culture and it took a long time for people to really accept that. It was a real hard almost philosophical arguments we used to have about it. They could not understand what that meant actually. So that was very difficult. I think that even after that they were still reporting to the caseworkers, if there were pretty good co-operative caseworkers, they would go along with that. Others would try and get around it, making all these excuses about well we haven't got anyone suitable at the moment, however there are these white families and so on and so on (interview 4 Feb. 98).

Caroline Munns refers to the political and bureaucratic struggles involved with the implementation of the Principle:

I think all Governments would not like the ACCAs to have total control and to become the Department for our kids and that was the whole aim of having the Child Placement Principle, having that legislation, because you know and I know that the Department of Families as it's called here in Queensland, would be out of a job if they had to turn around and relinquish all their rights. And one of the things I always said is that here we are once again. We have non-Indigenous people saying how, when, where and why with our kids. When is it ever going to change? We don't sit there in any meeting and say what should happen to their kids and they do still to this day, when we are heading into the year 2000—still making decisions for our kids. And within the Departments and within the local areas, if you don't build up that rapport with those managers, you don't have anything and I mean, managers change. The Area Manager in Mt Isa was a guy who had had a difficult time being brought up so he knew hardship, so I suppose he was more supportive than some of the others were. So in terms of when the children did come down, he would always make sure that we knew, whereas with some Area Managers even today, they don't even phone the ACCAs to say who is down, who is going to Court, what kids have been taken into care, letting the parents know that they do have rights and that kind of thing. Still today that doesn't happen. There aren't protocols that have been developed (interview 5 Feb. 98).

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Queensland Social Work academic, Ian O'Connor, reviewed the implementation of the Queensland policy for the Royal Commission into Aboriginal Deaths in Custody, and found ignorance of the policy and/or its significance among departmental staff. He identified an urgent need for statutory recognition of the ACPP and for the development of Aboriginal care and support systems.<sup>58</sup>

In the Northern Territory, the ACPP has been recognised in legislation since 1983 when it was incorporated in the *Community Welfare Act*. In addition to specifying the placement requirements, the Act also obliges the Minister to provide support and assistance to Aboriginal communities and organisations for the welfare of Aboriginal children and families. However, the final decision about placements rests with the welfare authorities, and no power or functions under the Act are delegated to Aboriginal organisations.<sup>59</sup> Even in 1995, when the Department implemented a protocol which gave Karu the primary responsibility for the recruitment, training and support of care providers for Aboriginal children, the power to make final placement decisions was not transferred.<sup>60</sup>

Barbara Cummings comments that the inclusion in the Child Welfare Act of a Child Placement Principle 'is everything that we envisaged in a Child Placement Principle' (interview 26 Sep. 97). Interestingly, the Northern Territory is the jurisdiction with the lowest over-representation of Aboriginal children in substitute care.<sup>61</sup> The Principle has also been embodied in the 1994 *Adoption of Children Act (NT)*, and no Indigenous children have been adopted in that jurisdiction since its introduction.<sup>62</sup>

Michelle Clarke suggests that the concept of the Aboriginal Child Placement Principle in the Northern Territory is not totally in tune with Aboriginal cultural perspectives. She proposes the notion of Family Way Placements:

<sup>58</sup> HREOC, *Bringing Them Home*, 1997, p. 446.

<sup>59</sup> HREOC, *Bringing Them Home*, 1997, p. 442.

<sup>60</sup> NSW Law Reform Commission, *The Aboriginal Child Placement Principle*, 1997, p. 131.

<sup>61</sup> HREOC, *Bringing Them Home*, 1997, p. 442.

<sup>62</sup> NSW Aboriginal Law Reform Commission, *The Aboriginal Child Placement Principle*, 1997, p. 133.

What you will find is people will use the Aboriginal Child Placement Principle as a term and currently in the Northern Territory, it is in the Community Welfare Act ... But the version of the community or of the Aboriginal needs is more so referred to as the family way placements.

So even in the beginning, the way you say things, describe things, comprehend things, define things, even from this conceptual stage, can be taken differently from a community based sector and aligning it to a Departmental system and legislation. But even within that, we had to work towards those family way placements. Now, they within themselves showed the strengths of the family dynamics and the family social systems, whether the positives of it as well as the negatives of it and the dysfunction of it. That's why I say then but what does it mean in regard to, right, if we want to get certain resources for the family, do we cross the line in regard to the Aboriginal Child Placement Principle, or how far by ethics or principles do we stay away from it. So even within that beginning thing, it kind of made you think about your practice, think about really, truly the ACCAs terms of reference (interview 17 Nov. 97).

Jenny Munro identifies some of the inherent contradictions in the system in New South Wales, where the ACPP's preferred order of placement is incorporated in the *Children (Care and Protection) Act*, 1987:<sup>63</sup>

Well it's still continuing—our kids. The Aboriginal Child Placement Principle is in place but in this State Aboriginal kids are still being placed with white families. In other states they are being placed with white families (interview 25 Oct. 97).

This view was supported by research undertaken by the New South Wales Law Reform Commission which noted that, despite a decline, New South Wales still has a high proportion of Aboriginal and Torres Strait Islander children in the care of non-Aboriginal and non-Torres Strait Islander people.<sup>64</sup> Bennett asserts that despite the sympathy of many white bureaucrats to Aboriginal needs, it is difficult for them to withstand 'normal bureaucratic problems'.<sup>65</sup> He cites Chisholm's conclusion from an examination of New South Wales files that, despite the dedication of many Departmental officers, there was a clumsiness in the task of assisting children in trouble.<sup>66</sup>

Jenny Munro raises concerns about abuse of children occurring in substitute care:

<sup>63</sup> HREOC, *Bringing Them Home*, 1997, p. 439.

<sup>64</sup> NSW Law Reform Commission, *The Aboriginal Child Placement Principle*, 1997, p. 99.

<sup>65</sup> Bennett, *White Politics and Black Australians*, 1999, p. 142.

<sup>66</sup> Cited in Bennett, *White Politics and Black Australians*, 1999, p. 142.

Here we have no control of the process. Those kids are being put in white families by white governments. We aren't seeing the kids at all. The Report that Lyle<sup>67</sup> and them did in the early eighties with the Children's Research Project re kids that were coming back into institutional care after they had been abused in foster care, nothing happens. Put in another placement. They are physically abused again. Come back to the institution. Nothing happens. Another placement and then they are abused again. How many kids have come through that system that have problems because of that multiple abuse and different families. Everytime they'd go into a situation with people they thought they could trust, they'd abuse them. Nothing worse in the world than to do that to a child. Can't explain it. Our law is the only law that should be applied to those people. If there were people who did that, they would be castrated and have it shoved down their throat and they would never do it again. Bring in castration for child sex offenders and medication to keep them doped up for the rest of their fucking days. Just keep them away from the kids that they are abusing (interview 25 Oct. 97).

Providing examples of the endeavours in New South Wales, Jenny Munro explains the control exercised by the government authority and the reluctance to embrace ideas presented by Aboriginal organisations:

But the Children's Service was always on about trying to provide alternatives to the Government system in institutionalising kids. Placement within the extended family or establishing family group homes with Aboriginal houseparents for kids. They were the alternatives that this organisation thought were the preferred ways of dealing with kids in those situations. It took a long time for them to even warm to the concept of family group homes and I think other areas of government picked up on the idea before they did with Aboriginal kids. You saw it more readily accepted with people with mental problems or disabilities, rather than with Aboriginal kids. It was a struggle just to have the Principle recognised and to get the Department to recognise Aboriginal people as adequate alternative parents, as foster parents. We had lists of people. We were always doing drives for Aboriginal foster parents. We'd submit their names to the Department and they'd go over everybody that was submitted with a microscope. They'd knock a lot of people bar'. We were actually licensed to do placements but all of it had to be app'oved by the Department ... (interview 25 Oct. 97).

Sandy Miller describes innovative ways of doing the ground work for the introduction of the Principle in South Australia. In that State the ACPP is set out in the *Children's Protection Act* of 1993. Section 5 of this Act provides that no decision or order about where an Indigenous child is to reside can be made until the Department has consulted with a recognised Indigenous organisation.<sup>68</sup> Sandy Miller states:

<sup>67</sup> Lyle Munro

<sup>68</sup> HREOC, *Bringing Them Home*, 1997, p. 440.

At that time ACCA only had about four officers including Brian<sup>69</sup> and a clerical support person, one senior Aboriginal staff member and a field officer who at that time was non-Aboriginal, a woman by the name of Suzanne Mortier. It was Suzanne and I that went around literally, and knocked on the doors of every Aboriginal household we could find in one particular area in the southern part of Adelaide. As you can imagine, that took weeks and weeks to do because it wasn't just a question of walking up to people and saying would you be prepared to have an extra child in your house. We really had to sell the whole notion of Aboriginal Child Placement Principle to families. That part of it wasn't that difficult but then assessing families as suitable families was what actually took up a lot of the time, because obviously we didn't want to be placing Aboriginal children with families who perhaps weren't going to be able to cope with the sorts of situations that some of these children might have actually come with (interview 21 Oct. 97).

The success of the provisions in South Australia has been difficult to assess, because while there is an over-representation of Indigenous children under the care and protection of the Department for Family and Community Services, the racial identity of those with whom they are placed is not known.<sup>70</sup> In 1990 Brian Butler, who was, at that time, Director of the South Australian ACCA, wrote to the State Minister for Aboriginal Affairs, asserting that the Principle 'is treated as a joke by State Social Workers and Children's Interest Bureau in South Australia'. His letter referred to an Aboriginal child being ordered from the Aboriginal family and placed with white people. A practice which he stated was 'perpetuating the devastation of Aboriginal people'.<sup>71</sup>

In her interview, Doreen Collier praises the endeavours by SNAICC to ensure that children were placed according to the spirit of the ACPP. In Western Australia the ACPP is not specified in legislation or policy, but covered by a general statement, in 1984, on Substitute Care Policy in Relation to Aboriginal Child Placement. In Western Australia, Indigenous children are eight times over-represented in care orders<sup>72</sup> and, in 1995, 21% of Aboriginal children in that State were in non-Aboriginal placements.<sup>73</sup> There is no formal policy within the Department for Family and Children's Services regarding adoption, although the Department

<sup>69</sup> Brian Butler.

<sup>70</sup> NSW Law Reform Commission, *The Aboriginal Child Placement Principle*, 1997, p. 142.

<sup>71</sup> Correspondence from Brian Butler to the South Australian Minister for Aboriginal Affairs, Mike Rann, 19 December 1990.

<sup>72</sup> HREOC, *Bringing Them Home*, 1997, p. 445.

<sup>73</sup> NSW Law Reform Commission, *The Aboriginal Child Placement Principle*, 1997, p. 154.

reports that the Principle is applied to adoption of Aboriginal children.<sup>74</sup> In relation to her own experience in Western Australia, Doreen Collier makes positive comments:

That was a good thing they did because there were too many Aboriginal children going to the white families. Years ago when children went into places like that, the white families used to change their name, their first name, because I had cousins who were put into different homes and they came out with different names to what we knew them as. They lost a bit of their identity. So it was a good thing that they got into that.

And having them now be with kin is good. You know our extended families is a lot better than having them with different families (interview 16 Dec. 97).

SNAICC has pointed out that in some jurisdictions, practices which defied implementation of the Principle were occurring. Referring to an incident in Queensland, SNAICC expressed concern about the reversal of a decision to return a four year old boy to his natural extended family when the foster parent ran a campaign in the press.<sup>75</sup> In North West Australia, there had been instances where young Aboriginal mothers made private arrangements with non-Aboriginal families which allowed these families to take babies into their care.<sup>76</sup>

The Stolen Generations Inquiry devoted part of its report to presenting a state and territory review of the ACPP. It noted that the widespread acceptance of the Principle had created a greater recognition of Indigenous childrens' cultural needs and to improved consultation processes with Indigenous peoples and agencies.<sup>77</sup> However, the report commented that the opportunity for Indigenous advice was limited by established bureaucratic frameworks which had their own requirements and approaches. The Inquiry recommended that national standards legislation be introduced, which accorded with the Principle.<sup>78</sup> Highlighting the constraints to implementing the Principle, the report states:

<sup>74</sup> Cited in NSW Law Reform Commission, *The Aboriginal Child Placement Principle*, 1997, p. 154.

<sup>75</sup> SNAICC, Address to Seminar on the Convention on the Rights of the Child, Canberra, 19 July 1991, p. 3.

<sup>76</sup> SNAICC, *Address to the Seminar on the Convention*, 1991, p. 3.

<sup>77</sup> HREOC, *Bringing Them Home*, 1997, p. 448.

<sup>78</sup> HREOC, *Bringing Them Home*, 1997, pp. 661-662.

In most jurisdictions the identity of relevant agencies and the timing and quality of consultations are not specified. The result is that discussions typically occur too late in the decision making process and in too cursory a manner to permit an effective contribution to be made. Indigenous agencies could contribute to working with the family to prevent the child being removed, working with the family to prepare it to receive the child back, locating, training and supporting an appropriate Indigenous foster carer. All of these tasks require at least that the agency is notified as early in the intervention process as possible. AICCAs are further constrained in the effectiveness of their contribution to retaining Indigenous children within their families and communities by limited funding.<sup>79</sup>

The 1997 Second Aboriginal and Torres Strait Islander Child Survival Conference, convened by SNAICC in Townsville, passed a number of resolutions relating to the Principle, including that it be legislated in every state and territory, and endorsing the National Inquiry recommendations.<sup>80</sup>

A workshop was held on the topic, addressed by a variety of speakers. The Executive Director of the New South Wales Law Reform Commission commented:

Despite the fact that all the states, whether in legislation or policy, state that they are required to place Aboriginal and Torres Strait Islander children within the Aboriginal community there are still very large percentages of them not being placed in Aboriginal care.<sup>81</sup>

At that Conference Karu Link-Up worker, Rosie Baird, who at that time represented the Northern Territory on the SNAICC Executive, talked about the difficulties in getting the Principle implemented. Although the Principle is embodied in the Northern Territory's Child Welfare Act, she stated:

It has taken considerable persistence from Karu to have the department agree and adhere to the protocol for the implementation of the Northern Territory Government legislation and policy. The NT government has some of the best child welfare legislation in Australia. However, its implementation has at best only been spasmodic. Karu has had to monitor the implementation of the child placement principle because the department has been found to be selective in its compliance with its own legislation.

<sup>79</sup> HREOC, *Bringing Them Home*, 1997, p. 448.

<sup>80</sup> SNAICC, *Proceedings of the Second Aboriginal and Torres Strait Islander Child Survival Conference*, Townsville, 1997, pp. 12 & 13.

<sup>81</sup> SNAICC, *Proceedings*, 1997, p. 36.

Karu believes that the time has come to acknowledge that there are some things that governments are just not good at and that Aboriginal child welfare is better handled by Aboriginal people in Aboriginal-controlled community-based organisations. Past and recent efforts by government to deal with Aboriginal child welfare has been disastrous in human and financial cost.<sup>82</sup>

These sentiments were echoed by SNAICC in its submission to the National Inquiry, pointing out the lack of control granted to Aboriginal agencies in practice:

Although the ACPP has been in legislation or policy for a number of years the problems continue. This is because the ACPP has not necessarily meant additional support services to families. The ACPP gave scope to governments to include Aboriginal organisations to play a role in child protection but usually only as placement agencies ... Where Aboriginal agencies do not exist, departments are still making dubious decisions about Aboriginal children. 'Cultural appropriateness' in child and family welfare is still an elusive notion.<sup>83</sup>

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The quest to keep children with their families and communities has remained on SNAICC's agenda up to the present time. The quest has illustrated the complexities of state responsibility in the child welfare system resulting in inconsistency in commitment, enactment and implementation. This chapter has scanned some of the provisions of the various states<sup>84</sup> and has presented information on resistance by the state from the viewpoints of those involved with SNAICC. This resistance has occurred despite forums bringing together the relevant state ministers, and despite the commitment of the Labor Government, during the 1980s, when the push for the introduction of the Principle was at its peak. The tension between the Commonwealth and the state and territory governments has been a factor which has inhibited the implementation of the Principle. An example of this tension is evident in correspondence between the Federal Minister for Aboriginal Affairs to the Western Australia for Youth and Community Services in 1984. In this correspondence, the Federal Minister had expressed interest that the Western Australian Department had decided to fund four Aboriginal child care officers to implement the ACPP. However, the correspondence

<sup>82</sup> SNAICC, *Proceedings*, 1997, p. 38.

<sup>83</sup> SNAICC, *Never Again Break the Chains*, 1996, p. 32.

<sup>84</sup> Further details are contained in the HREOC report, 1997 and the NSW Law Reform Commission report of 1997.





We're reading all this stuff of what white Australians think Aboriginal people think and why they act that way ... there should be more Aboriginal people writing ...<sup>1</sup>

### Introduction

During my years of association with SNAICC, I have been astounded by the array of undertakings with which the Organisation has involved itself. I have observed the small enthusiastic staff team and SNAICC members constantly weaving in and out of a variety of activities locally, nationally and internationally. Information flowed among members and non-members, newsletters were prepared, meetings attended, conference papers presented and, when government and private grants were provided, projects which helped advance the cause of Aboriginal children and families were undertaken. Submissions were prepared for a range of consultations and inquiries including the Royal Commission into Aboriginal Deaths in Custody and the HREOC Inquiry into the separation of Indigenous children from their families.

For the purposes of this chapter, I have selected examples of the activism as illustrations of SNAICC's pursuit of the rights of Indigenous children and families. These examples represent practical ways in which SNAICC has given voice to its quest. The projects selected—family violence, Aboriginal child poverty and child abuse—have been used to inform and influence SNAICC's policy agenda. The annual event documented is the National Aboriginal and Islander Children's Day, an invention of SNAICC which has been in place since 1988. The international activism of SNAICC has become more intense in the light of the backlash occurring in this country against fundamental changes which SNAICC and other Indigenous organisations are struggling to achieve. The projects have wide policy implications, as a means of reclaiming control from the dominant society, and reframing the concerns from Indigenous perspectives. As Dodson notes, the dominant welfare model relies largely on government initiatives and government discretion to identify

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<sup>1</sup> Interview with Christine King, 17 Nov. 97.

priorities, formulate policy and deliver programs. He sees current approaches as being antagonistic to the exercise of self-determination by Indigenous peoples.<sup>2</sup>

### Family violence project

Family violence in Indigenous communities is a topic on which both mainstream society and Indigenous organisations have been publicly silent. Previously referred to as domestic violence this issue has in relatively recent times reached the public arena, largely as a result of feminist activism. This feminist response, although occurring in Indigenous communities, has been largely suppressed as Aboriginal men and women join together in the struggle for the enhancement of Aboriginal well-being. The sensitivities involved, and the possible misuse and abuse of any reported findings, are no doubt contributing factors to why Indigenous people have not addressed the issue in a systematic way.

SNAICC played a pioneering role in publicising family violence. The family violence project resulted in the production of a booklet, entitled *Through Black Eyes* in 1991. Nigel D'Souza comments that the report 'says a lot about SNAICC', demonstrating that 'our approach to the needs and problems of Aboriginal children is holistic and we will therefore involve ourselves in any matters that will have a bearing on the wellbeing of children'.<sup>3</sup> A major strength of the report is that it is written from an Aboriginal perspective, a strength explained to me by Christine King:

The fact that there is hardly any written material by Aboriginal people from an Aboriginal framework. We're reading all this stuff of what white Australians think Aboriginal people think and why they act that way ... there should be more Aboriginal people writing more and this thing *Through Black Eyes*, the booklet that SNAICC did was absolutely fantastic. Just to find something that was written by an Aboriginal organisation and be able to read from an Aboriginal perspective what was happening, was fantastic and I think there should be more of it (Christine King interview 17 Nov. 97).

<sup>2</sup> Cited in N. D'Souza and Y. Walker, *The Families of Aboriginal Peoples and Torres Strait Islanders*, Report to the Office of the International Year of the Family by the Secretariat of National Aboriginal and Islander Child Care, 1994.

<sup>3</sup> N. D'Souza, 'The Secretariat of the National Aboriginal and Islander Child Care', in *Aboriginal and Islander Health Worker Journal*, vol. 18, no. 1, Jan/Feb, 1994, p. 28.

The holistic and culturally relevant approach to the topic has been made clear in the report, by locating family violence within a different paradigm from that presented in non-Indigenous theorising<sup>4</sup>. This context includes how ancestors lived prior to the 1788 invasion, the violent history of the establishment of Australia and how these factors contributed to the breakdown of family life and the low socio-economic status and psychological, emotional and spiritual impacts.<sup>5</sup> In an accessible format, the report documents historical, cultural and social factors, as well as providing information on both existing legislation and available services.

The approach adopted by SNAICC during the project contributed to the development of an Indigenous framework. At all stages of the process including planning, consultation, interpretation and writing control remained in the hands of Indigenous people. The first edition of the handbook was published in 1991, and its popularity resulted in SNAICC successfully receiving funding to revise and print an additional 20,000 copies the following year. The author of the report, Maryanne Sam, was assisted in the update by Yolanda Walker. Both Indigenous women were commissioned for the task by SNAICC.

Brian Butler comments that when the handbook first appeared SNAICC had no idea about the magnitude of the response, as it was dealing with a subject which had been taboo for such a long time. Requests for the handbook came not only from Indigenous organisations and agencies, but from mainstream schools, universities, libraries, police departments and government departments. Inquiries also originated from other countries, including New Zealand and the United States.<sup>6</sup>

The project arose from concerns expressed at the 1987 SNAICC Annual General Meeting held in Alice Springs. At that meeting, member organisations around the country spoke of the violence in Aboriginal families and the effect on women and children.<sup>7</sup> The issues raised resulted in a campaign by SNAICC including a national workshop, the

<sup>4</sup> Non-Indigenous theorising frequently has its major focus on patriarchy in society.

<sup>5</sup> M. Sam, *Through Black Eyes: A Handbook of Family Violence in Aboriginal and Torres Strait Islander Communities*, Second edition, SNAICC, Melbourne, 1992, p. 1.

<sup>6</sup> B. Butler in Sam, *Through Black Eyes*, 1992, p. vii.

<sup>7</sup> Butler in Sam, *Through Black Eyes*, 1992, p. vi.

production of three posters about Domestic Violence, emphasising the theme of 'Not Our Way',<sup>8</sup> and the ultimate production of *Through Black Eyes* in 1991. The latter project was funded by ATSIC.

Introductory comments in the handbook clearly spell out the significance to Indigenous community of the issue of family violence:

Family violence is our big shame. It affects everyone, women, children, men—the whole community. It can happen to anyone, black and white, rich and poor. It is happening in our Communities; the remote areas, bush and town camps, trust areas, reserves, country towns and big cities. It is no longer just wives who are being abused, but our kids, daughters, grandmothers, aunties, the Elders and some of our men.<sup>9</sup>

Delegates to the February 1989 national conference in Canberra on domestic violence<sup>10</sup> nominated SNAICC to conduct a national campaign, including the production of the posters and handbook. The aim of the campaign was not only to promote community awareness of the issues, but was seen as 'an immediate short-term response to the seemingly increasing incidents of family violence and child sexual abuse being reported by AICCAs and AICCA-type agencies throughout the country'.<sup>11</sup> The production of the handbook followed a consultative process which also drew on information presented at the 1989 conference. The project took the view that family violence was a community problem, and therefore everyone in the communities needed to be made aware of the issues and to be involved in the search for solutions.

SNAICC Policy/Research Worker, Yolanda Walker commented that many of the mainstream services around Australia lacked knowledge of, and did not have adequate resources to deal with, the specific needs of Aboriginal clients. She saw *Through Black Eyes* as a powerful tool for both Aboriginal and non-Aboriginal organisations who dealt with, or wished to understand more about, the problem of family violence in Indigenous communities.<sup>12</sup>

<sup>8</sup> Butler in Sam, *Through Black Eyes*, 1992, p. 6.

<sup>9</sup> Sam *Through Black Eyes*, 1992, p. 3.

<sup>10</sup> This conference was convened by SNAICC, and funded through the Federal Minister of Aboriginal Affairs in the Labor Government, Gerry Hand.

<sup>11</sup> Sam, *Through Black Eyes*, 1992, p. viii.

<sup>12</sup> Y. Walker, 'Through Black Eyes' (book review), *Family Matters*, Issue no. 35, Australian Institute of Family Studies, Melbourne, 1993, p. 50.

In 1993, SNAICC reported that sales of the handbook had been 'extraordinary'.<sup>13</sup> Considering the limited publicity there had been a high number of sales for the second edition, with orders coming in from a variety of organisations, libraries and bookshops. As an observer in 1997, I was party to the regular requests still coming to SNAICC for the document. Nigel D'Souza praises the success of the project:

... And we've distributed close to 20,000 copies if not more—and that in itself has permeated or penetrated communities around the country, and whether or not people acknowledge or recognise that, it was our work ... I think at that time we certainly acted as a catalysing agent in making it a more publicly discussed issue in Aboriginal communities ... (interview 7 Aug. 97).

At a wider level, controversies still reign over family violence prevention programs in Indigenous communities. The Minister for Aboriginal Affairs, in 1999, criticised Aboriginal and Torres Strait Islander communities for ignoring domestic violence, threatening to force it to allocate more money to prevention programs.<sup>14</sup> In response, ATSIC expressed concern that the issue was aired in the media before discussions took place with Commission board members. According to one journalist, the Minister was accused by an Aboriginal spokesman of chasing headlines and ignoring the facts of the complex issue.<sup>15</sup>

### Aboriginal child poverty

In a report launched by the Governor-General into the health and welfare of Indigenous Australians, the appalling conditions of Indigenous people were highlighted—life expectancy 15-20 years less than that of other Australians, death rates from infectious diseases up to 18 times higher than for the rest of the population, four in ten Aboriginal people having insufficient income to meet their basic needs.<sup>16</sup> The Federal Race Discrimination Commissioner has presented statistics revealing that only 33% of Aboriginal and Torres Strait Islander children complete schooling compared to a national average of 77%, an unemployment rate of 38% for Indigenous people compared with 8.7% for the general population and continuing over-representation in the criminal justice system with high rates of arrest and imprisonment.<sup>17</sup> Nathan speaks of the

<sup>13</sup> SNAICC, *Newsletter*, April 1993, p. 12.

<sup>14</sup> J. MacDonald, 'Tackle domestic violence, ATSIC told', *The Age*, 8 February, 1999, p. 5.

<sup>15</sup> MacDonald, 'Tackle domestic violence, 1999, p. 5.

<sup>16</sup> K. Middleton, 'Action needed on black health, says G-G', *The Age*, 3 April, 1997, p. A6.

<sup>17</sup> Federal Race Discrimination Commissioner, *Face the Facts*, 1997.

'onerous social penalties' suffered by being black in white Australia. By rejecting Aboriginal cultural values and forcing Aboriginal people to become outcasts, she sees mainstream society as creating a 'fringe group severely disadvantaged in all respects'.<sup>18</sup> Many Aboriginal people experience living conditions which fall well below the standards of other Australians, including lack of access to housing and an adequate water supply.<sup>19</sup>

Despite the extent of poverty and disadvantage, situations which clearly impact on the health and welfare of Indigenous children, the dominant society has turned a blind eye. Various polls have found that many Australians believe that Aborigines are better off, and the rise of the One Nation party was partly prompted by the myth that Aboriginal people receive benefits over and above other Australian citizens. The *Aboriginal Child Poverty* report clearly demonstrated that Aboriginal children are over-represented on all indicators used to measure poverty in the community.<sup>20</sup> SNAICC commented that it was not arguing that Aboriginal children in poverty should receive preferred treatment, but was pointing out the 'third world' conditions of Aboriginal children and families which reduces their life chances.<sup>21</sup>

Brian Eutler sees the importance of the *Aboriginal Child Poverty* report as representing 'the first time we were able to say what we wanted to about the poverty our children live in and grow up in'.<sup>22</sup> The project adopted a different method to *Through Black Eyes*, through a partnership approach,

while still maintaining community consultation as the main means of collecting information. Brian Butler considers the project unique as it involved those 'whom it professes to speak on behalf of and about'.<sup>23</sup> The project partner, the Brotherhood of St Laurence, expressed its regret that it had not been involved in Aboriginal child poverty issues previously. The Director of the Social Policy and Research Centre of the Brotherhood at that time, Jan Carter, stated:

<sup>18</sup> Nathan, *A Home Away From Home*, 1980, p. 49.

<sup>19</sup> Reid & Lupton, 'Introduction', 1991, p. xvi.

<sup>20</sup> C. Choo, *Aboriginal Child Poverty*, 1990, p. 2.

<sup>21</sup> SNAICC, *Aboriginal Child Poverty Report*, Media release, n.d. c. April, 1990.

<sup>22</sup> B. Butler, *Aboriginal Child Protection Issues*, Paper presented at the Australian Child Protection Conference, Sydney, April, 1990, p. 1.

<sup>23</sup> B. Butler, 'Foreword', in Choo, 1990, p. v.

At the Brotherhood of St Laurence we have been pleased to work with the Secretariat of National Aboriginal and Islander Child Care. We regret that we have not understood and advocated for poor Aboriginal children before this. We hope for progress on a subject that reminds us that neither international nor national obligations to our children have been met.<sup>24</sup>

In a letter to SNAICC members, Nigel D'Souza stressed the importance of the project, maintaining that severe poverty underlay many problems in the Aboriginal community.<sup>25</sup> Brian Butler linked the project with the broad goals of the Organisation:

Our organisation has a single-minded purpose: that of improving the lot of our children and our families. We did not get involved in this partnership with the Brotherhood because we felt we did not know about the problems that affect our children; it is precisely because we did know that we did it. We needed to tell other people that, in spite of all the changes in Aboriginal affairs, our children are still suffering poverty and injustice.<sup>26</sup>

The aims of the project were to describe the situation of poverty faced by Aboriginal children, using all available reports and statistics, and to compare these with the poverty of non-Aboriginal children; to obtain Aboriginal views and opinions about the poverty that their children and their communities face; to recommend, on the basis of the information received, strategies to reduce Aboriginal child poverty in accordance with the demands of Aboriginal people; and to recommend further research if necessary.

The Brotherhood of St Laurence appointed long-term supporter of Indigenous rights, Christine Choo from Western Australia, as researcher. Choo saw the research as representing cooperation between Aboriginal and non-Aboriginal organisations for a common purpose, the raising of awareness about the needs of Aboriginal children and families at a national level.<sup>27</sup> In developing the report, consultations were conducted in Central Australia, Queensland, Victoria, South Australia and Western Australia. The topic was placed in a wide historical context and the study focused specifically on themes around health, housing, education, employment, income, child protection and juvenile justice. On the poverty of their children, Aboriginal people spoke of the broader issues involved, including the loss of their children from their families and

<sup>24</sup> J. Carter, 'Preface', in Choo, *Aboriginal Child Poverty*, 1990, p. x.

<sup>25</sup> Correspondence from N. D'Souza to SNAICC members, 7 September, 1988

<sup>26</sup> B. Butler in Choo, *Aboriginal Child Poverty*, 1990, p. vi.

<sup>27</sup> Choo, *Aborigines, Researchers and the Welfare Industry*, 1991, pp. 6-7.



communities, the resulting loss of identity, loss of spiritual and cultural heritage, loss of contact with the land and the loss of dignity and self-respect through oppression. At the more micro level, emphasis was placed on such concerns as the lack of access to a reliable supply of good clean water, food, and other essential services in many Aboriginal communities. Also raised was the incidence of alcoholism, homelessness and abuse of children. The incarceration of their children in institutions and prisons was also seen as having a significant negative impact. The relationship between these factors on access to employment and income, which kept communities and children in poverty, was raised.<sup>28</sup>

The recommendations were far-ranging, incorporating land rights and identity; racism, community education, and cultural awareness; water supply; programs; food; shelter; education; health; alcohol and drug abuse; physical and sexual abuse of children; domestic violence; care of children; sport and recreation; criminal justice; support for Aboriginal agencies.<sup>29</sup> In addition, recommendations to Commonwealth and state governments were proposed for their immediate attention.<sup>30</sup>

The SNAICC Annual General Meeting in Adelaide in 1991 noted that the release of this Report had given SNAICC a higher profile, with invitations issued to SNAICC to present papers at conferences.<sup>31</sup> After launching the book, SNAICC had media enquiries from all around the country. SNAICC took its concerns about Aboriginal child poverty to the political arena. In a media release to coincide with National Aboriginal and Islander Children's Day, in 1990, Brian Butler called on the Prime Minister and the Leader of the Opposition to reaffirm former Prime Minister Robert Hawke's statement in 1987 about child poverty.<sup>32</sup> He said:

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<sup>28</sup> Choo, *Aboriginal Child Poverty*, 1990, p. 8.

<sup>29</sup> Choo 1990, *Aboriginal Child Poverty*, pp. 17-24.

<sup>30</sup> Choo 1990, *Aboriginal Child Poverty*, pp. 24-25.

<sup>31</sup> Minutes SNAICC AGM 1991.

<sup>32</sup> Prime Minister Robert Hawke's well-known statement alluded to the notion that no child would live in poverty in Australia by the year 1990. This statement generated much controversy, particularly in media reports.

... denial of our identity, the racism in Australia and the poverty that affects the lives of most Aboriginal people is a severe blow to the self-esteem of our children too. The start of the final decade of this millennium should be a time when Australia and its politicians should make a bipartisan commitment to the future of our children. They should also sit down with us and work out a plan that aims to eliminate Aboriginal Child Poverty by the year 2000.<sup>33</sup>

Christine Choo told of how her involvement emerged, providing further insights into the background and process of the project:

When Jan<sup>34</sup> and the Brotherhood decided they were going to do a project on Child Poverty, their idea was to commission various researchers to focus on different aspects of child poverty and one day on one of the visits here, we had lunch and she said to me, 'here's a sort of a portfolio. This is what I am interested in doing. Have a look at these topics and tell me which one you would be interested in taking up'. I looked at them and I thought it's all very interesting but I really think the Aboriginal question is of major significance because when you talk about poverty in Australia, usually Aborigines and other minorities are forgotten, so I drew that to her attention. I said, if you are interested in taking that on, I am interested in doing it (interview 14 Dec. 97).

Christine Choo believes the consultative aspect to be of paramount importance when a research partner was selected:

I suggested that it was very very important to consult with the Aboriginal people and suggested SNAICC ... We had three way discussions with the Brotherhood, SNAICC and myself about how this research should proceed. We stressed the importance of real true partnership because usually when these research projects are undertaken, the major research organisation takes the running, but in this one the Brotherhood actually acknowledged the partnership and engaged SNAICC in an equal partnership in the design and oversight etc of the research (interview 14 Dec. 97).

She tells how the process emerged from SNAICC's commitment to consultation, and the engagement and involvement of all the ACCAs across the country. The thinking was that 'if you don't talk to people you are not going to get the story'. She explains how the idea was to use the ACCA and SNAICC networks to reach communities across the states. She found people to be 'very enthusiastic'. Christine Choo continues:

It was very interesting because there was a different flavour for each state ... and it was developed and determined by the local ACCA. I think that is the real benefit of consultation. Really, self-determination in practice (interview 14 Dec. 97).

<sup>33</sup> SNAICC Media release n.d., c. April, 1990.

<sup>34</sup> Jan Carter from the Brotherhood of St Laurence.

For example, in Queensland it was decided that Cairns would be visited 'and I didn't know until I arrived there how it was going to happen'. In Alice Springs it was not only the ACCA people involved, but also one-to-one conversations with resource limitations:

I didn't just speak with ACCA people ... I visited some of the agencies there and talked to the people about the project. I engaged in one-to-one conversation with people in the town camp, and I had sampled different kinds of environments in Alice Springs (interview 14 Dec. 97).

Creative approaches were called for in dealing with resource limitations:

Another benefit of travelling up and down is that you bump in to all kinds of people. So really after sending in the submission for funding, I did not hear for a while and one day I bumped into Gerry Hand<sup>35</sup> while picking up my luggage. So I kind of sidled up to him in my usual way and introduced myself and said you have this submission on your desk, please hurry up with it and let me get on with it. We got the money. We hassled them until we got it. There was enormous generosity at each town as well. I billeted with people and they were very generous with their time and their offers of accommodation (interview 14 Dec. 97).

Christine Choo faced the challenge of writing for three audiences—for SNAICC and the ACCAs, for the politicians and bureaucrats and for the broader community. She reinforced the fact that people she spoke to were interested in the 'big picture', rather than describing Aboriginal poverty in narrow terms. Aboriginal people told her:

We want our children to have a good future. We don't want them to be removed from us. They will lose their identity ... What we need for Aboriginal children is improvement in our conditions as communities. So then they talked about inter-governmental agreements about how to provide health and all the rest of us. So it was the big picture. To me that was the surprising thing about it. It was so consistent (interview 14 Dec. 97).

She describes the project launch which took place at the Aborigines Advancement League in Melbourne, in 1990, with MumShirl as guest speaker. There was considerable press coverage including radio interviews and a sequence on the television program, *The 7.30 Report* (interview Christine Choo 14 Dec. 97). Nigel D'Souza believes that it was through the launch that a lot of people got to hear about SNAICC. He describes the project as being 'a watershed event', although

<sup>35</sup> Gerry Hand was the Federal Minister for Aboriginal Affairs from 1987-1990.

commenting that 'a lot of the recommendations didn't go anywhere'. However, 'when the report came out that also gave us a much higher profile'. In relation to the Brotherhood of St Laurence, he comments:

That's been their best seller as well and we have this midas touch with reports. A lot of the field and the policy makers and legislators, because it was sent out to politicians, heard about us for the first time but the Brotherhood of St Laurence, rightfully, got the main credits for it. But it wouldn't have happened without our involvement, because we enabled Christine to go around to communities and talk to people (interview 7 Aug. 97).

The wider benefits for SNAICC were evident to Nigel D'Souza:

A lot of people that they<sup>36</sup> influenced and who were impressed by them also realised that we existed as an organisation and obviously somebody as influential as Jan Carter, with the work she was doing at that time and the Brotherhood under her direction, people would have thought this organisation obviously has some credibility and that definitely opened doors to us ... I think we then became more familiar with the people involved in that sector. We then got involved with ACOSS.<sup>37</sup> That was a very important intervention for us and I think we actually made the effort to get in there but it was very easy for us to do that because they were ready. This was the International Year of Indigenous People. They were quite ready to do something but didn't know how to so it was timely that kind of contact. ACOSS is a major profile national organisation (interview 7 Aug. 97).

From a community education perspective, the widening of the policy definition, through the report, away from material poverty to questions of culture and identity, helped frame the promotion of SNAICC's quest towards issues of self-determination and Aboriginal cultural values. This quest continued to be evident in the later project on child abuse and neglect.

<sup>36</sup> Brotherhood of St Laurence.

<sup>37</sup> Australian Council of Social Service.

## Proposed Plan of Action for the Prevention of Child Abuse and Neglect in Aboriginal Communities

Brian Butler sees SNAICC's role in relation to child abuse in Indigenous communities as paramount:

Well I think SNAICC's been pretty much responsible for alerting the greater community and the need to address child abuse in this country (interview 1 July 97).

Child protection is a relatively new concept for Aboriginal people. Brian Butler notes that before the invasion and occupation of Australia by Europeans there was no need for services such as the ones currently provided, 'as we were able to rear our children as our people had for thousands of years before'.<sup>38</sup> A decade before the production of the Plan, Marjorie Thorpe contributed to placing the issue on the public agenda during an address to the Sixth International Congress on Child Abuse and Neglect in Sydney in 1986. At that Congress, she presented, on behalf of SNAICC, the following view on the structural barriers harming Aboriginal people and communities:

If the definition of neglect by State and Federal Governments implies that any child is not receiving an adequate standard of nutrition, health care or shelter, then the living conditions of many Aboriginal children shows them to be in extreme neglect situations. We ask why don't protective workers go into these communities and remove the children? According to their own definition of neglect, there would be wholesale removal of Aboriginal children. Or would this bring to the attention of those governments the real plight of Aboriginal people today, and force them into funding Aboriginal communities to ensure that every Aboriginal child has adequate food, water, shelter, health care and education.

At the present moment, the Australian government is denying our children their basic rights as stated in the United Nations Children's Charter.<sup>39</sup>

SNAICC defines child abuse and neglect for Aboriginal people as any form of action or inaction that results in the well-being of the child being threatened or leading to actual harm. This includes practices leading to the denial of Aboriginality of children.<sup>40</sup> The Organisation's concern with issues of child abuse and neglect has occurred at a variety of levels.

<sup>38</sup> Butler, *Aboriginal Child Protection Issues*, 1990, p. 1.

<sup>39</sup> M. Thorpe, *Child Abuse and Neglect from an Aboriginal Perspective*, Paper presented on behalf of SNAICC at the Sixth International Congress of Child Abuse and Neglect, Sydney, 1986.

<sup>40</sup> SNAICC, *Proposed Plan of Action for the Prevention of Child Abuse and Neglect in Aboriginal Communities*, 1996, p. 9.

Some of these concerns are documented below, although the emphasis in this section is on the Plan itself. This project has been selected to illustrate the preventative and broad focus adopted by SNAICC in its endeavours. Child protection for Indigenous people is not just a matter of identifying physical or emotional abuse, or neglect, but is 'more of a matter of the improvement of the conditions of life of all our people so that they are then better able to cope for themselves and their children', while recognising 'that in the course of seeking this overall improvement we have to help individual children and their families to cope with their lives as they currently find them'.<sup>41</sup> As with the family violence and Aboriginal child poverty projects, the Plan, released in 1996, applied a rigorous consultative process. Referring to the process and vision of the project, SNAICC commented:

This was a learning experience for all those involved over three years. It is the result of a cooperative effort that drew in people from Aboriginal communities to non-Aboriginal people in Federal and State and Territory Governments.

The greatest reward would be if this Plan made a difference to even one Aboriginal child. We hope however, that it does more and those that have helped continue to support its visions and hopes.<sup>42</sup>

The Department of Human Services and Health funded this project under the auspices of the National Child Protection Council, the Aboriginal and Torres Strait Islander Commission and state and territory governments. The Plan was an outcome of a commitment by the Federal Government to the World Summit for Children in New York in 1990.<sup>43</sup> The project's aim was to identify, develop and refine child abuse prevention strategies which would be acceptable to Aboriginal communities and would maximise the involvement of Aboriginal people in their design and implementation.<sup>44</sup> As affirmed by Brian Butler:

Self-determination is the guiding principle underlying current policies for Aboriginal people. Aborigines have demonstrated that the services that are most responsive to the needs of Aboriginal people are those which are organised and controlled by blacks.<sup>45</sup>

<sup>41</sup> Butler, *Aboriginal Child Protection Issues*, 1990, p. 1.

<sup>42</sup> SNAICC, *Proposed Plan of Action*, 1996, p. 2.

<sup>43</sup> D'Souza, 'The Secretariat of National Aboriginal and Islander Child Care', 1994, p. 27.

<sup>44</sup> SNAICC, *Proposed Plan of Action*, 1996, p. 5.

<sup>45</sup> B. Butler 'Aboriginal Children: Back to Origins', 1993, p. 8.

In undertaking the research Aboriginal communities, organisations and individuals in urban, rural and remote areas were consulted over a period of eight months. Individuals in government and non-government organisations were also consulted. Workshops conducted in eight locations throughout Australia represented a range of Aboriginal communities and organisations.<sup>46</sup> However, SNAICC has acknowledged that, because of resource and financial constraints, the consultations were not extensive.<sup>47</sup>

Irene Stainton, from Western Australia, praises the work of SNAICC on this issue:

For me, that was a huge strategy that SNAICC took on and particularly because Aboriginal people don't really want to talk about child abuse and neglect and sexual abuse of our young people. We know that it happens but we don't necessarily want to talk about it (interview 15 Dec. 97).

The project endeavoured to interpret child abuse and neglect from an Indigenous perspective. SNAICC's quest to keep children with their families and communities demonstrated the problem with programs developed 'whitefella way'. Through this project, the importance of prevention was paramount, combined with Indigenous control and consistency with Indigenous cultural values. Unlike government policy reports which tended towards a limited and practical approach, the Plan adopted a wide perspective in relation to the reasons for and the prevention of abuse and neglect. Colonisation and the loss of traditional cultural values were at the forefront of SNAICC's perspective.

Consistent with this broad approach, the Plan stated:

The Aboriginal view of child abuse does not separate the responsibility that governments and societal factors have in the creation of the syndrome of 'dysfunctional families' and child abuse from the direct responsibility of the 'abuser' or carer. Those who deny the cultural needs of Aboriginal children are also abusing or neglecting them.

Dispossession, racism, a sense of hopelessness and powerlessness and poverty are all factors leading to stresses within families that lead to child abuse and neglect. Government is responsible for addressing some of these issues as more often than not they are beyond the control of the families that may neglect or abuse their children.<sup>48</sup>

<sup>46</sup> SNAICC, *Proposed Plan of Action*, 1996, p. 6.

<sup>47</sup> N. D'Souza, in *Proceedings of Second Aboriginal & Torres Strait Islander Child Survival Conference*, Townsville, June, 1997, p. 99.

<sup>48</sup> SNAICC, *Proposed Plan of Action*, 1996, p. 9.

The Plan linked past removal with present problems, noting that 'the removal of Aboriginal children from their parents, and the subsequent associated traumas, deprivations, often abuse and neglect have influenced many of today's adults' views of parenting, loving and nurturing'.<sup>49</sup> The HREOC Inquiry also referred to the denial of the experience of being parented, an experience which people rely on to become effective and successful parents themselves.<sup>50</sup> This view is echoed by Jenny Pryor:

But as part of the stolen generation also those mothers or children have been brought up in dormitory situations and have not had the opportunity to be brought up with their parents. Really we are dealing with the kids today of those parents or of those children that have been in institutions and don't know how to be parents (interview 27 June 97).

In documenting the direct and micro issues related to child abuse and neglect, the Plan highlighted learned violence, street children, problems facing young single parents, lack of parenting and child rearing, schools, stress arising from poor budgeting skills and alcohol abuse and poverty.<sup>51</sup> The report stated:

The living circumstances of families does naturally affect the ideal operation of this form of child-rearing. Families are spread across the country these days. Adults have problems: alcoholism, mental-illness and other illnesses. Some are in prisons and institutions. Many have not dealt with abuse in their own lives, past and present. Children are removed. Grandparents die young. Poverty affects the ability of some to care for additional children. Some families are isolated by geography, living in urban areas with poor access to transport and communications.<sup>52</sup>

The Plan commented that child sexual abuse was a major concern, a theme referred to by those interviewed in different ways. Jenny Munro comments on the aspect of learned violence in relation to sexual abuse:

We have to learn in our community that even when Aboriginal people are doing it, that's all learned behaviour, not something that's part of our cultural environment. It's being picked up from the wider environment and then bringing it back to our community. If Customary Law applied, punishment would be swift and there would be no re-offence (interview 25 Oct. 97).

<sup>49</sup> SNAICC, *Proposed Plan of Action*, 1996, p. 9.

<sup>50</sup> HREOC, *Bringing Them Home*, 1997, p. 222.

<sup>51</sup> SNAICC, *Proposed Plan of Action*, 1996, p. 11.

<sup>52</sup> SNAICC, *Proposed Plan of Action*, 1996, p. 7.



Mary-Ellen Passmore-Edwards refers to alternative ways of dealing with Indigenous children who have been sexually abused:

One of the other things I brought to the SNAICC forum at one stage too was there was a project that was initiated by Family and Children's Services over in Brisbane where Aboriginal teenagers who were victims of sexual abuse, were brought together and actually healed through that process together. Each one of those young people are walking around today with a totally different concept to what life can offer them. They are not the victims anymore as such. They went through a healing process that they shared together because they had all gone through similar situations but due to funds that was a one off (interview 16 Dec. 97).

Recommendations covering a range of levels from education and awareness development, to systemic and resource issues and policy were included in the report. The Plan was premised on the following five basic principles which were seen to underpin the design and delivery of services to Aboriginal people: Recognition of the rights of self-determination of Aboriginal people; community control over design and delivery of services; a wide-ranging view of child abuse and neglect; affirmation of the importance of the role of kinship groups; and acknowledgment and recognition of the cultural, linguistic, experiential and geographic diversity that exists among Aboriginal

people.<sup>53</sup> These principles are consistent with an earlier view expressed by Brian Butler that:

Whilst many of the activities of the children's services should be directed at the prevention of abuse and neglect, especially where there is a demonstrable need, these should be provided in a non-stigmatised way. It does not necessarily follow that focusing on abuse and neglect will be the most effective way of preventing abuse and neglect. Programs that raise self-esteem, pride and self-confidence in children through the arts, sports and other cultural expression, for instance, may well be more effective.<sup>54</sup>

Julie Tommy speaks of the complexities of handling child abuse in Indigenous communities in culturally appropriate ways. Referring to SNAICC's involvement, she states:

... like they shifted from dealing purely with the political aspects to dealing with some of the case practices. Like I've seen some of the papers that Nigel presented exploring the phenomenon of child sexual abuse in Aboriginal communities. We started looking at practices in terms of child abuse and

<sup>53</sup> SNAICC, *Proposed Plan of Action*, 1996, p. 16.

<sup>54</sup> Butler, 'Aboriginal Children: Back to Origins', 1993, p. 12.

redefining the definition of neglect and physical and emotional abuse. There were some discussion papers and a lot of talk about that. But I think what hasn't happened from there to there somewhere along the line was that we didn't define what we considered Aboriginal child abuse and what we adopted was this Government definition of what child abuse was and what it meant.

Even now, you go back into the Aboriginal community and you ask them for a definition of child abuse, there isn't one. They can't define what child abuse is. They might say they are not looking after their kids or there has been some inappropriate action about it. You get caught up into this system and you take on their definitions and you accept it as your own and I think that is kind of what happens (interview 17 Dec. 97).

Reflecting on the project the year after its release, Nigel D'Souza saw its major emphasis as being on self-determination and 'the need for elders to be involved once again in strengthening Aboriginal culture in communities and working with children as well'.<sup>55</sup>

At the time of writing (1999), there had been no policy developments emerging from the development of the plan. The clearest indication of its acceptance was the nomination of the current SNAICC Chairperson, Muriel Cadd, to the National Council for the Prevention of Child Abuse and Neglect. Despite the constraints, SNAICC has succeeded in the Plan challenging the dominant discourse, including the narrow ways in which child abuse has been defined by mainstream organisations. The continuing over-representation of Indigenous children reflects the lack of attention being paid to Aboriginal ways of dealing with child abuse and neglect. Yet solutions do not come easily and quickly. As Armitage comments, state agencies continue to work with Aboriginal children and families within the structure of a single child welfare law, a law which was framed by and for mainstream Australian society.<sup>56</sup>

<sup>55</sup> D'Souza in *Proceedings*, 1997, p. 103.

<sup>56</sup> Armitage, *Comparing the Policy of Aboriginal Assimilation*, 1995, p. 68.

## National Aboriginal and Islander Children's Day

The profile of SNAICC has been raised by a number of significant events and activities, targeted at both Indigenous and non-Indigenous people. Some of these events were initiated by SNAICC; others were auspiced by other organisations with SNAICC having a high degree of participation. I have selected National Aboriginal and Islander Children's Day, a SNAICC initiative of long-standing and one which has had positive achievements. The origin of the Day is explained by SNAICC:

National Aboriginal and Islander Children's Day was established in 1988. It is a day to celebrate the survival of Aboriginal and Islander people, particularly our children, despite 200 and more years of brutal oppression. We celebrate it to show our children that they are special. Activities are held on this day around the country for all children. It is a day that SNAICC focuses on particular issues that are of concern to Aboriginal and Islander children throughout the land.<sup>57</sup>

Although the selected date of August 4 does not have any specific significance in its own right, historical factors have influenced the need for one uniform national day. In the past, Aboriginal people who were resident on missions were frequently given one birthday which had to 'make do' for all Aboriginal children.<sup>58</sup> Encouraging organisations to celebrate the Day, SNAICC explained:

In 1988 when the SNAICC National Executive decided to establish such a day we wanted it to be a Day to celebrate the achievements and the joys of A & TSI children. We also wanted it to be a Day that focussed on some issue of importance to A & TSI children because there were then, as there are still today, many difficulties facing A & TSI children. Our role on National Aboriginal and Islander Children's Day is primarily one of promotion and publicity. We produce posters which are widely distributed (as widely as our resources will permit) with a particular theme and focus so that people are aware something is on.

In ten years we have gradually etched this special Day for A&TSI children into the calendar of events in this country.<sup>59</sup>

The first National Aboriginal and Islander Children's Day in 1988 was a contribution to the activities held in protest against the celebrations of the bicentennial of the arrival of Europeans in this land. This protest has

<sup>57</sup> SNAICC, Information Leaflet, 1993.

<sup>58</sup> Conversation with Nigel D'Souza, 18 March 1999.

<sup>59</sup> SNAICC Correspondence to Indigenous organisations, n.d., c. 1997.

been one of the landmark events of Indigenous activism in Australia. SNAICC members participated in the march which coincided with the holding of a SNAICC Executive meeting in Sydney at that time.

The dual aims of this annual event continue to be to focus on the problems and needs of Aboriginal children, and to highlight and celebrate the achievements and advances that Indigenous children are making in society.<sup>60</sup> It is also aimed at 'making our kids aware of how important they are to Aboriginal and Islander people and society'.<sup>61</sup> In a media release to coincide with the First National Aboriginal and Islander Children's Day on 4 August, 1988, Brian Butler stated:

This is a significant day because our children, who are our future wellbeing and guarantee of survival, continue to be the subject of abuse and discrimination by Australian society ...

... This National Aboriginal Children's Day is being held to bring to the attention of all people the problems of our children and the discrimination they continue to face. From now on this day will be marked annually as a day to highlight not only the plight of our children, but to celebrate their achievements too.<sup>62</sup>

In correspondence to the Federal Minister for Aboriginal Affairs, in that same year, Nigel D'Souza expanded on the aims of the Day.

Generally speaking, the aims behind the Day were firstly, to create among all Australians a greater understanding of the issues that affect all Aboriginal and Islander children. Secondly, it is meant to put Aboriginal and Islander Child Care Agencies (AICCAs) in the context of the activities that Aboriginal and Islander communities around Australia are engaged in to address some of those issues. Thirdly, we wish to use these days to promote our Agencies and to educate people about the history of Aboriginal and Islander children in their own land. Lastly, but most importantly, we want to encourage activities that show black children that they are special and we wish to involve as many Aboriginal and Islander children in these activities. In the face of the problems that Black people experience it is often easy to forget the needs of children.<sup>63</sup>

Before August each year, SNAICC publicises the event to its members. Although each AICCA celebrates the Day in different ways, according to its own needs and resources, a unifying theme is the development of a

<sup>60</sup> SNAICC, *Media release - National Aboriginal and Islander Children's Day*, n.d., c. 1995.

<sup>61</sup> SNAICC, *Aboriginal and Islander Children's Day 4 August 1994: Evaluation Report*, n.d., c. 1994.

<sup>62</sup> SNAICC Media Release, 2 August 1988, p. 1.

<sup>63</sup> Correspondence from N. D'Souza to Gerry Hand, MP, 27 October 1988, p. 1.

poster which reflects particular issues of interest at the time. This usually takes the form of a competition. Each year, a theme has been allocated to the Day which is highlighted in the posters. These themes generally reflect significant events occurring at that particular time. In 1991, when SNAICC was strongly advocating for the Inquiry, the poster theme was *Call for National Inquiry*. At the launch of the Day at the Aborigines Advancement League in Melbourne that year, singers/songwriters Archie Roach and Ruby Hunter sang 'Took the Children Away'.<sup>64</sup> In 1995, the title of SNAICC's submission to the HREOC Inquiry, *Never Again—Break the Chains*, was selected, reflecting the determination to maintain Indigenous family structures. Following the release of the Stolen Generations Report, the poster depicted *Bring them home. Implement the recommendations of the National Inquiry into the Separation of Aboriginal and Torres Strait Islander Children from Their Families*. In 1990, to coincide with the project in hand, the theme was *Aboriginal Child Poverty. We don't make the problems, why must we pay*. The 1993 theme *Their Future, Our Responsibility* reflected the promotion by SNAICC of community responsibility for community problems, a component of self-determination and community control.

The annual event also promotes not only the value of children, but the importance of Aboriginal family life. Indigenous families have been the cornerstone of Indigenous communities and the main reason behind the survival of Aboriginal and Torres Strait Islander peoples.<sup>65</sup>

The event has received media publicity and attention from high profile people, as Nigel D'Souza explains:

A lot of things that we do they never have any impact straight away. They usually lead in to long term stuff. You don't see the outcomes until later on. When we started off with that I don't think anybody knew about it except we first produced 3000 posters. Where does that go? But we got a lot of coverage the year we demanded the National Inquiry which was 1991 because we asked Archie and Ruby to sing Took the Children Away. We organised a proper media conference down at the League. We got a fair bit of electronic media coverage and national coverage for it and there were a number of other people helping us do things around that issue (interview 7 Aug. 97).

<sup>64</sup> This well-known song, composed by Archie Roach, has been a significant medium for creating awareness of 'stolen generations' issues.

<sup>65</sup> D'Souza & Walker, *The Families of Aboriginal People*, 1994, p. 21.

He has seen Children's Day as an effort to highlight 'the positive' (interview 7 Aug. 97). Jenny Pryor sees it in much the same way. Reflecting on SNAICC's achievements, Jenny Pryor told me of the staging of the event in her home town of Townsville:

... When it first started off a few years ago, it's just that black fellow party over there type of thing. But now even in this town we've got the schools that are participating and we more or less, although it's not a gazetted public holiday, but within ourselves we say, it's our day, our children's day and the children are 'it's our day today'. They know it's their day and so they are proud of it. And now you've got mainstream schools—okay the kids go to school. This is the secondary schools and the primary schools, but they come and attend. Say before we started off with only fifty people or one hundred. Our last one here we had up to six hundred or a thousand and that's just one big day event. The thing that is really pleasing is that you've got the old people there that are still there enjoying their grandchildren and their great grandchildren, so I see that as an achievement in the sense that SNAICC has put that day aside for children (interview 27 June 98).

Taking a broad view of Children's Day, Heather Shearer from South Australia sees it as a means of creating wider community awareness:

But I'm a positive person. I believe that the fight is still strong. There is a lot more awareness and that is one thing that through the National Aboriginal and Islander Children's Day campaign, has brought out a lot into the wider community, rather than being infrastructure within the service delivery area. We've been able to bring it out and been able to have that recognition and the issues that SNAICC are really addressing to the wider community, and awareness makes all the difference, it really does (interview 20 Oct. 97).

Irene Stainton speaks of developments in Western Australia, and of her own role:

'Til my involvement with SNAICC, there wasn't one here ever. The first couple of years of my involvement yes we did run National Aboriginal Islander Day through our Agency and they were in the form of a barbecue in King's Park. We ran those at the weekend, but then we got more political and thought 'to hell with it'. Why should we run it on the weekend. We'll run it on the day. So we would write to all of our carers and it was the carer's choice whether they'd keep the young ones out of school. So yes, we do that over here now and before my involvement with SNAICC, no it didn't used to happen (interview 15 Dec. 97).

The projects and event discussed above focus on SNAICC's 'domestic' activities. In Australia, SNAICC's involvement at the international level is less known, but has been a prominent feature of its activism.

## Internationalising the cause

International attention to Australian Indigenous causes is not new. As early as the 1920s, the Anti-Slavery Society in London was urging policy reform.<sup>66</sup> In 1988, the Society produced a monograph critical of many aspects of Australian policy. This report was presented to the United Nations (UN) in 1987, during the period of Labor rule, with Hawke as Prime Minister.<sup>67</sup>

Indigenous groups from a number of countries are increasingly taking their causes to the international arena. The impact of uniting with other Indigenous groups in international forums is emphasised by Jenny Munro from her own experience:

Geneva just blew me away ... We saw that same determination that we came to in the other Indigenous groups round the world, and that made for a very powerful effect on Aboriginal people. We weren't suffering alone and we certainly weren't suffering in silence any more. That gave us hope. We were all in it together (interview 25 Oct. 97).

ATSIC Commissioner Terry O'Shane has spoken in similar terms of the strength of international connections, stating that 'we have learned to draw strength from our brothers and sisters throughout the world as we have seen our status as native peoples change. We have also learned that we do not always play by the rules of the nation states which govern us: we can change the rules so that our interests are accommodated'.<sup>68</sup> Brian Butler sees SNAICC as being 'part of a process, a movement, that is of global dimensions, that is experiencing the resurgence of Indigenous peoples all around the world in their lands'.<sup>69</sup>

Dismissed as foolish or backward, or as 'radical' ratbags' in their own countries, Indigenous leaders have found reinforcement for their cause and identities.<sup>70</sup> Brian Butler saw the proclamation of the United Nations Year of the World's Indigenous People in 1993 as 'the latest achievement in the forward march of the world's most oppressed peoples'.<sup>71</sup>

<sup>66</sup> H. Reynolds, *The Whispering in Our Hearts*, 1998, p. 191.

<sup>67</sup> J. Burger, *Aborigines Today: Land and Justice*, Anti-Slavery Society, London, 1988, p. 5.

<sup>68</sup> Cited in Goodman, *Indigenous Citizenship Between Local and Global*, 1998, p. 4.

<sup>69</sup> B. Butler, Address to ACOSS National Congress, 1993, cited in D'Souza, *Indigenous Child Welfare*, 1994, p. 89.

<sup>70</sup> P. Jull, 'Indigenous "stunts" abroad', *Arena*, no. 33, Feb/Mar 1998, p. 37.

<sup>71</sup> Butler, 'Aboriginal Children: Back to Origins', 1993, p. 8.

SNAICC has drawn on experiences in other countries in endeavours to influence changes to legislation, policies and practices in Australia. It has kept abreast of developments abroad and disseminated information where possible. In a special Indigenous issue of *Family Matters*, D'Souza referred to legislative developments in the child welfare arena in both the United States and Canada. He noted that in both these countries, unlike Australia, recognition of the Indigenous status and sovereignty of the Indians formed the basis for self-determination and community control of child welfare.<sup>72</sup> The impetus for developing the ACCAs in Australia was spurred on through linkages with Native American Indians and the legislation which had developed in their interests (Graham Atkinson interview 16 Oct. 1997). In comparing assimilation policies in Australia, Canada and New Zealand Armitage asserts that in each of these countries, the Aboriginal minority is challenging the fundamental assimilationist objectives of social policy, objectives which have characterised government and popular thinking for 150 years.<sup>73</sup> Some of the positive endeavours evident in other jurisdictions may be capable of adaption in the Australian context.<sup>74</sup>

Through bridging local and international contexts, Indigenous groups have gained greater leverage over Australian political culture.<sup>75</sup> Involvement with the United Nations has been one means which has facilitated this and Indigenous groups have pressured the UN to take up their causes. The UN was slow to recognise the human rights issues confronting Indigenous peoples, and a study conducted in 1971 by Jose Martinez Cobo, a rapporteur of the Sub-Commission on Prevention of Discrimination and Protection of Minorities, led to eventual creation of the Working Group on Indigenous Populations (WGIP).<sup>76</sup> Established in 1982, under the UN Human Right Commission, the Working Group has allowed direct participation of Indigenous representatives in pursuing the rights of Indigenous peoples.<sup>77</sup> Meeting every year in Geneva, the WGIP meetings are among the largest UN meetings in the area of human rights.<sup>78</sup> In 1994, the Working Group completed its Draft Declaration on

<sup>72</sup> N. D'Souza, 'Aboriginal Child Welfare, 1993, p. 42.

<sup>73</sup> Armitage, *Comparing the Policy of Aboriginal Assimilation*, 1995, p. 8.

<sup>74</sup> Freedman, *The Pursuit of Aboriginal Control*, 1989, p. 133.

<sup>75</sup> Goodman, *Indigenous Citizenship*, 1998, p. 5.

<sup>76</sup> ATSIC, *United Nations, Human Rights and Indigenous Peoples*, Information Leaflet, n.d., c. 1990s, p. 1.

<sup>77</sup> Goodman, *Indigenous Citizenship*, 1998, p. 2.

<sup>78</sup> ATSIC, *United Nations*, c. 1990s, p. 1.



the Rights of Indigenous Peoples which asserts, among its various clauses, the right to self-determination, a draft which is still moving through the processes of the United Nations.<sup>79</sup> Despite Aboriginal support for the use of the term 'self-determination' in the Declaration, it is being opposed by the Australian Minister for Foreign Affairs, Alexander Downer.<sup>80</sup> In 1993, Brian Butler, in a paper on Aboriginal children, commented on the Draft Declaration:

Once again, there are those who may well say that such an achievement is as useful or useless as all the other international treaties and instruments that have emanated from the great bureaucracy that the United Nations has become.

Perhaps there is some truth in this, but I believe that regardless of what the UN and its member states make of such a declaration, to me it signifies the culmination of considerable effort on the part of many indigenous people from around the world. The links made and the cooperation engendered will ensure that we have available a network that will be the basis for any necessary future global action for the defence of our rights or for further advancement.<sup>81</sup>

After its adoption, the Declaration will not automatically become binding international law, but will be a statement of objectives to be achieved by governments. ATSIC believes it will have considerable impact on the lives of Indigenous peoples around the world:

... It will provide a moral framework. It will be a powerful tool in changing attitudes. It will provide a language, a focus for dialogue about indigenous peoples' rights ... The Draft Declaration will help increase the role of indigenous peoples in the UN system. Within countries, it will bring about changes in laws and policies.<sup>82</sup>

The Draft Declaration includes a provision (Article 6) which states that Indigenous peoples 'have the collective right to live in freedom, peace and security as distinct peoples and to full guarantees against genocide or any other acts of violence, including the removal of indigenous children from their families and communities *under any pretext*'.<sup>83</sup>

<sup>79</sup> Goodman, *Indigenous Citizenship*, 1998, p. 4.

<sup>80</sup> D. Jopson, 'Record on blacks under attack', *The Age*, 7 December 1998, p. 2.

<sup>81</sup> Butler, 'Aboriginal Children: Back to Origins', 1993, p. 7.

<sup>82</sup> ATSIC, *United Nations*, c. 1990s, p. 2.

<sup>83</sup> Cited in New South Wales Law Reform Commission, *Aboriginal Child Placement Principle*, 1997, p. 174-175.

SNAICC representatives have attended WGIP meetings in Geneva. Irene Stainton attended in both 1994 and 1995. In 1994 she presented a paper on 'juvenile injustice for Aboriginal kids in Australia'. In 1995 she focused on the stolen generations in a statement she presented on behalf of SNAICC. The statement emphasised forcible child removal in Australia, including the writ served on the High Court by six plaintiffs from Darwin, and the HREOC National Inquiry.<sup>84</sup> She recounted that 'to be there representing SNAICC—it was a wonderful experience' (interview 15 Dec. 97). As the first SNAICC National Secretary who was not from the eastern seaboard, she saw this role as opening up doors for Western Australia that had not been opened before. The personal impact for her was profound:

... People would come over after you'd delivered your paper and congratulate you and ask you for copies of the paper and all sorts of things. It was just wonderful. And the other thing that I found really hit me in the heart was that people when they met each year and they hadn't seen each other from the previous twelve months and they were asking after various friends. From some of the South American nations, people didn't turn up and you'd hear others saying, are they unwell or couldn't they travel and then you'd hear their friends saying, they were killed at such and such. So, because of their commitment to the cause, their life became a bargaining chip and if I was at home, you wouldn't be part of those things. And it filled me with pride that SNAICC had bestowed upon me, to be their delegate, to be at this Conference (interview 15 Dec. 97).

Another Western Australian interviewed, Mary-Ellen Passmore-Edwards, attended the WGIP as a SNAICC representative in 1995. She took the opportunity to take mental health issues to the international arena:

Because I'd just had interviews in relation to the stolen generation investigation well I thought what a wonderful time and what a wonderful opportunity to be able to present a paper on behalf of SNAICC on the mental health issues of the stolen generation, which is a very important factor to the healing processes ... I thought well maybe this is where we need to put it onto an international forum, where people are made aware that there are issues from a mental perspective for Aboriginal people. What I was aiming at was to bring to the forum the need for mental health to be taken seriously for the people of the stolen generation because it has impacted on the children today as we know it.

<sup>84</sup> SNAICC, *Newsletter*, October 1995, pp. 8-9.

It was applauded and people were very glad that someone had presented a paper from that perspective. I put up recommendations on behalf of SNAICC that the Australian Government treat this seriously and try to resolve issues for Aboriginal people from a mental perspective (interview 16 Dec. 97).

Indigenous groups world-wide have been involved in the activities of the UN since the early 1970s.<sup>85</sup> This continues to the present time. With the Australian Government called before the UN Committee on the Elimination of Racial Discrimination to explain its race policies, Indigenous leaders have announced plans to brief UN committee members 'on every policy action taken by the government that is adverse to Aborigines' rights'.<sup>86</sup> However, at the time of writing there was doubt as to whether this opportunity would be realised, with the Federal Government advising the UN Committee that the proposed visit should not proceed.<sup>87</sup> The Government accused the Committee of taking an unbalanced approach.<sup>88</sup> Despite the fact that being a signatory to the Convention on the Elimination of All Forms of Racial Discrimination does not necessarily mean that a government will fulfil its obligations, increasing international interest has given Indigenous people encouragement to continuing to build up international pressure on the Australian Federal Government.<sup>89</sup>

SNAICC has spoken out about UN instruments and conventions which have relevance to its charter. International instruments which have been ratified by Australia do not create rights or obligations under Australian law, unless the Australian Government legislates to give them effect.<sup>90</sup> However, ratification has provided a lever for Indigenous organisations to apply pressure at home and abroad for their cause. SNAICC's Statement of Purposes includes a clause to pressure the Federal Government to 'enforce the United Nations Charter on the Rights of the Child by adopting effective measures conferred by mandate of the 1967 Referendum ...'<sup>91</sup> Following the UN adoption of the UN Convention on the Rights of the Child in 1989, SNAICC actively lobbied the Australian

<sup>85</sup> J. Dennis, 'Local Indigenous Rights in a Global Environment', 1995, p. 9.

<sup>86</sup> J. MacDonald, 'Aborigines vow action on rights', *The Age*, 22 January 1999, p. 4.

<sup>87</sup> J. MacDonald, 'You're not welcome in Australia, UN racism team told', *The Age*, 30 April 1999, p. 3.

<sup>88</sup> MacDonald, 'You're not welcome', 1999, p. 3.

<sup>89</sup> S. Bennett, *White Politics and Black Australians*, 1999, p. 49.

<sup>90</sup> New South Wales Law Reform Commission, *The Aboriginal Child Placement Principle*, 1997, p. 161.

<sup>91</sup> SNAICC, *Statement Of Purposes* (amended), 1986, Article 11.

Government to support its provisions. SNAICC's primary focus has been to ensure that the rights of Aboriginal children in this country are advanced and safeguarded, while continuing to lobby for a general improvement in the rights enjoyed by all children in Australia. At the Brisbane AGM in 1989, participants demanded that the Federal Government sign and ratify the Convention, and that SNAICC monitor Article 30<sup>92</sup> which states:

In those States in which ethnic, religious or linguistic minorities or persons of indigenous origin exist, a child belonging to such a minority or who is indigenous shall not be denied the right, in community with other members of his or her group to profess and practise his or her own religion or to use his or her own language.<sup>93</sup>

Subsequent to the ratification of the Convention by Australia in 1990, SNAICC, while praising the importance of the Convention in enshrining the rights of all children in an international instrument, issued a warning:

One of the difficulties Aboriginal people have is translating these international conventions/instruments into levers that can be used to dislodge the weight of 'structural disadvantage' or oppression.<sup>94</sup>

Although the Convention itself is not seen by SNAICC as an instrument that safeguards and establishes rights, it believes that the discussion generated by the public and non-government organisations about its content has been beneficial.<sup>95</sup> However, SNAICC was critical of Australia's Report to the UN Committee on the Rights of the Child on compliance with the Convention. This criticism led to engagement in an exercise with the Defence for Children International (Australia) to prepare an alternative report to the UN Children's Rights Committee.<sup>96</sup> For Nigel D'Souza:

The Australian report is a bit of a whitewash in the sense that it merely outlines government policy and program responses to the issues in the UN Convention. It gives no analysis of the impact of these programs and policies.<sup>97</sup>

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<sup>92</sup> Minutes AGM 1989.

<sup>93</sup> United Nations, *Convention on the Rights of the Child*, 1989.

<sup>94</sup> SNAICC, *Address to Seminar on the Convention on the Rights of the Child*, 1991, p. 1.

<sup>95</sup> SNAICC, *Address to Seminar on the Convention on the Rights of the Child*, 1991, p. 2.

<sup>96</sup> Correspondence from N. D'Souza to N. Myers, *National Aboriginal Community Controlled Health Organisation*, 22 January 1998.

<sup>97</sup> Correspondence from N. D'Souza to N. Myers, 1998.

SNAICC was included in a joint survey of the Australian Council of Social Service and the Human Rights and Equal Opportunity Commission which involved the examination of Australian laws, policies and practices that were inconsistent with, or did not match up to, the standards set by the Convention on the Rights of the Child.<sup>98</sup> This survey resulted in a non-government organisation report to the UN Expert Committee on Human Rights.<sup>99</sup> SNAICC has also lobbied the Australian Government to ratify the World Summit for Children Declaration for the Survival, Protection and Development of Children.<sup>100</sup>

On 21 December 1993, the Forty-Eighth United Nations General Assembly proclaimed an International Decade of the World's Indigenous People beginning December 10 1994. This was coordinated internationally by the UN Centre for Human Rights. The Federal Government of Australia invited ATSIC to take a leadership role in domestic planning and managing the Decade in Australia. The theme for the Decade is the strengthening of international cooperation for solutions for Indigenous people in areas such as human rights, the environment, development, education and health. The SNAICC representative nominated at that time was Irene Stainton. This 'Decade' has unfortunately not been evident in the public arena in Australia.

International political mobilisation by Indigenous peoples extends to network development beyond the UN.<sup>101</sup> SNAICC has been a regular participant at international forums held both in Australia and overseas. It has featured at international child abuse conferences. Marjorie Thorpe presented a paper at the Sixth International Congress on Child Abuse and Neglect in 1986 in Sydney; Val Weldon attended the Seventh International Congress in Rio de Janeiro.

In 1991 SNAICC received funding from the World Council of Churches and from ATSIC to fund delegates to attend the Indigenous Women's Conference and the World Assembly of Indigenous Peoples, both in Norway, and the Eighth International Conference on Child Abuse and Neglect in Hamburg.<sup>102</sup> Rachel Cummins and Heather Shearer attended

<sup>98</sup> Minutes AGM Adelaide 1991.

<sup>99</sup> G. Brewer & P. Swain, *Where Rights Are Wronged*, National Children's Bureau of Australia for the Children's Rights Coalition, March 1993.

<sup>100</sup> SNAICC, *Documents regarding issues of major concern*, 1996, p. 14.

<sup>101</sup> Dennis, 'Local Indigenous Rights', 1995, p. 9.

<sup>102</sup> Minutes SNAICC Conference 1991.

as SNAICC representatives, providing SNAICC with further opportunities to inform other delegates of the situation in Australia. In the same year, a Townsville delegate attended the Nuclear Free and Independent Pacific Conference in New Zealand.

At the 1993 International Indigenous Youth Conference, held in Darwin, Yolanda Walker represented the Organisation. She commented on the value of the Conference:

The needs and demands of our own people were reiterated, but even more importantly, we learned of the struggles and achievements of Indigenous Youth all over the world. Conference participants now know much more about the many similarities and differences in the cultures and lifestyles of the world's first peoples.<sup>103</sup>

Representing the Australian Children's Rights Coalition, Nigel D'Souza attended the World Conference on Human Rights in Vienna in 1993. On his return he spoke confidently about alternative movements to the UN, stating that the non-government organisation final document was strong, and 'reflected the voice of the other developing countries, Indigenous peoples, women and all the other demands and issues of the movements from around the world for liberation and human rights in a way that the UN never does'.<sup>104</sup>

Immediately preceding the Second Aboriginal and Islander Child Survival Conference in 1997, Brian Butler attended the Second World Congress on Family Law and the Rights of the Child in San Francisco. At this Congress he presented information on the socio-economic status of Aboriginal people in Australia, referred to the National Inquiry, raised issues relating to genocide and emphasised the need to recognise and protect by law the cultural differences of Aboriginal and Torres Strait Islander Families.<sup>105</sup>

SNAICC participates in events in Australia which have their basis in international activity. During the International Year for the World's Indigenous People in 1993, *Children Australia*, the journal of the National Children's Bureau of Australia produced an edition in recognition of the significance of that Year. The journal included reports

<sup>103</sup> Y. Walker, 'World Indigenous Youth Conference', *Family Matters*, no. 35, Australian Institute of Family Studies, Melbourne, p. 3.

<sup>104</sup> N. D'Souza, *Report: World Conference on Human Rights*, Vienna, June 1993, p. 3.

<sup>105</sup> B. Butler, *Family Law*, 1997.

from the AICCAs and MACSS throughout Australia.<sup>106</sup> In the same year, the Australian Institute of Family Studies devoted much of its edition of *Family Matters* to Indigenous issues, including articles from SNAICC contributors—Brian Butler, Nigel D'Souza and Yolanda Walker.<sup>107</sup>

Stolen generations issues have received attention at an international level. According to Brian Butler, one of the achievements of the HREOC Inquiry has been to make people in the international arena aware 'that Australia was indeed responsible for one of the most horrendous acts of inhumanity, similar to that of the Americans and the Canadians against their Indigenous people and certainly not only just in those two countries either' (interview 1 July 97). In a letter to SNAICC Melissa Abrahams, from the New South Wales Public Interest Advocacy Centre, referred to communication with the international media, overseas legal organisations and foreign governments:

Aboriginal representatives have spoken about the terrible treatment Australia's indigenous people have suffered at various meetings and conventions around the world. This has helped push the United Nations, based in Switzerland, to condemn the removal policies and practices, and to ask Australian Governments to take action to make right these wrongs. Although our current Federal Government would prefer if problems in Australia were not discussed overseas, the issue of reparations for the Stolen Generations has been discussed by the international human rights community and there is a strong feeling that something should be done.<sup>108</sup>

Two Australian academics with a strong association with SNAICC, Terry Libesman and Chris Cuneen, told a Harvard Law Conference in 1999 that the Australian Government had trivialised the HREOC report, and presented information on the continuing over-representation of Indigenous children in the child welfare system.<sup>109</sup> Amnesty International has criticised the Federal Government for its response to the National Inquiry, stating 'the inquiry findings suggest that the experience of human rights violations suffered by many of the children are among the unresolved causes of Amnesty International's long standing concerns about human rights problems faced by Aborigines in Australia'.<sup>110</sup>

<sup>106</sup> SNAICC, *Newsletter*, 1993, p. 3.

<sup>107</sup> Australian Institute of Family Studies, *Family Matters*, issue no. 35, August, 1993.

<sup>108</sup> Correspondence from M. Abrahams, NSW Public Interest Advocacy Centre, to N. D'Souza, n.d., c. 1997,

p. 5.

<sup>109</sup> Jopson, 'Record on blacks under attack', 1998, p. 2.

<sup>110</sup> Amnesty International, *Silence on Human Rights*, 1998, p. 1.

Peter Haroa from New South Wales, told me that 'the Australian Government doesn't listen to us, but it listens to the condemnation of other Indigenous groups from overseas who have more support with their Governments—like it's a bit weird now, with the English Government kicking up a stink about human rights issues in relation to Aboriginals here in Australia' (interview 30 Oct. 98). In reference to what she sees as a 'brick wall' of state statutory responsibilities, Jackie Oakley believes that 'we might as well go into the international arena and at least try and get the human rights stuff addressed as far as kids are concerned because all states are party to that' (interview 23 Sep. 99). Norm Brown gives his view:

I'm a firm believer that you should always have international links ... If I stayed in Brisbane, you become localised. If we stay in Queensland, it becomes localised. If we stay in this country it becomes just the Australian thing. We need to know what other people do in Indigenous child welfare in the world. There are people doing different things and we need to be familiar with what is going on and how governments make legislation to make life better for Indigenous races throughout the world, or if they do, or when they are going to ... We need to look at whether it be America, whether it be the Maori people or whether it be some other Indigenous race; whether it be people in the Lapland, we need to know about those Indigenous races. After all, they are all like us. They are Indigenous to that country—we need to know how governments treat them (int. view 6 Feb. 98).

The resistance of the Australian Government to the activities of 'Aborigines abroad' continues. In a letter to the international press, the Federal Minister for Aboriginal Affairs, John Herron called the criticisms of those who did not acknowledge the 'positive outcomes' of his Government on Aboriginal policy issues as prescribing to 'the rhetoric and sloganeering of activists groups who are ignorant of Indigenous affairs.'<sup>111</sup> When Aboriginal leaders visited Western Europe to speak about Australian problems, the Prime Minister denounced it as a stunt.<sup>112</sup> However, when there has been little progress in Aboriginal affairs at the domestic level, the international arena may be the last bastion of hope for embarrassing governments into action. SNAICC is at the vanguard of forcing governments into changing their stance.

<sup>111</sup> *Guardian Weekly*, 11 April 1999, p. 2.

<sup>112</sup> *Id.*, 7 July, 'Indigenous stunts abroad', 1998, p. 38.



At another level of international activity, SNAICC receives project support from the Bernard van Leer Foundation (BVLf), based in The Netherlands. This organisation, which I visited in 1999, was established to improve opportunities for young children from 0 to 7 years living in circumstances of social and economic disadvantage. The Foundation is an international philanthropic and professional institution whose income is derived from the the bequest of Bernard van Leer a Dutch industrialist and philanthropist who died in 1958.<sup>113</sup> Created in 1949 for broad humanitarian purposes, the BVLf supports the development of low-cost community-based initiatives in early childhood care and education for socially and culturally disadvantaged children from birth to eight years of age.<sup>114</sup> The Foundation has been a long-time supporter of Aboriginal programs in Australia and has funded a range of early childhood initiatives. Among them was support to the Aboriginal Training and Cultural Institute (ATCI), based in New South Wales, referred to by Marie Coleman in Chapter 6. ACTI provided leadership and management for Aboriginal early childhood education from 1978-1989. Direct support for SNAICC has included funding for 'StreetWize' comics on youth rights and public education, posters and media work for National Aboriginal and Islander Childrens' Days, as well as the provision of \$30,000 towards the Second Child Survival Conference held in Townsville in 1997. With its emphasis on early childhood intervention and prevention, plans are being explored to pilot early childhood programs and parent support linked to the SNAICC network. At a time when governments in Australia are withdrawing funds and tightening accountability requirements, the Bernard Van Leer Foundation stands out as exemplifying recognition of diversity, cultural relevance and Aboriginal-run initiatives.

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SNAICC has shown determination and vigilance in pursuing its agendas. It has had considerable success in commissioning and publicising reports, establishing ongoing events and gaining support through international forums. Despite the optimism surrounding these activities, SNAICC's main pursuits at the broader political level have yet to be realised. There is much unfinished business.

<sup>113</sup> Bernard van Leer Foundation, *Project Descriptions 1999*, BVLf, The Hague, 1999, p. 3.

<sup>114</sup> Bernard van Leer Foundation, *Newsletter*, no. 87, October 1997, p. 36.

## CHAPTER 9 UNFINISHED BUSINESS

We cannot tolerate the subversion of the rights of our children and families by State and Territory government ...<sup>1</sup>

### Introduction

This thesis has highlighted barriers confronting SNAICC in its mission to keep Indigenous children with their families and communities. The issues arising from the unsatisfactory implementation of the Aboriginal Child Care Principle and the ongoing need for Indigenous control of substitute care, cry out for innovative resolutions in the face of government resistance and negligence. A principal means initiated by SNAICC to achieve this has been its pursuit of a national approach through national legislation, and it is this pursuit which has shaped much of the activism of the Organisation. To the regret of the SNAICC membership and supporters, this achievement remains outside its grasp. The process of SNAICC's quest, and the barriers it has confronted, will be explored in this chapter. The chapter also examines the continuing over-representation of Indigenous children in the child welfare system throughout the country, and endeavours by SNAICC and others to draw attention to this situation and to seek resolution. Finally, the Stolen Generations Inquiry will be revisited, specifically SNAICC's ongoing work to have the HREOC recommendations endorsed and implemented.

### The pursuit of national legislation

SNAICC's quest for national legislation stemmed from the seemingly idiosyncratic nature of measures introduced in state and territory jurisdictions, which have been detrimental to the best interests of Indigenous children and families. SNAICC has argued that Aboriginal people should not be subjected to different laws developed within boundaries defined during colonial times.<sup>2</sup> The lack of uniform implementation of the Aboriginal Child Placement Principle, and the resistance by governments to transferring decision-making powers to Indigenous people has added impetus to the quest. Despite evidence from the United States about the success of a national approach and in

<sup>1</sup> SNAICC, *Newsletter*, September 1995, p. 4.

<sup>2</sup> N. D'Souza, 'Aboriginal Child Welfare', 1993.

defiance of legal opinion which suggests it is possible in the Australian context, there has been resistance by governments to this call since SNAICC was first established. The question of 'state rights' has been a major inhibiting factor. In her interview, Kathy Graham expressed the following view:

The Holy Cow and the states rights ... (the) state always thinks it's an expert in everything and especially Aboriginal affairs. They are hopeless, they've been hopeless for decades and decades as far as Aboriginal affairs and people's rights have gone (interview 4 Feb. 98).

The lack of enactment of a national system to shed the inconsistencies of state and territory practices has been a source of constant frustration for SNAICC. Marjorie Thorpe recalls the pivotal role of the Organisation in advocating national legislation:

I left ACCA in 1987/88 so certainly the involvement of SNAICC in those days was to push for uniform legislation in relation to Aboriginal children and that was because the current practices in child welfare across the board in all states and territories ... didn't recognise the Aboriginal people's culture, values or history in the child protection policies (interview 27 Aug. 97).

Julie Tommy remembers the priority given to the quest, seeing the American *Indian Child Welfare Act* of 1978 circulated at SNAICC meetings and discussed (interview 17 Dec. 97). Norm Brown laments the lack of success in achieving national legislation, 'so that we can have one voice overall' (interview 6 Feb. 98). Carolyn Munns recalls vowing never to leave the Mt Isa ACCA until she saw the introduction of national legislation, 'but things change' (interview 5 Feb. 98). She also suggests that:

... there has come a time when, within the Welfare Minister's meetings, that SNAICC should be given funding to achieve looking at the laws across each state. But I think SNAICC should be given funding to actually employ legal people to actually work on that kind of thing and be able to present an issues paper or something to Commonwealth Ministers' meetings. It's never happened (interview 5 Feb. 98).

Many of the initial concerns about state policies and practices stemmed from Queensland.<sup>3</sup> In more recent times accusations have been directed at other states for their juvenile justice legislation which is seen as targeting Aboriginal youth. This includes mandatory jail terms for

<sup>3</sup> R. Broome, *Aboriginal Australians*, 1982.

juveniles in Western Australia and the Northern Territory. The demand for national consistency in Aboriginal child welfare was first formally documented through a Resolution adopted at the First Aboriginal Child Survival Conference in 1979:

This Conference demands that all States enact the Aboriginal Child Welfare Legislation (similar to the Indian Child Welfare Act (USA) based on the wishes and aspirations of Aboriginal communities and organisations.<sup>4</sup>

SNAICC's charter has called for the introduction of national legislation on Indigenous child welfare since its inception. The demand appears as the first of SNAICC's Statement of Purposes, and it has relentlessly lobbied on a number of fronts for its introduction, including at Social Welfare Administrators meetings, government and non-government inquiries and in its national and international activities. The lack of success was lamented at the Second Child Survival Conference held in Townsville in 1997, and commented on by those interviewed for my research.

The complexities of Federal/state relationships are at the core of the difficulty of a national approach. The Commonwealth Referendum of 27 May 1967 gave the Federal Government the powers to legislate in respect of Aboriginal people. Indeed, the passing of this referendum by an unprecedented majority was hailed by many as a significant breakthrough in the pursuit of Aboriginal rights in this country. Yet the Government has failed to enact this legislation for the benefit of Indigenous people. Bennett suggests that 'we might well wonder whether a massive, if unintentional, confidence trick was played on Aborigines in the referendum'.<sup>5</sup>

As a supporter of a national approach to Indigenous child welfare, I find it is somewhat puzzling how the notion of 'states rights' has remained sacrosanct in Australia despite the unanimous support given to the Federal Government in 1967, and why a succession of Commonwealth Governments has not been able to gain the control necessary to meet Indigenous demands. The Federal Government has adopted a major funding role in the area of Indigenous affairs, including child welfare, but against advice from Indigenous and non-Indigenous experts, has stood

<sup>4</sup> Cited in B. Jackson (ed.), *The First Aboriginal Child Survival Seminar*, 1979, p. 16.

<sup>5</sup> Bennett, *White Politics and Black Australians*, 1999, p. 120.

back from a national legislative and policy approach. Although the complexities of Commonwealth/state relationships are beyond the scope of this thesis, the historical features of this relationship have been the subject of the attention of academics, constitutional lawyers and Indigenous rights proponents. As pointed out by Bennett, in the Australian Federal System the question of responsibility changes as political circumstances change.<sup>6</sup> Under the Whitlam Government from 1972-1975, the transfer of some state powers to the Commonwealth seemed a possibility, but the Queensland Government stood out as a bastion of resistance.<sup>7</sup> It was the Queensland Government, when Joh Bjelke-Peterson was Premier from 1968 to 1987, which received the greatest criticism from Indigenous groups for its legislation, policies and practices. The Commonwealth Government had been accused of failing to remove repressive practices in some states, despite the fact that since the late 1960s successive Federal ministries had pledged themselves to end discriminatory Queensland laws.<sup>8</sup> After the demise of the Whitlam Government in November 1975, a Government which had introduced major reforms into the area of Aboriginal affairs, the incoming Fraser Coalition Government set about reversing the growth of Commonwealth power which had been occurring.<sup>9</sup>

During the Hawke-Keating years<sup>10</sup> there was an increase in Commonwealth activism, but the advent of a Coalition Government in 1996 and the appointment of the Liberal Party's John Herron as Minister for Aboriginal Affairs heralded in a renewed emphasis on the importance of state administration.<sup>11</sup> The states, as providers of many services which affect Aboriginal lives, at times deny the Commonwealth's right to speak on their behalf.<sup>12</sup>

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<sup>6</sup> Bennett, *White Politics and Black Australians*, 1999, p. 122.

<sup>7</sup> W. Sanders 'Aboriginal Affairs', in eds. B. Galligan, O. Hughes & C. Walsh, *Intergovernmental Relations and Public Policy*, Allen & Unwin, Sydney, 1991, p. 264.

<sup>8</sup> Broome, *Aboriginal Australians*, 1982, p. 180.

<sup>9</sup> Sanders, *Aboriginal Affairs*, 1991, p. 266.

<sup>10</sup> Bob Hawke was Labor Prime Minister from 1983-91. Paul Keating was Labor Prime Minister from 1991-1996.

<sup>11</sup> Bennett, *White Politics and Black Australians*, 1999, p. 122.

<sup>12</sup> Bennett, *White Politics and Black Australians*, 1999, p. 102.

### Advocacy and Rejection

In advocating a national approach, Brian Butler has specifically called for a national system of Indigenous child welfare and juvenile justice. He sees this as underpinned by Commonwealth legislation, which recognises rights of self-determination and empowerment of local communities to care for children according to their customs and laws. According to Butler, these provisions must be integrated with other locally-based community controlled services through national policy which complements the legislation, and a national approach to service delivery designed by Aboriginal people, with funding of a range of services for children.<sup>13</sup>

The introduction of national legislation has been advocated by other bodies. The 1996 Human Rights and Equal Opportunity Commission and the Australian Law Reform Commission report into children in the legal process recommended the introduction of national care and protection standards and the formation of a Federal Office for Children.<sup>14</sup> The United Nation's Committee on the Rights of the Child concluded with observations on Australia, expressing concern about the absence of a comprehensive policy for children at the Federal level.<sup>15</sup>

The call for a national approach for Aboriginal people is not new. It had been part of Elkin's program for change more than 50 years ago.<sup>16</sup> He stated in 1944 that the time had arrived 'to bring into line the Aboriginal policies, acts, definitions and regulations which prevail in different parts of the Commonwealth'.<sup>17</sup> Although this call was not focusing on specific policy areas, his contention was to be supported by those campaigning for Aboriginal advancement.<sup>18</sup>

Following the authority given to the Commonwealth Government with the successful passage of the 1967 referendum the Commonwealth decreed that, as variations existed in the circumstances and needs of Aboriginal people in the different jurisdictions, administration had to

<sup>13</sup> Butler, *Family Law*, 1997.

<sup>14</sup> Human Rights & Equal Opportunity Commission & Australian Law Reform Commission, *Speaking for Ourselves*, 1996.

<sup>15</sup> United Nations Committee on the Rights of the Child, *Concluding Observations on Australia*, 10 October, 1997, p. 1.

<sup>16</sup> Anthropologist A. P. Elkin was Emeritus Professor at the University of Sydney and Editor of *Oceania*. Among his work was *The Australian Aborigines*, published by Angus and Robertson in 1938.

<sup>17</sup> Cited in Attwood & Marcus, *The 1967 Referendum*, 1997, p. 11.

<sup>18</sup> Attwood & Marcus, *The 1967 Referendum*, 1997, p. 11.

occur on a regional or state basis.<sup>19</sup> Tatz criticised this decision on the basis that there were now seven governmental administrative units for Aboriginal people, as well as six basic sets of legislation and many variations on conditions.<sup>20</sup> SNAICC has expressed concern at the different levels of legislation which deal with families and children's matters:

At the state and territory government level there are the various adoption, child welfare and juvenile justice laws. The Commonwealth has legislative power over custody matters and establishes regulations in relation to the running of child care centres although here again the state and territory governments have the power to license these centres. This means there are close to thirty different laws that regulate the lives of Aboriginal children over and above the hundreds of laws that regulate the lives of adults. Living with this number of laws may not in itself be a problem. However when you think that each state and territory has different laws in the same field, for instance eight different sets of standards in relation to juvenile justice, the picture becomes extremely complex.<sup>21</sup>

The proposal for national legislation has experienced a long history of rejection. The Working Party of Social Welfare Administrators on Aboriginal Fostering and Adoption, comprising representatives of Federal, state and territory departments, released a report in 1983 rejecting the concept of Federal legislation, asserting that state and territory recognition of the principles of the Aboriginal child placement and possibly state or territory legislation were sufficient.<sup>22</sup> The recommendations of the Working Party were rejected by SNAICC in 1984. Chisholm identified the main ground for SNAICC's rejection as the method of policy formulation which did not allow adequate consultation with Aboriginal people, and one which failed to address issues of legislation, funding of Aboriginal child care agencies and decision-making powers for Aboriginal people.<sup>23</sup> SNAICC further commented that there was no indication that the Aboriginal Placement Principle was being enforced by workers in state welfare departments.<sup>24</sup>

<sup>19</sup> Freedman, *The Pursuit of Aboriginal Control*, 1989, p. 57.

<sup>20</sup> C.M. Tatz, 'The Politics of Aboriginal Health', *Politics*, vol. 7(2), November 1972.

<sup>21</sup> SNAICC, *A New Framework for Recognising the Rights of Indigenous Children in Australia*, Submission to the Australian Law Reform Commission into Children and the Legal Process, May 1996, p. 4.

<sup>22</sup> Freedman, *The Pursuit of Aboriginal Control*, 1989, p. 231.

<sup>23</sup> R. Chisholm, *Black Children: White Welfare?*, 1985, pp. 110-111.

<sup>24</sup> Freedman, *The Pursuit of Aboriginal Control*, 1989, p. 232.

More than a decade later, the goal of national legislation is no closer to achievement. In 1997 the Minister for Aboriginal Affairs, John Herron, rejected national legislation and expressed an understanding of the state's 'determination to retain control of their adoption, child welfare and juvenile procedures'.<sup>25</sup> His response represented a rejection of Recommendation 44 of the Human Rights and Equal Opportunity Commission that negotiations take place on national legislation to establish minimum standards of treatment for all Indigenous children.<sup>26</sup> Similar rejections have been made by state and territory governments. In November 1997, the Victorian Government stated that it did not support the development of national frameworks legislation. The Victorian Government argued that child welfare was a state responsibility and national legislation was 'neither necessary nor appropriate to ensure that the interests of Koori<sup>27</sup> children and young people in Victoria are met in accordance to best practice'.<sup>28</sup>

The quest for national legislation has been based on the view that it was not sufficient to rely on the sensitivity of particular individuals and authorities to ensure that appropriate principles are applied.<sup>29</sup> The United States *Indian Child Welfare Act*, 1978 has been upheld by SNAICC as an example of legislation which could be adapted in Australia:

Whatever its shortcomings it showed that with political will a government can act in a positive fashion. It also showed how the laws of the Colonisers could be utilised.<sup>30</sup>

Under the provisions of the American Act, the right of jurisdiction of Indian children to Indian communities is specified, as well as the requirements of state agencies in their dealings with Indigenous children.<sup>31</sup> It lays down clear preferences for the placement of an Indian child, similar to the Aboriginal Child Placement Principle, with preferences identified for foster and adoptive placements.<sup>32</sup> Not all see

<sup>25</sup> *Weekend Australian*, 16-17 August 1997.

<sup>26</sup> HREOC, *Bringing them Home*, 1997, p. 61.

<sup>27</sup> Koori or Koorie are the preferred terms by Aboriginal people in Victoria and New South Wales.

<sup>28</sup> Victorian Government, *Response to the National Inquiry into the Separation of Aboriginal and Torres Strait Islander Children from Their Families*, unpublished, 17 November, 1997.

<sup>29</sup> Australian Law Reform Commission, *The Recognition of Aboriginal Customary Law*, Report No. 31, AGPS, Canberra, 1986, p. 255.

<sup>30</sup> SNAICC, Address to the World Council of Indigenous Peoples, 1985, p. 2.

<sup>31</sup> Freedman, *The Pursuit of Aboriginal Control*, 1989, p. 205.

<sup>32</sup> New South Wales Law Reform Commission, *The Aboriginal Child Placement Principle*, 1997, p. 59.



the American legislation as a panacea. Marie Coleman refers to a visit to Australia by North American native which prompted calls for the introduction of parallel legislation in Australia. She argues however, that some of the Australian Aboriginal agencies had difficulty in coming to grips 'with the fact that the Nixon administration in the United States had not had wholly magnificent intentions entering into agreements with some of the Native American nations with whom they did have treaty rights on such issues as child welfare' (interview 22 Sep. 97). She further states:

... basically the motivation of the Nixon administration had been to wash their hands of problems rather than to engage in any sense of culturally appropriate child welfare or motivating and developing culturally appropriate means of resolution of family conflict. And I think that rather sterile or unuseful aspiration to have a treaty in terms of child welfare persisted for some time with some of the ACCAs, notwithstanding the fact that it wasn't constitutionally appropriate mode. But it reflected the fact that people were interested in trying to find a way around the very high rate of Aboriginal children being placed in the care of the state and through that medium inappropriate foster or other residential care settings (interview 22 Sep. 97).

### **The possibilities of national legislation**

A number of commentators argue that the Australian constitutional system allows for the introduction of national legislation. According to the New South Wales Law Reform Commission:

The Commonwealth Government arguably already has the power to implement such legislation under s. 51(xxvi) of the Constitution which gives the Commonwealth "special powers" to legislate for Aboriginal people. The Commonwealth also unquestionably has the power under s. 51 (xxix) of the Constitution which allows the Federal Government to legislate to bring into effect treaties, such as the United Nations Convention on the Rights of the Child ("UNCROC"), which Australia has ratified. Australia is obliged under Article 4 of UNCROC to undertake all legislative, administrative and other measures for the implementation of rights under UNCROC.<sup>33</sup>

The Commission further states that the current approach of Aboriginal child welfare 'can be described as anything but uniform and consistent'.<sup>34</sup>

<sup>33</sup> New South Wales Law Reform Commission, *The Aboriginal Child Placement Principle*, 1997, pp. 69-70.

<sup>34</sup> New South Wales Law Reform Commission, *The Aboriginal Child Placement Principle*, 1997, p. 70.

Richard Chisholm, former University of New South Wales academic and now a Family Court judge in New South Wales has been a long-time advocate for the introduction of national legislation, believing that it is certainly possibly 'constitutionally ... in a technical legal sense' (interview 23 Oct. 97). He explains the reasons it has not occurred:

I think there are a number of reasons why it hasn't happened. One is, I suppose, just that child welfare as it used to be called has always been a matter for the states and territories, and the Feds. haven't really got into it, and such a law would constitute an exception to that. I can see that there could be some difficulties in having a Federal law that dealt with one aspect of the child welfare system; the Federal people wouldn't be running the courts and interviewing the kids and helping the families and running institutions, so they would be basically making laws that would control the way the state public services ran the child welfare system. And that's not a pattern that we have in the welfare system that I can think of, so I think from that point of view it would be an unusual kind of development. Now I'm not for a moment saying it's impossible, or a bad thing, but I can see why it would make some bureaucratic brows furrow (interview 23 Oct. 97).

He suggests another reason for the resistance is the broader question of Aboriginal self-determination. The introduction of national legislation would 'require people to think about what we really do want to say about the Child Placement Principle:

Are we saying that Aboriginal kids should never be removed from Aboriginal families, or that they can when certain circumstances exist, or are we saying that decisions about Aboriginal children should be made by Aboriginal organisations.

In pointing out the complexities of introducing national legislation, he comments that although it would be a 'good thing ... it's not a simple thing' (interview 23 Oct. 97). Scott Bennett also refers to the complexities of the division of power within Federal systems, arguing that they 'can be fraught with difficulty, not the least of the problems being the intergovernmental animosity that usually permeates the system'.<sup>35</sup>

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<sup>35</sup> Bennett, *White Politics and Black Australians*, 1999, p. 100.

### The challenge by SNAICC

Since its establishment, SNAICC has continued to present its case for the introduction of national legislation, and for the participation of Indigenous people in the process. At the Canberra Conference of November 1982, discussion took place about initiating a writ against the Federal Government for failing to adhere to constitutional responsibility and for not over-riding discriminatory state legislation.<sup>36</sup> Two years later, SNAICC pressed for funding to develop national legislation.<sup>37</sup> It was in 1986 that SNAICC made one of its strongest calls, requesting:

That the Australian Government enable us to research, write and implement national legislation that recognises our indigenous and sovereign right to the care, custody and control of our children.<sup>38</sup>

Confronted with a continuing lack of success, delegates to the Canberra Annual General Meeting in February 1989 decided to establish a working party to work towards the implementation of national Aboriginal child welfare legislation.<sup>39</sup> In a media release to coincide with National and Islander Children's Day in 1990, the Chairman of SNAICC, Brian Butler, called on the Prime Minister and the leader of the Opposition to 'reaffirm Australia's commitment to the spirit of the 1967 Referendum which gave the Commonwealth powers to make special laws for aboriginal people'.<sup>40</sup> At the 1991 AGM in Adelaide, discussion ensued about a submission SNAICC had prepared about the development of national policy in the area of child and family welfare.<sup>41</sup> In a 1993 press release to coincide with National Aboriginal and Islander Children's Day, Brian Butler called for the introduction of national legislation through the government using its external affairs powers and its Aboriginal affairs responsibility, stating:

Without the Federal Government playing this role ... we cannot take up our responsibility.<sup>42</sup>

Reporting to the AGM in Launceston in May 1993, Nigel D'Souza commented that the Organisation was still no closer to national legislation for the protection of Aboriginal children, than when SNAICC

<sup>36</sup> Minutes SNAICC Conference 1982.

<sup>37</sup> Minutes SNAICC Conference 1984.

<sup>38</sup> SNAICC *Newsletter*, no. 3, 1986, p. 2.

<sup>39</sup> Minutes SNAICC AGM 1989.

<sup>40</sup> SNAICC Media Release, n.d., c. August 1990.

<sup>41</sup> Minutes SNAICC AGM 1991.

<sup>42</sup> SNAICC Media Release 1993, p. 2.

was first established. He stressed the need to formulate a national strategy strong enough to get Aboriginal children national legislation for their protection.<sup>43</sup> A letter from Brian Butler to Attorney-General Michael Lavarch, in 1993, argued:

Whilst federal legislation will not be a universal panacea for the ills of a system that has the inertia of years of racism and colonialism within it, I have no doubt that it would nevertheless go a considerable way towards restoring the rights of Aboriginal families, clans and tribes to do as they see fit in relation to their families and children.

I am convinced that the present system of child welfare that has seven or eight different laws in all the States and Territories are a long way from satisfying the desires and demands of Aboriginal communities. Many tribes have multiple jurisdictions to contend with. All communities certainly have to deal with inappropriate systems that are not of their own making and do not incorporate their concepts of child and family welfare. Moreover, the system that this legislation shores up is intrusive, authoritarian in its relations with Aboriginal families and children and racist in its methods, failing to recognise kinship systems that exist in all Aboriginal communities.

The Aboriginal Child Placement Principle does not adequately address these problems as they are systemic as well as legislative.<sup>44</sup>

The Chief Justice of the Family Court of Australia, Justice Alastair Nicholson, was quoted in *The Age* on 7 July and in both *The Age* and *The Australian* on 5 August 1993, supporting Federal legislation in the field of child welfare. In a subsequent letter to him, Nigel D'Souza noted that the views of the Chief Justice had been incorporated in a paper presented at the Fourth Australasian Conference on Child Abuse and Neglect, and stated that the Organisation was keen to meet with him to exchange views on the subject.<sup>45</sup>

D'Souza has argued that national legislation should recognise the sovereignty of Aboriginal people by empowering local communities and tribes to carry out the work of supporting families and strengthening them to ensure that their children do not become the subject of child protection intervention by the state.<sup>46</sup> He asserts:

<sup>43</sup> Minutes SNAICC AGM 1993.

<sup>44</sup> Correspondence from B. Butler to M. Lavarch, 26 July 1993.

<sup>45</sup> Correspondence from N. D'Souza to A. Nicholson, 5 August, 1993.

<sup>46</sup> D'Souza, 'Aboriginal Child Welfare', 1993, p. 45.

This approach will ensure that we move away from stigmatising Aboriginal families as inadequate and dysfunctional. It places the problems of Aboriginal families in their proper historical context, in the context of a society that is the descendant of a brutal colonialism, one that still displays traces of that brutality. Aboriginal people are neither victims nor problems. They are a *People*, with a clear knowledge of their past uninhibited sovereignty, demanding recognition and restoration of these sovereign rights in a struggle that has antecedents in their history of resistance.<sup>47</sup>

During the International Year of the Family in 1994, SNAICC's mission for national legislation reached a peak. In that year, SNAICC again took up the issue of national legislation in a paper presented to ATSIC Commissioners in Rockhampton on 8-10 August. In that paper, SNAICC argued that the *Indian Child Welfare Act*, despite some problems, had succeeded in ensuring a significant transfer of power in relation to Indigenous children and families back to their tribes.<sup>48</sup> From SNAICC's perspective, the present policy and legislation affecting Aboriginal children was ineffective and inappropriate, as evidenced by the over-representation in child welfare and juvenile justice systems. National legislation which recognises the principle of self-determination for Aboriginal people was warranted.<sup>49</sup>

Continuing the momentum of that year, Brian Butler, in a letter to the Prime Minister, Paul Keating, called for the 'establishment of culturally relevant national legislation relating to Aboriginal and Islander child development'.<sup>50</sup> At the Cairns AGM in 1994, the Executive Officer described a meeting he had with the Attorney General's Department in Canberra about national legislation. The Attorney-General had written to the Minister for Family Services and the Minister for Aboriginal Affairs seeking their views.<sup>51</sup> At this AGM, the Chairman, Brian Butler, stated that the pressure had increased in trying to gain support for the SNAICC push.<sup>52</sup> Delegates examined a document entitled 'National Legislation—Why We Need It'—and broke into four workshops to discuss strategies to work towards national legislation for Aboriginal children.<sup>53</sup> The New South Wales delegates informed the meeting that the

<sup>47</sup> D'Souza, 'Aboriginal Child Welfare', 1993, p. 45.

<sup>48</sup> SNAICC, *Arguments for National Legislation and a National System of Indigenous Family and Children's Services*, 1994, p. 5.

<sup>49</sup> SNAICC, *Arguments for National Legislation*, 1994, p. 6.

<sup>50</sup> Correspondence from B. Butler to P. Keating, 16 February 1994.

<sup>51</sup> Minutes SNAICC AGM 1994.

<sup>52</sup> Minutes SNAICC AGM 1994.

<sup>53</sup> Minutes SNAICC AGM 1994.

National Child Protection Council (NCP) was conducting workshops in that State in relation to national legislation, without consulting AICCs. Delegates were concerned that the NCP was promoting itself, rather than SNAICC, as the body behind the legislation. SNAICC agreed to follow up this issue.<sup>54</sup>

In a submission to the International Year of the Family National Council, also in 1994, SNAICC stated that when it spoke of a national system of Indigenous family and children's services, it was not speaking about the construction of a new system of services for families and children, but one which gave 'coherence and recognition through legislation, policy and program funding from the perspective of Aboriginal and Torres Strait Islander people'.<sup>55</sup>

SNAICC has used conference platforms as opportunities to raise the issue of national legislation. In an address to the Australian Law Reform Commission 20th anniversary celebration in Canberra in August 1995, Brian Butler talked about the close to thirty different laws regulating the lives of Aboriginal children which was exacerbated by the fact that each state and territory had different laws in the same field.<sup>56</sup> He added:

We want culturally relevant national legislation that extricates us from the legacy of the colonial governments that became state governments. Our memories are long and our stories go even further back. We cannot tolerate the continued subversion of the rights of our children and families by State and Territory governments, many of whom have turned back the clock. The fact is our children and families are still being harassed and institutionalised by the welfare and criminal justice authorities. How much longer do we have to wait before we are given the legislative power to confront these abuses.<sup>57</sup>

In the same year, Butler forwarded a letter to Attorney General's Department calling for Federal legislation to restore the rights of Aboriginal and Torres Strait Islander children.<sup>58</sup> The issue of national legislation was again raised at the 1996 AGM at Uluru when it was agreed that there was a need to keep pushing for national policy.

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<sup>54</sup> Minutes SNAICC AGM 1994.

<sup>55</sup> SNAICC, *Newsletter*, September 1994, p. 13.

<sup>56</sup> SNAICC, *Newsletter*, September 1995, p. 3.

<sup>57</sup> SNAICC, *Newsletter*, September 1995, p. 4.

<sup>58</sup> Correspondence from B. Butler to the Civil Law Division of the Attorney General's Department, 17 July 1995.

Delegates suggested that national policy be enshrined in the Constitution so that it could not be changed when there was a change of government.<sup>59</sup> A motion was passed:

That the Executive look at the issue of National Policy and look at the legal ramifications of it and bring it back to the next AGM.<sup>60</sup>

At a meeting of the ATSIC Townsville Regional Council, Jenny Pryor gave a report as the ATSIC representative on National Legislation relating to Aboriginal and Torres Strait Islander children. In her address, she pointed to the complexities of the systems which deal with matters relating to families and children:

Apart from the problems that these laws may have in terms of alien concepts of family life and individual versus collective rights, the fact also that some of these laws are meant on the one hand to protect children from abusive and neglectful adults and others to protect society from the children, there are further complications with the number of different courts that can deal with the issues covered by these laws. Children's Panels, Children's Courts, Supreme Court, Magistrates Courts, Family Court and so on and so forth ...

The number of different state and territory jurisdictions and the number of fields within each jurisdiction means that Australia does not guarantee a child a uniform standard of rights across the country ...<sup>61</sup>

The quest for national legislation is alive and well in spite of the disproportionate lack of success in relation to the effort expended. There are mixed views about the future however, among those interviewed by me. Nigel D'Souza remains optimistic, commenting on the increased awareness of this issue. He raises the question of:

... how many people would have comprehended or understood the issues involved in the demand for National Legislation say five or six years ago or ten years ago, and how many more know about and understand what's behind it now. There has been a growth in that number of people. It's still small, not enough to achieve policy or change, but it's getting there (interview 7 Aug. 97).

His sentiments are shared by Christine King who suggests that the fact that national policy has not yet been achieved 'doesn't mean you give up' (interview 17 Nov. 97). Jenny Munro is less sure, suggesting it is not going to happen under the current Coalition Government (interview 25

<sup>59</sup> Minutes SNAICC AGM 1996.

<sup>60</sup> Resolution SNAICC AGM 1996.

<sup>61</sup> J. Pryor, *Report to ATSIC Regional Council*, SNAICC File 97: 42, n.d., c. 1996.

Oct. 97). Irene Stainton told me that she does not think national legislation will ever be achieved as there are 'too many different players'. She argues that it would not be accepted in Western Australia (interview 15 Dec. 97).

The release of the *Bringing Them Home* report and its recommendation for negotiations for nationally binding minimum standards of treatment for young people,<sup>62</sup> gave a boost to proponents of national legislation. At the 1997 Second Aboriginal Child Survival Conference the retiring Chairman, Brian Butler summed up SNAICC's continuing push:

SNAICC has always advocated for national legislation for the protection of Australia's indigenous children. SNAICC has always advocated for unified and uniform state and territory policies and standards. It has had a long standing commitment to push for the Aboriginal child placement principle to be enshrined in legislation. We have always done that. We have never altered our course on that. From day one we maintained that—that that's what we wanted for our kids.<sup>63</sup>

### Ongoing over-representation

Contemporary removals of Indigenous children have been a major concern of SNAICC. Although the stolen generations are seen by many in the wider community as being of times past, this is not the case in reality. Dodson argues that contemporary removal is not conceptually distinct from past policies and practices. He suggests that it 'grows out of what happened yesterday and a decade ago and throughout the last 200 years'.<sup>64</sup> Nigel D'Souza points out that:

We haven't achieved a lot. Most things. Children are still being removed. The numbers are greater than ever since that time, since the late 70s when the Aboriginal people started lobbying about it mostly. So we've seen a return to figures as high as it's ever been (interview 7 Aug. 97).

From the time of its formation, SNAICC has expressed concern about the over-representation of Indigenous children in the child welfare and juvenile justice systems, with its major focus on child welfare. SNAICC has used a variety of means to present this issue at home and abroad including lobbying politicians, presenting conference papers and passing

<sup>62</sup> HREOC, *Bringing Them Home*, 1997, p. 581.

<sup>63</sup> SNAICC, *Proceedings of Second Aboriginal & Torres Strait Islander Child Survival Conference*, 1997, p. 21.

<sup>64</sup> Dodson, 'Address', *Proceedings of Second Aboriginal and Torres Strait Islander Child Survival Conference*, 1997, p. 26.



resolutions at SNAICC meetings. In documenting the over-representation, SNAICC has drawn on a number of reports, including statistics presented by the Australian Institute of Health and Welfare and the Royal Commission into Aboriginal Deaths in Custody. Anecdotal information from member organisations has been influential. In its presentation to the National Inquiry, SNAICC commented that 'child welfare laws continued the disproportionate rate of removal of Aboriginal children from their families into the eighties and now the nineties'.<sup>65</sup>

A number of reports support SNAICC's contention of over-representation. A document on children on care and protection orders in Australia in 1995-96 revealed that Indigenous children were over-represented, and 14 per cent of children on non-guardianship orders were Indigenous children. For guardianship orders, the rates were 9.2 per 1000 for Indigenous children compared with 1.6 per 1,000 for non-Indigenous children. The respective rates for non-guardianship orders were 4.4 and 0.9 per 1,000.<sup>66</sup> In Victoria, a report by Allas and James in 1997 revealed that Koori contact with the criminal justice system in Victoria progressively worsened for the five years after the Royal Commission into Aboriginal Deaths in Custody.<sup>67</sup> The HREOC/ALRC 1996 report into children and the legal process further confirmed the over-representation of Indigenous children in the care and protection systems in Australia.<sup>68</sup> The report further noted that in 1993-94,

8 per cent of abuse and neglect cases concerned Indigenous children who represented only 2.7 per cent of children in Australia. Rates of substantiated cases of child abuse were also higher for Indigenous children than for non-Indigenous children.<sup>69</sup>

SNAICC comments that 'neglect' is the largest category for removal. Concern about the use of this disposition was one of the reasons why the ACCAs were originally established, with delegates to the 1979 Aboriginal Child Survival Seminar expressing concern about such

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<sup>65</sup> SNAICC, *Never Again... Break the Chain*, 1996, p. 27.

<sup>66</sup> A. Broadbent and R. Bentley, *Children on Care and Protection Orders Australia 1995-96*, Australian Institute of Health and Welfare, Canberra, 1997, pp.xi-xii.

<sup>67</sup> R. Allas & S. James, *Justice Gone Walkabout: A Study of Victorian Aboriginal Offending 1989-90 to 1993-94*, Victorian Aboriginal Legal Service Co-operative, Melbourne, 1997.

<sup>68</sup> HREOC & ALRC, *Speaking for Ourselves*, 1996, p. 74.

<sup>69</sup> HREOC & ALRC, *Speaking for Ourselves*, 1996, p. 74.

categorising being applied to Aboriginal people.<sup>70</sup> The HREOC Report commented that it was apparent that Indigenous children are more likely than non-Indigenous children to be removed on the grounds of 'neglect' rather than 'abuse'.<sup>71</sup> One explanation for this problem is that standards of child-care are set by the dominant society, whereas Aboriginal families are in fact living according to a different set of values and standards.<sup>72</sup> Freedman and Stark have discussed the development of an extended family care program in the Mallee Region of Victoria, designed to avoid 'intrusive white assessment' and to allow the Aboriginal community to develop its own culturally relevant assessment criteria.<sup>73</sup> However, these programs have not been the norm, and, as Petruchenia has asserted, racism can be unintentionally perpetuated by social and welfare workers because it is often so institutionalised that it is not noticed.<sup>74</sup> This form of racism, although not overt, has contributed to the over-representation of Indigenous children by not recognising the need for community control and introduction of a 'system' which respects cultural mores, including the importance of the extended family system.<sup>75</sup>

The matter of over-representation has been raised by SNAICC at its national meetings and in other forums. In 1984, delegates to the Adelaide SNAICC Conference condemned the disproportionate rate of institutionalisation of Aboriginal children and removal from their communities.<sup>76</sup> Justice Colleen Moore, from the Family Court of Australia, expressed the view at the 1986 AGM that Indigenous people were being disadvantaged in the courts and that children were over-represented in state and territory systems, especially in cases of abuse.<sup>77</sup> Seven years later, the over-representation of Aboriginal children in the child welfare and juvenile justice systems was raised by Brian Butler in a paper given at an Australian Council of Social Service (ACOSS) national conference in 1993.<sup>78</sup> The issue was again raised in the SNAICC submission to the International Year of the Family's National Council in

<sup>70</sup> N. D'Souza, 'Aboriginal Child Welfare' in *Family Matters*, 1993.

<sup>71</sup> HREOC, *Bringing Them Home*, 1997, p. 431.

<sup>72</sup> SNAICC, *Criticism of Child Welfare Practice and Legislation Review*, n.d., c. mid-1980s, p. 8.

<sup>73</sup> Freedman & Stark, 'When the White System Doesn't Work', 1995.

<sup>74</sup> J. Petruchenia, 'Antiracist Welfare Practice With Immigrants', in eds. J. Petruchenia & R. Thorpe, *Social Change and Welfare Practice*, Hale & Iremonger, Sydney, 1990, p. 56.

<sup>75</sup> Freedman, *The Pursuit of Aboriginal Control*, 1989.

<sup>76</sup> Minutes SNAICC Conference 1984

<sup>77</sup> Minutes SNAICC AGM 1986.

<sup>78</sup> B. Butler, Paper presented at ACOSS Conference, Melbourne, 21 October 1993.

1994. In this paper, the following statement by Mick Dodson, the Aboriginal and Torres Strait Islander Social Justice Commissioner at that time, was incorporated:

We already know that young Aboriginal people are grossly over-represented in the criminal justice system. Across the country they are being locked up at about 25 times the rate of non-Aboriginal young Australians. Based on the current detention rates and expected growth rates in the Aboriginal youth population, we can expect that by 2001 there will be 15% more Aboriginal young people in detention ...<sup>79</sup>

In a report to the Federal Minister for Community Services, Senator Grimes, in April 1986, SNAICC expressed concern that in New South Wales, the institutionalisation of Aboriginal children continued at an unacceptably high rate.<sup>80</sup> International attention has also been drawn to the Australian situation. In its concluding observations on Australia, the United Nations Committee on the Rights of the Child (1997) referred to the 'unjustified disproportionately high percentage of Aboriginal children in the juvenile justice system'.<sup>81</sup>

Peter Haroa, from New South Wales, told me of the continuing discriminatory practices in that State, which contribute to the ongoing over-representation:

... The number of Aboriginal children that are before the Courts on minor offences. They've also been targeted by the police. The police don't know the kids. They'll single them out and a lot of those kids that I've seen end up in Court on minor offences. Also in New South Wales they've brought in a new law. I'm not too sure what it is, but it's like a curfew for kids. They have to be off the street at a certain time. Some sort of Vagrancy Act or something like that. It's actually taking effect in Bourke.

It actually slipped passed us. It must have been a hidden agenda from the State Government. It was actually pushed from what I've been told by the community in Bourke where there are rednecks. What I've been told is and I've been to Bourke and seen for myself, kids will be kids like they'll stay out and that. What I've found is that it's non Aboriginal kids as well that muck up just as much as the Koori kids, but because the Koori kids stand out more, they are pointed out more (interview 30 Oct. 97).

<sup>79</sup> Reproduced in SNAICC, *Newsletter*, September 1994, p. 12.

<sup>80</sup> SNAICC, *Report to Senator Grimes*, 21 April 1986.

<sup>81</sup> United Nations Committee on the Rights of the Child, *Concluding Observations*, 1997, p. 3.

Intergenerational effects of forcible removal were highlighted by the HREOC Inquiry, which noted that a high proportion of those affected by the past laws, practices and policies have had their own children taken from them.<sup>82</sup> Kathy Fisher presents the human side to the continuing removal practices, highlighting intergenerational factors. Like others involved in the AICCA she did not distinguish between professional and personal boundaries, taking a young woman into her own home and then advocating on her behalf. Referring to a situation she encountered when working for Aboriginal Child Care in Brisbane:

There were some sad situations. I guess one of the hardest ones was I had a young girl that was sexually abused by a sibling and she was treated as the perpetrator and she was shunned out of her own home, even by her own mother. Her mother kept the son rather than the daughter. The daughter was put into a home and then shifted from foster home to foster home and they'd just run out of avenues.

So I took her in and after a while I got her back with her family for a bit and she picked up with this dude. I mean he mightn't have been the best dude in the world. I might not necessarily like him but it was the only love that she ever had. She had a child through that union. So the Department stepped in and wanted to take her child away from her. And I said, how can you? Don't you see that this is the only love she's ever received? This is her baby, this is her child. This man here, whether I like him or not, it's not for us to make that decision. That is their decision. That is the only love and you want to deny her that. I said how dare you. How dare you take that only love she ever had away from her. That's for her to decide whether this man is good enough for her. I was nearly in tears fighting over the table with these people from the Department over here and I stood by her all the way ... She was all but 15, 16 ... (interview 5 Feb. 98).

In his interview, Graham Atkinson was critical of too much emphasis on the 'macro' and also on the reactive approaches which he argues have characterised the approach to date:

It is good to have the stolen generation issue addressed but at the same time, I think a number of other programs have been sacrificed with all the energy that has gone into that. For example, there are still too many Aboriginal children going into alternative substitute care. There are still too many Aboriginal families that are fragmented and breaking apart, and there are still too many communities that are divided and fragmented, as opposed to their bonds being strengthened. So I think the challenge for SNAICC in the future is to become more focussed on preventative programs rather than on bandaid or reactive programs. The stolen generation issue is an important one, but after you have

<sup>82</sup> HREOC, *Bringing Them Home*, 1997, p. 425.

addressed the problem, what do you do about addressing the damage that still exists in Aboriginal communities that has led to family breakdown and community disintegration (interview 16 Oct. 97).

SNAICC comments that although the preventative emphasis of its member agencies is strong, the ACCAs are consistently dealing with heavy case loads at the intervention stage of the child protection system which often leaves them under-resourced with little time to develop preventative programs and strategies.<sup>83</sup>

The HREOC National Inquiry addressed the question of contemporary separations of Indigenous children and young people by states and territories, in accordance with its fourth term of reference.<sup>84</sup> The Inquiry received a number of submissions which expressed concern over such practices. The report noted that while there was broad agreement among commentators, state and territory government departments and Indigenous organisations that removed children should be cared for in Indigenous communities, children were being removed at a disproportionate rate and being placed into non-Indigenous environments.<sup>85</sup> Armitage helps explain some of these contradictions. In comparing the policies and practices in Australia, New Zealand and Canada. He suggests that professionals in each country are beginning to understand that the so-called 'normal' professional practices of child welfare agencies are normal in a cultural context only.<sup>86</sup> However, he sees an ambivalence as to how far a system should deviate from the provision of applying one set of standards.<sup>87</sup>

Such ambivalence is evident in Victoria. In its submission to the HREOC Inquiry, the Victorian Government, while pointing to the continuing over-representation of Aboriginal children in the system, did not address fundamental issues underpinning the concern. It failed to give attention to the impact of historical factors on the present day, and referred to programs and policies which were framed within the broad parameters of State policies,<sup>88</sup> rather than dealing with the fundamental issues facing

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<sup>83</sup> D'Souza in *Proceedings*, 1997, p. 102.

<sup>84</sup> HREOC, *Bringing Them Home*, 1997, p. 425.

<sup>85</sup> HREOC, *Bringing Them Home*, 1997, p. 431.

<sup>86</sup> Armitage, *Comparing the Policy of Aboriginal Assimilation*, 1995, p. 216.

<sup>87</sup> Armitage, *Comparing the Policy of Aboriginal Assimilation* 1995, pp. 216-217.

<sup>88</sup> Health and Community Services, *National Inquiry into the Separation of Aboriginal Children from their Families: Victorian Government Interim Submission*, 1996.

Indigenous communities.<sup>89</sup> Kirsten Garrett from the Australian Broadcasting Commission's *Background Briefing* program, described the Victorian Government submission as a 'whitewash'.<sup>90</sup>

In expressing her frustration at the Federal Government response to the Inquiry, the SNAICC Chairperson, Muriel Cadd<sup>91</sup> commented that SNAICC members would be disappointed as it appeared that neither the state nor Federal governments would be addressing the recommendations aimed at stopping the continuing high rates of removal of Aboriginal children in Australia today.<sup>92</sup> Taking the contemporary removal issue further, New South Wales Criminologist Chris Cuneen, told delegates to a SNAICC Conference that the incarceration of Indigenous young people in the juvenile justice system represents 'the new stolen generations'.<sup>93</sup> He commented that many submissions to the National Inquiry drew attention to the fact that the contemporary juvenile justice system was replicating policies of removal. He located the issue in a wider context:

... the hugely disproportionate rate at which Aboriginal and Torres Strait Islander children and young people are being incarcerated today is reflective of a systemic denial of Indigenous rights. These abuses include the failure to remedy the appalling levels of social and economic disadvantage which prevent the enjoyment of citizenship; they include the failure to ensure that the lives of Indigenous children and young people are free from direct and indirect racial discrimination; and they include the failure to provide conditions where Indigenous people might enjoy the right of self-determination particularly in relation to decisions which affect their children and young people.<sup>94</sup>

Cuneen saw the HREOC report as providing a framework for progressive change which 'respects the rights of Aboriginal and Torres Strait Islander people'.<sup>95</sup>

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<sup>89</sup> L. Briskman, *Verbal Presentation to the HREOC Inquiry*, Melbourne, 1996.

<sup>90</sup> Garrett, 'Missing', 1996.

<sup>91</sup> Muriel Cadd took over as Chairperson of SNAICC from Brian Butler in June 1997.

<sup>92</sup> SNAICC Media Release, 17 December 1997.

<sup>93</sup> C. Cuneen Address to SNAICC, *Proceedings of Second Aboriginal & Torres Strait Islander Child Survival Conference*, Townsville, June 1997.

<sup>94</sup> Cuneen, Address to SNAICC, 1997, p. 61.

<sup>95</sup> Cuneen, Address to SNAICC, 1997, p. 61.

## Stolen Generations Inquiry

SNAICC's lobbying for the National Inquiry into the stolen generations was successful, but the optimism of SNAICC was short-lived. Before the Inquiry process was completed the Labor Government had lost power and the new Coalition<sup>96</sup> Government, with John Howard as Prime Minister, was seen as blocking the Inquiry process and subsequently failing to implement its findings. Interestingly the Coalition Government, when in opposition, had criticised the inaction of the Labor Minister for Aboriginal Affairs for delays in establishing the Inquiry.<sup>97</sup>

Interview participants commented on the Inquiry. Margaret Ahkee, a representative for Queensland on the advisory body to the Inquiry, saw the process as being important for that State:

The first missions were set up in Queensland in the early days and there were a lot of people who needed to tell their story. Just about every second person had been removed or a family member ... it was really important that people in Queensland understand what happened in Queensland (interview 2 Feb. 98).

Marjorie Thorpe was an Inquiry Co-Commissioner for Victoria. She is highly experienced in matters relating to the stolen generations, stemming from her work at both the Victorian Aboriginal Legal Service and the Victorian Aboriginal Child Care Agency. Yet hearing peoples' stories during the Inquiry process had an impact on her:

You know when I was on the Inquiry and people were telling me their story and I was thinking this is just terrible. What can I say to these people so that they don't just feel like they do. The thing that I talked about was that this happened to us as a race of people and this people being taken was an act against us. It wasn't our fault that it happened. It was something that was done to us (interview 27 Aug. 97).

She told of how talking about experiences helped shift the blame from the 'victim' to the wider society, removing the guilt that had been felt by people involved in the process of removal:

There was one woman in particular in Town A<sup>98</sup> ... and she wasn't even going to come in and talk. When we did and we talked about those things it was just amazing to see her view life differently. Just in one small session to be able to say now I sort of understand because the guilt is on the mothers who lost their

<sup>96</sup> Liberal and National Party Coalition.

<sup>97</sup> D'Souza, *The Howard Government*, 1996, p. 5. In this paper reference is made to at least five press releases from the then (Coalition) Shadow Minister for Aboriginal Affairs.

<sup>98</sup> Name of country town omitted to protect anonymity.

children and the families for in a sense they believed—but they had no defence against this whole process that was happening against us and I think that it is important that people understand their history. Aboriginal people most importantly. And understand through that process that it's not their fault that this happened and being proud of who you are (interview 27 Aug. 97).

In her interview, Heather Shearer stated that the intention of the Inquiry had been to bring the onus of responsibility back into the Government, which needed to 'accept responsibility and to be held accountable for the action that had been so devastating to Aboriginal people' (interview 20 Oct. 97).

The report of the Inquiry was released in May 1997, incorporating fifty-four recommendations which are attached as Appendix 4. In December of that year the Federal Minister for Aboriginal and Torres Strait Islander Affairs, John Herron, announced what he described as 'wide-ranging' initiatives in response to the HREOC report.<sup>99</sup> The recommendations, directed to the states and territories, the Commonwealth and the non-government sector, focused on 'practical' aspects and included family reunions, access to records, family support and an oral history project.<sup>100</sup> Views espoused by the Minister were controversial including his statement that 'we do not believe that our generation should be asked to accept responsibility for acts of earlier generations, sanctioned by the laws of the times ...'<sup>101</sup> He also opposed a national approach:

For the Commonwealth to seek to override the legislative and related responsibilities of the states and territories in these circumstances would, I believe, be counterproductive for all concerned.<sup>102</sup>

Responding to the Minister's announcement, the SNAICC Chairperson, Muriel Cadd stated:

While we welcome the provision of \$6.3 million over four years in the areas of health, link-up and other services which are urgently needed by individuals, families and communities, it is a great pity that this government has not taken this opportunity to address some critical matters like policy and legislation in relation to children and families. It is also sad to see the undignified way in

<sup>99</sup> Minister for Aboriginal and Torres Strait Islander Affairs, *Bringing Them Home Government Initiatives*, Media release, Parliament House, Canberra, 16 December 1997, p. 1.

<sup>100</sup> Media release, Minister for ATSI Affairs, *Bringing Them Home Government Initiatives*, 1997.

<sup>101</sup> Minister for ATSI Affairs, *Bringing Them Home Government Initiatives*, 1997, p. 1.

<sup>102</sup> Minister for ATSI Affairs, *Bringing Them Home Government Initiatives*, 1997, p. 10.



which an elected government ducks and weaves the issue of an apology on behalf of the nation and continues to deny the abuses committed against Aboriginal people.<sup>103</sup>

The Second Aboriginal and Torres Strait Islander Child Survival Conference, auspiced by SNAICC, was held in June 1997, the month after the release of the HREOC report. ATSIC Commissioner from New South Wales, Jim Wright, told the participants that the ATSIC board had endorsed the National Inquiry's recommendations. He expressed disappointment at the Government doing 'a Pontius Pilate in advance', wiping its hands of the issue before the Inquiry had even brought down its findings.<sup>104</sup> At that Conference a recommendation was passed condemning the Prime Minister, his Government and all other states and territories, 'who in their cowardly stance, condescending attitudes and blatant arrogance, deny the just, formal apology to A & TSI people for our past and present sufferings'.<sup>105</sup>

Following the release of the HREOC report, the media gave unprecedented attention to the issue, including the failure of the Federal Government to implement the recommendations and to offer an apology to Indigenous people. Supportive letters to newspaper editors abounded immediately after the report was increased. At the 1997 Second Child Survival Conference, Mick Dodson stated that:

... In the last few weeks we have seen a most extraordinary turn of events in this country. Day after day and week after week the newspapers and airwaves have been jammed with talk about our families and children. Day after day the letter pages in the papers are filled with the reactions of ordinary Australians who are horrified at the truth that they never knew. Never before have so many Australians turned their attention to our families. Never before has Australia really known or cared about our children; children taken from the arms of their mothers. Taken from their cultures.<sup>106</sup>

Although concerned that the Inquiry could be a 'whitewash', Peter Haroa from New South Wales saw its strength in that 'it's out in the public arena now and people are a lot more aware of what happened to Aboriginal people in the past 150 to 200 years' (interview 30 Oct. 97).

<sup>103</sup> SNAICC Media release, 17 December 1997.

<sup>104</sup> SNAICC, *Proceedings of the Second Aboriginal & Torres Strait Islander Child Survival Conference*, p. 19.

<sup>105</sup> Recommendation 3, Plenary session of SNAICC, *Proceedings of the Second Aboriginal & Torres Strait Islander Child Survival Conference*, 1997, p. 115.

<sup>106</sup> Dodson, 'Address' *Proceedings*, 1997, pp. 24-25.

When the Inquiry was announced, Heather Shearer from South Australia stated that 'I think everybody thought wow, we have an opportunity now to be able to bring the truth out' (interview 20 Oct. 97).

Interview participants spoke of the role of SNAICC in the Inquiry process. Jenny Munro refers to the need for SNAICC to take the credit:

It's a SNAICC achievement. Everybody is confused. Everybody thinks its the Human Rights, HREOC achievement ... People like Mollie<sup>107</sup> should have recognition for stuff like that. People like Barbara<sup>108</sup> in the Northern Territory that have actually gone through it (interview 25 Oct. 97).

Praising SNAICC's role, Queenslander Norm Brown said '... they fought like hell for that ... SNAICC was a part of forcing the issue ... there is no bigger issue than the Inquiry into the Stolen Generation' (interview 6 Feb. 98).

The importance of the Inquiry to SNAICC is evident from its view of the process as 'one that has delved into the very soul of this country and society'.<sup>109</sup> SNAICC has continued to push for the implementation of the recommendations. Because of a level of disappointment with the Federal Government response to the National Inquiry into the Stolen Generations, a number of groups formed around Australia to support each other. Each of these groups has been pressuring the various state and territory governments to implement the recommendations. These groups met together in Melbourne, at SNAICC, on 25 and 26 September 1997, to form a national body to act as a focal point between the various government and non-government bodies which deal with stolen generation issues. Following this meeting, it was agreed that a national body would be formed and that it would negotiate on behalf of the members of the stolen generation.<sup>110</sup> The hopes of that meeting have faded with the lack of resource allocation needed to keep up the momentum.

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<sup>107</sup> Mollie Dyer.

<sup>108</sup> Barbara Cummings.

<sup>109</sup> SNAICC, *Report to National Children's Services Forum*, August 1997.

<sup>110</sup> M. Abrahams, *Update on Stolen Generations Matters*, c. 1997.

Mick Dodson optimistically told delegates to the Second Aboriginal and Torres Strait Islander Child Survival Conference in Townsville:

Many of you have spent years decrying the treatment of Indigenous children. You have written and spoken, cajoled and attempted to convince and then lobbied some more—just trying to get the people of this country to open their eyes. Your energy has been boundless and your patience infinite. Now, perhaps your good work is beginning to bear fruit.<sup>111</sup>

At this point in time, the optimism has not been realised. Prominent Aboriginal leader Lowitja O'Donohue expressed her disappointment that very few of the fifty-four recommendations have been implemented.<sup>112</sup> A media report the following month suggested that the Human Rights and Equal Opportunity Commission was 'alarmed at the lack of commitment by governments'.<sup>113</sup> The Commission found that the reaction of Indigenous people to government responses to *Bringing Them Home*, 'as predominantly, one of intense disappointment, mingled with great sadness and anger'.<sup>114</sup>

In November 1999 the Senate Legal and Constitutional References Committee established an Inquiry into the Stolen Generation, focusing on the recommendations of *Bringing Them Home*.<sup>115</sup> The report of the Inquiry will be finalised in October 2000. In its submission to this Inquiry, SNAICC focused on the failure of the Federal Government to implement national standards legislation, the inadequate funding to the AICCAs, the continuing removal of Indigenous children from their families, the lack of Government apology and the need for compensation for members of the Stolen Generation.<sup>116</sup> SNAICC sees the right of Indigenous peoples to raise their children as a continuing struggle.<sup>117</sup>

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<sup>111</sup> Dodson, 'Address', *Proceedings*, 1997, p. 24.

<sup>112</sup> L. O'Donoghue, 'Going past the PM to the people for healing', *The Age*, 27 May, 1999, p. 17.

<sup>113</sup> J. MacDonald, 'Stolen children response stalled', *The Age*, 9 June, 1999, p. 8.

<sup>114</sup> MacDonald, 'Stolen children response stalled', 1999, p. 8.

<sup>115</sup> Senate Legal and Constitutional References Committee, *Information Package for the Committee's Inquiry into the Stolen Generation*, November 1999.

<sup>116</sup> SNAICC, *Newsletter*, January/February 2000, p. 2.

<sup>117</sup> SNAICC, *Newsletter*, January/February 2000, p. 3.

'Unfinished business' seems a pessimistic note on which to end my reporting of SNAICC's story. The title of the chapter represents a frustration at the lack of meaningful change that has occurred in Australian society in line with the SNAICC agenda. However, where would things be without SNAICC? One can only speculate as to whether changes which have occurred, however incremental, would have been part of the current Australian political landscape without SNAICC's activism and the work of its constituent organisations. In 1997, Brian Butler made the following comment about SNAICC achievements and disappointments:

We are grateful to our member organisations and their workers for their daily work and efforts. They presented their cause at every opportunity that was made available—at the state and territory levels; at the national level and also at the international level. SNAICC presented papers on the plight of our children in Geneva. We also had the opportunity to present the plight of our children to other organisations which were able to take on board the issues of our children in this country. A lot of those people have gone unnoticed. A lot of the things that they've said and done have gone unnoticed. Not many people across our nation had faith in SNAICC. A lot of people view it as just another organisation, an empire building exercise and making soft feather nests for just a few individuals.

Whether you believe it or not, that was what we were faced with. Every single time that an Aboriginal organisation got up to try and advocate on behalf of our kids we were undermined by state authorities, bureaucracies, politicians and self-interest groups who did not want to see Aboriginal people controlling their own affairs and particularly the affairs of our children ...<sup>118</sup>

The concluding chapter presents my reflections on the struggles and achievements of SNAICC, incorporating a revisiting of earlier theorising, methodological considerations and the policy context.

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<sup>118</sup> Butler, Address, *Proceedings*, 1997, p. 20.

## CHAPTER 10 MAKING A DIFFERENCE

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SNAICC's story represents a microcosm of the barriers facing Indigenous people in Australia since the white invasion over 200 years ago. Despite continuing calls for alternative paradigms which respect Indigenous cultural values and give control of Indigenous children back to Indigenous communities, the story of SNAICC is constructed around a contest with the state and the community at large.

Although 'struggle' is the dominant theme emerging from SNAICC's story, the achievements have been of significance. SNAICC has drawn the attention of governments and the wider community, including international agencies, to the situation confronting Aboriginal families and children and to Indigenous demands for change. SNAICC's role in facilitating the HREOC Inquiry has perhaps been its greatest triumph, ensuring that mainstream Australian society confronted its past as never before. Its support of state and territory AICCA's in their quest for appropriate policies and practices and for funds to support their activities, has made a mark on Aboriginal child welfare policy and practice throughout Australia. SNAICC's story has been established, but warrants some further analysis. This last chapter reflects on the failure of social policy to meet Aboriginal aspirations and to deliver justice to Aboriginal children and their families. It also explores the nature of SNAICC's activism and visions for SNAICC's future. The question as to whether my research can make a difference is revisited.

### **The failure of social policy**

Australian government policy endeavours towards Aboriginal people have failed since the time of colonisation. Armitage attributes this to the assumption of European racial superiority, the colonial attitude which resulted in the imposition of policy without consultation and the inability of professional practice to 'mould' Aboriginal children.<sup>1</sup> The use of family and child welfare policy as a means of enforcing Aboriginal social policy is a failure,<sup>2</sup> a view reinforced by interview participants and the HREOC Inquiry. Peterson coins the term 'welfare colonialism', arguing

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<sup>1</sup> Armitage, *Comparing the Policy of Aboriginal Assimilation*, 1995, p. 238.

<sup>2</sup> Armitage, *Comparing the Policy of Aboriginal Assimilation*, 1995, p. 240.

that the granting of the social rights of citizenship to Indigenous people in first world nations is as debilitating as it is beneficial, because of the social and political dependencies it creates.<sup>3</sup> As Armitage asserts:

State agencies continue to work with Aboriginal children and families within the structure of a single child welfare law which was framed by and for mainstream Australian society. The accommodations which are made through the placement principle and through the recognition of the AICCA's do not change the fundamental imposition on Aboriginal life.<sup>4</sup>

Obstacles to change remain in place, and elsewhere I have argued that the state has consistently been unwilling to transfer power and control to Aboriginal groups.<sup>5</sup> Underpinning policy directions, the assumption remains that Aboriginal people will eventually be assimilated into white society.<sup>6</sup> Interviewees asserted that the barriers to justice are ongoing, with tight reins held at a policy level, particularly by state and territory governments, combining with a lack of acceptance of cultural difference in child welfare practice by those implementing the policies. An example of this is that although there has been national acceptance of the Aboriginal Child Placement Principle, its implementation has been uneven and Indigenous children remain significantly over-represented in substitute care. By elevating the 'mainstream' and denouncing the 'margin' conservative politicians have 'renovated the fading picture of a homogenous Australia which is the main obstacle to tolerant thinking'.<sup>7</sup> At a broader level, Foweraker and Landman attest to the difficulty of subordinate wresting initiative from dominant ones, which, together with the state, are able to decide the form and delivery of rights.<sup>8</sup> Although the state has a crucial role, particularly through legislation and policy, systems of power are instituted and administered by a wide range of institutional arrangements. These systems of power are entrenched into the behaviours and practices of the entire society and become 'normalised'.<sup>9</sup> The question of power is not as simple as wresting power from one source and giving it to another as power is found in many

<sup>3</sup> N. Peterson, 'Welfare Colonialism and Citizenship: Politics, Economics and Agency', in N. Peterson & W. Sanders, *Indigenous Australians*, 1998, p. 101.

<sup>4</sup> Armitage, *Comparing the Policy of Aboriginal Assimilation*, 1995, p. 68.

<sup>5</sup> Freedman, *The Pursuit of Aboriginal Control*, 1989.

<sup>6</sup> Armitage, *Comparing the Policy of Aboriginal Assimilation*, 1995, pp. 68-69.

<sup>7</sup> J. Jupp, 'Formal Rights and Real Equity in an Immigrant Society', H. Charlesworth, in ed. S. Magarey, *Human Rights and Reconciliation in Australia*, Australian Cultural History, no. 18, p. 56.

<sup>8</sup> Foweraker, J. & Landman, T. *Citizenship Rights and Social Movements*, 1997, p. 2.

<sup>9</sup> M. O'Brien & S. Penna, *Theorising Welfare: Enlightenment and Modern Society*, Sage Publications, London, 1998, p. 120.

different sites.<sup>10</sup> As Aboriginal spokesperson Noel Pearson asserts, social change ultimately requires the citizens to be engaged in the solution to their own problems, that of their families and of their communities which, is 'in Aboriginal Affairs in particular, never practiced'.<sup>11</sup>

Citizenship questions remain central to the quest for change. Citizenship both depends on and is threatened by the state, because what the state gives it can take away. If the state can protect legal equality, which underpins one kind of 'sameness', it can also suppress pluralism and attack difference.<sup>12</sup> Foweraker and Landman argue that citizenship is not only understood as rights that should be extended to everyone, regardless of who they are, but as a status that is common rather than differentiated, and universal as it represents a rule of law that applies to everyone in the same way, thus suppressing the specificities of identity. There is a pervasive argument that universal rights cannot correct historical wrongs, so special rights are required.<sup>13</sup> This is continually contested in the Federal arena in Australia. In the Senate in May 1999, the Minister for Aboriginal Affairs, Senator John Herron, reiterated his Government's residual stance that 'no country must be held hostage to its past', and that 'we are addressing the problems of the past in a very constructive way, in relation to health, housing, education and employment'.<sup>14</sup> Prime Minister Howard opposes 'anything that encourages separate development'.<sup>15</sup> Such viewpoints deny that 'differences' serve as vehicles for distributing the statuses, rights, entitlements, obligations, rewards and penalties which demonstrate the inequalities in social and political systems.<sup>16</sup>

With government emphasis on economic development and marketisation policies, combined with a downsizing of the welfare state and state provision, Aboriginal people are left in a precarious position. Not only are they denied the separate benefits associated with now discredited self-determination approaches, they are subject to funding constraints for their social and economic betterment. As posited by welfare state analyst Michael Jones, rapid economic growth does not trickle down to the

<sup>10</sup> O'Brien & Penna, *Theorising Welfare*, 1998, p. 118.

<sup>11</sup> N. Pearson, *Our Right to Take Responsibility*, Draft Discussion Paper, n.d., c. 1999, p. 25.

<sup>12</sup> Foweraker & Landman, *Citizenship Rights and Social Movements*, 1997, p. 3.

<sup>13</sup> Foweraker & Landman, *Citizenship Rights and Social Movements*, 1997.

<sup>14</sup> Cited in Senate Hansard, *Questions Without Notice—Aboriginal Reconciliation: Stolen Generations*, Canberra, 26 May 1999, p. 1.

<sup>15</sup> T. Wright & C. Overington, 'PM backs survey on Aborigines', *The Age*, 4 March 2000, p. 9.

<sup>16</sup> O'Brien & Penna, *Theorising Welfare*, 1998, p. 123.

underprivileged, arguing that Aboriginal groups outside the mainstream of economic life gain little benefit.<sup>17</sup> The principle of self-determination, adopted officially in 1972, was shifted to 'self-empowerment' in 1996, the latter described as providing a means to an end of social and economic equality.<sup>18</sup>

Jones presents a bleak view of the place of Aboriginal Affairs in Australian political circles. Almost two decades ago he contended that because of 'the low influence of the poor', many important issues are never considered by decision makers. For Jones Aboriginal issues were rarely an important agenda item for governments except when they affected 'important' questions such as minerals.<sup>19</sup> This is also evident in Whitlam's analysis of his own endeavours as Prime Minister to introduce land rights when 'white landholders became paranoid at the thought that their tenure of agricultural, pastoral and mineral lands would be jeopardised if the traditional rights of the continent's original inhabitants are examined and recognised'.<sup>20</sup> These views still hold sway today, and are evident in the clawing back of Native Title entitlements. More recently, Jones has extended his analysis to suggest that 'Australian Aborigines display many of the characteristics of an "underclass"' defined by Townsend (1993) as the persistence of multiple deprivations, often transmitted between generations.<sup>21</sup> Despite the victory of the 1967 Referendum, Indigenous people are still fighting for land rights and self-determination.<sup>22</sup> Their experience has been described as 'one of outright racist oppression'.<sup>23</sup>

There have never been halcyon days in Aboriginal affairs. Despite the claims of supporters of the Whitlam Government of massive changes in that era, particularly through the adoption of policies of self-determination, this has been disputed. Bennett cites *The Age* of 20 October 1973 that 'in Opposition Labor promised mountains; in

<sup>17</sup> M. Jones, *The Australian Welfare State*, Second Impression, George Allen & Unwin, Sydney, 1981, p. 53.

<sup>18</sup> New South Wales Law Reform Commission, *The Aboriginal Child Placement Principle*, 1997, p. 177.

<sup>19</sup> M. Jones, *The Australian Welfare State*, 1981, p. 63.

<sup>20</sup> G. Whitlam, *The Whitlam Government 1972-1975*, Viking, Melbourne, 1985, p. 461.

<sup>21</sup> Cited in M. Jones, *The Australian Welfare State*, Fourth edition, Allen & Unwin, Sydney, 1996.

<sup>22</sup> T. Dalton, M. Draper, W. Weeks & J. Wiseman, *Making Social Policy in Australia: An Introduction*, Allen & Unwin, Sydney, 1996, p. 27.

<sup>23</sup> Dalton et. Al. *Making Social Policy in Australia*, 1996, p. 88.



Government it has delivered molehills'.<sup>24</sup> Whitlam's 'glossing over' of the governmental difficulties posed by federalism was merely an example of the party promising more than it could or would deliver once in power.<sup>25</sup> Such judgements are somewhat harsh however, given that the Whitlam Government had only three years to implement its reform agenda. Whitlam himself has made it clear that he was advocating 'advances' not 'solutions' as it was difficult to talk of solutions 'after two centuries of dislocation, misunderstanding and occasional genocide'.<sup>26</sup> He acknowledged that his Government recognised and worked within the limits placed upon policy-making in Aboriginal affairs,<sup>27</sup> limits which have resulted in criticism by Aboriginal groups.

The problems associated with federalism are at the heart of many of the difficulties facing SNAICC. One consequence of the legislative and administrative division between the states and territories, and between states and the Commonwealth, has been the continually emerging variety of different philosophies, definitions, policy responses and allocation of resources within Australia.<sup>28</sup> For SNAICC this has resulted in thwarted endeavours for national legislation and the limited implementation of the recommendations of the *Bringing Them Home* report. The problems of federalism are also evident in critiques of state and territory policy by SNAICC and its supporters, particularly in relation to the Aboriginal Child Placement Principle and mandatory sentencing laws. However, as Bennett asserts, states cannot be ignored, for they are major participants in the operations of government in this country, and the power of the Commonwealth is not unlimited.<sup>29</sup> Although accused of being a 'committed centralist' Whitlam has argued that his support to give increased powers to the Australian Government was not at the expense of regional autonomy. Rather, the measures were aimed at removing inequalities between regions and between individuals.<sup>30</sup> Under the current Aboriginal Affairs Minister, John Herron, there has been a renewed emphasis on state administration in contrast to previous Labor

<sup>24</sup> Bennett, *White Politics and Black Australians*, 1999, p. 61.

<sup>25</sup> Bennett, *White Politics and Black Australians*, 1999, p. 61.

<sup>26</sup> Whitlam, *The Whitlam Government*, 1985, p. 467.

<sup>27</sup> Whitlam, *The Whitlam Government*, 1985, p. 467.

<sup>28</sup> J. Breckenridge, 'Intervention in Child Welfare: An inflicted evil or solicited response?', in eds. M. Wearing & R. Berreen, *Welfare & Social Policy in Australia*, Harcourt Brace, Sydney, 1994, p. 137-8.

<sup>29</sup> Bennett, *White Politics and Black Australians*, 1999, pp. 115 & 111.

<sup>30</sup> Whitlam, *The Whitlam Years*, 1985, p. 712.

administrations under Prime Ministers Hawke and Keating, suggesting that the question of responsibility changes as political circumstances changed.<sup>31</sup> One view of the response of Labor Governments is that they were responding in their policy initiatives to a worldwide movement of decolonisation.<sup>32</sup>

As I write this last chapter, policy debates continue to emerge and are receiving unprecedented media attention. Three issues in particular stand out: mandatory sentencing, reconciliation and public opinion. At the same time, a new and more 'radical' Aboriginal leader, Geoff Clark has been appointed as the first elected Chairperson of ATSIC as the body reaches its tenth anniversary. The suicide of a fifteen year old boy in a Darwin detention centre in February 2000, incarcerated for a minor property offence, has brought national and international attention to the mandatory sentencing legislation introduced by the Northern Territory in 1997. The Federal Human Rights Commissioner, Mr Chris Sidoti, has suggested that 'Australia is in company with some of the worst human rights offenders in the world...'.<sup>33</sup> As the formal reconciliation process draws to an end, Prime Minister Howard announced that reconciliation will not be achieved, as pledged, by the centenary of Federation on 1 January 2001.<sup>34</sup> He remains adamant in his refusal to apologise to Aboriginal people.<sup>35</sup>, standing in stark contrast to New Zealand where official apologies have been an essential part of the reconciliation process and where there is no attempt to deny the importance and relevance of the past.<sup>36</sup> In Geneva, Australia has been asked by the UN Committee on the Elimination of Racial Discrimination why the Federal Government found it so difficult to say sorry for past injustices to Aboriginal people.<sup>37</sup>

Support for Indigenous people in Australia waxes and wanes and is fraught with complexities. Commenting on research conducted for the Australian Reconciliation Commission, a newspaper editorial aptly stated:

<sup>31</sup> Bennett, *White Politics and Black Australians*, 1999, p. 122.

<sup>32</sup> R. Mulgan & W. Sanders, 'Transforming Indigenous Affairs Policy: Labour's Contribution to "Internal Colonisation"', in eds. F. Castles, R. Gerritsen & J. Vowles, *The Great Experiment: Labour Parties and Public Policy Transformation in Australia and New Zealand*, Allen & Unwin, Sydney, 1996, p. 147.

<sup>33</sup> Cited in K. Taylor, 'Human rights record lashed', *The Age*, 7 March, 2000, p. 3.

<sup>34</sup> P. Kelly, 'We want to get it right on race', *The Australian*, 8 March, 2000, p. 1.

<sup>35</sup> M. Gordon, 'PM repeats "no" on apology', *The Age*, 17 February, 2000, p. 6.

<sup>36</sup> H. Reynolds, 'NZ sets the standard on how to say sorry', *The Age*, 17 March 2000, p. 17.

<sup>37</sup> S. Mann, 'UN panel attacks Ruddock', *The Age*, 23 March 2000, p. 2.

Our society believes Aborigines are disadvantaged but does not know what to do about it. Our society supports the concept of reconciliation but does not know how it might be achieved. Our society believes Aborigines receive too much assistance from government. Our society is almost evenly divided on whether there should be an apology for past policies but strongly supports acknowledgement that Aborigines were dispossessed of their land by European settlement. These are seemingly contradictory views of research conducted by Newspoll ...<sup>38</sup>

According to Michael Gordon the survey suggests that 'the indigenous cause may have taken a step or two back in the past few year'.<sup>39</sup> In the public opinion of today there is nothing to equal the support for the 1967 Referendum. Bennett explains its easy passage as a combination of being fair and policy free. Once the generalities of this occasion were replaced by specific policies, there was a realisation that many Aboriginal aims would clash with the aims and 'rights' of other groups. Aboriginal people found that they had to compete with other interests seeking to oppose or ignore their aims, no matter which government was in power.<sup>40</sup> Once justice, rights and needs are to the forefront of the distribution of resources 'irrational' judgments may arise. Imposing normative principles to institutional arrangements leads in fact to marginalisation and discrimination.<sup>41</sup> The current Federal Government is becoming increasingly criticised by media commentators sympathetic to Indigenous rights. One of the most scathing is from public radio broadcaster and writer Phillip Adams:

Howard ... anointed the worst minister for Aboriginal Affairs in history, and despite a total breakdown in relationships with the Aboriginal leadership, has kept him there. His insensitivity on Aboriginal issues is a national calamity.<sup>42</sup>

<sup>38</sup> *The Australian*, 8 March, 2000, p. 12.

<sup>39</sup> M. Gordon, 'An issue he didn't believe in', *The Age*, 4 March 2000, p. 9.

<sup>40</sup> Bennett, *White Politics and Black Australians*, 1999, p. 44.

<sup>41</sup> O'Brien & Penna, *Theorising Welfare*, 1998, p. 185.

<sup>42</sup> P. Adams, 'An illiberal leader', *The Weekend Australian Review*, 11-12 March, 2000, p. 32.

## The activism of SNAICC

Where does SNAICC sit as a social movement? Foweraker and Landman see the state as the primary focus of social movement activity. The rise of modern social movements and the growth of the modern state occur in tandem.<sup>43</sup> SNAICC does not fit well with definitions of social movements which are based on notions of autonomy from the state. Nor does it fit within the realm of policy activism advocated by Yeatman where activism takes place 'inside' bureaucracies. SNAICC somehow straddles these boundaries, locating itself organisationally firmly outside the state, yet being highly dependent on the state, through funding, for its organisational survival, and thus accountable to the state. Although SNAICC had aimed to be financially independent from the state in the early days of its establishment, this never eventuated and it could be argued that the state, through a long history of failure to meet Indigenous demands, has a responsibility to support and finance Indigenous organisations. Yet, as I come to the end of this story I am of the opinion that SNAICC has somehow 'lost out' by its stance. By not infiltrating the bureaucracy it has perhaps missed opportunities to initiate change from the inside. By accepting state funding, it has been beholden to the state and had limited opportunities to implement its agenda, as well as creating a dependence on government which according to Broome results in being at the mercy of insensitive governments.<sup>44</sup> Some of the SNAICC activists did attempt the 'insider' strategy. In her interview Jenny Pryor referred to the negotiations in Townsville for positions within the Department of Children's Services as 'we had to learn the system' (interview 27 June 97). Working from 'outside' Jenny Munro, Mary Graham and Carolyn Munns are among those interviewed who presented examples of subverting the system to achieve the well-being of Aboriginal children. These latter examples, while providing a positive example of counter-discourse, have not resulted in wider policy and practice changes. They do however, expose and challenge undemocratic structures and institutions in a manner consistent with social movement activists.<sup>45</sup> They also represent an intent to invent new norms, institutions and practices<sup>46</sup> To date, little work has done by either organisation or social movement theorists in analysing Indigenous organisations. As Indigenous

<sup>43</sup> Foweraker & Landman, *Citizenship Rights and Social Movements*, 1997, p. 226.

<sup>44</sup> Broome, *Aboriginal Australians*, 1982, p. 199.

<sup>45</sup> Carniol, *Case Critical*, 1990, p. 128.

<sup>46</sup> Jennett & Stewart, *The Politics of the Future*, 1989, p. 4.

organisations write accounts of their own activism, it is likely that a new body of knowledge will emerge which reflects the specific nature of their organisational structures and processes.

Despite its funding limits and funding dependence, SNAICC has been able to vigorously pursue its agenda through the resilience of its membership. Although SNAICC claims have received inadequate attention in the domestic sphere it has, alongside other Indigenous groups, been a major participant at the international level.

The New South Wales Law Reform Commission has analysed the application of international instruments in ensuring the rights of Indigenous children. The Commission notes that instruments which have been ratified by Australia do not create rights or obligations under Australian law unless the Australian Government legislates to give them effect. If the Commonwealth enacts such legislation under the 'external affairs' power in the Australian constitution, such legislation would also be binding on the states and territories.<sup>47</sup> All Federal Governments have been reluctant to implement the international norms fully in Australian law and Australia's approach to human rights law has been hesitant and half-hearted.<sup>48</sup> Despite such limitations, international instruments do provide benchmarks against which national practices can be measured, and have been drawn on by SNAICC in advocating change. Beyond the formal instruments are the human contact activities at the international level, particularly through international conferences and through attendance of SNAICC delegates at the WGIP forums. Interview participants spoke strongly of the importance of such forums. International models of governance such as the US *Indian Child Welfare Act* of 1978 have also given SNAICC members some hope of what could be. Support from Amnesty International and UN bodies for children's rights has been heartening. Whitlam's vision when opening the ALP election campaign on 13 November 1972, is equally relevant today:

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<sup>47</sup> New South Wales Law Reform Commission, *The Aboriginal Child Placement Principle*, 1997, p. 161.

<sup>48</sup> H. Charlesworth, 'Human Rights and Reconciliation in International Perspective', in ed. S. Magarey, *Human Rights and Reconciliation in Australia*, Australian Cultural History, no. 18, 1999, p. 17.

Let us never forget this: Australia's real test as far as the rest of the world, and particularly our region, is concerned is the role we create for our own Aborigines ... The Aborigines are a responsibility we cannot escape, cannot share, cannot shuffle off; the world will not let us forget that.<sup>49</sup>

Beyond international political activity, support given to SNAICC activities through the Bernard Van Leer Foundation in The Netherlands, provides some optimism for the development of culturally appropriate projects. As Australian governments become more intent on mainstreaming and increasingly managerialist in their accountability requirements, the best support may come from other quarters. However, this has the pitfall of enabling Australian governments to abrogate their responsibilities to Indigenous groups.

### Visions for SNAICC's future

This thesis is about past events, including the recent past. However, in completing the story it is necessary to reflect on the future survival and directions of SNAICC. SNAICC was undergoing dramatic changes as I completed this thesis. The Executive Director, Nigel D'Souza, had resigned, and his contribution after more than fifteen years of service is immeasurable. Others who were pivotal in the life of SNAICC are no longer involved in the Organisation. Long-term Chairperson Brian Butler resigned in 1997 after thirteen years of service. The death of Mollie Dyer in 1998 represents the passing of an era. Yet, organisations are not static, and it may well be that SNAICC and the AICCAs will set new directions with Executive Officer Julian Pocock and Chairperson Muriel Cadd. The gradual entry of the Multi-Purpose Aboriginal Children's Services as full SNAICC members is likely to foster changes in direction.

On a practical level, I see SNAICC as fighting for basic survival. Funding cuts to SNAICC and its associated organisations have meant a change in focus. Many of the member organisations are struggling to deal with the day-to-day issues involving Aboriginal children and families, without the strength, time or resources to join in the 'bigger struggle'. With a retraction of funding for bringing member organisations together, there is a danger that the collectivity on which SNAICC is built may well diminish over time. The challenge of how the constituent members of

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<sup>49</sup> Cited in G. Whitlam, *Abiding Interests*, University of Queensland Press, Brisbane, 1997, p. 187.

SNAICC operationalise their broader goals on a day to day basis is vexed. Indeed, some of those interviewed see the primary focus of the Organisation as the day-to-day well-being of families. Some had renewed their energies to renegotiating their relationship with state entities, rather than concerning themselves with national uniformity. As these organisations' basic charters focus on service delivery within their own territorial patch, energies are frequently diverted from wider concerns. From this perspective SNAICC would need to give attention to prevention, the development of new and appropriate models, and funding which supports Aboriginal innovation. As Armitage notes, Aboriginal peoples have the right to legal and material resources to ensure that alternative social policies are effective.<sup>50</sup>

Although not central to the SNAICC story, some of the participants did allude to how the Organisation would fare in the future. Norm Brown from Queensland stresses the importance of co-operation and sharing:

One of the areas I feel is really really important to all ACCAs throughout this country, and maybe it's only my view, is that we should exchange workers between not only within our state, but within the country. Brian and I actually spoke of this some time ago that Adelaide and Brisbane should do this, but I think we should do this overall so that our people can get different views, work with different people on different political levels. I'm pretty close to doing that with one of my workers now actually who is hopefully going to another area within our state. But I'm hoping that I can negotiate with Melbourne or Adelaide or Western Australia and maybe send her over there

And take our ideas, bring their ideas, do all that sort of stuff. See how they react when people go to the homes of people, tell them how we react and that sort of stuff. There are maybe things they do that maybe we don't do, get a more unified approach to child protection issues (interview 6 Feb. 98).

Similarly, Peter Haroa from New South Wales states:

I see SNAICC as being more of the information gathering and sharing because like here in Victoria, the Victorian Government is more sympathetic towards Aboriginal issues, rather than in say Western Australia and the Northern Territory. New South Wales is somewhere in between.

Exchange of information, information sharing and support we give one another. We do assist one another if we have a particular issue to address and if it is working in one State, then we say oh well, we'll put it into practice in ours. For example the South Australian Child Protection Legislation they have

<sup>50</sup> Armitage, *Comparing the Policy of Aboriginal Assimilation*, 1995, p. 239.

there, they actually based it on the New South Wales one. I remember Brian ringing me seven years ago and asking me if I could send information about our Child Protection because South Australia were developing it for themselves. Theirs now is up and running and has been put into Legislation over there. So that's one positive thing. But I believe that by having SNAICC here all the States can contribute to one another (interview 30 Oct. 97).

Graham Atkinson from Victoria advocates a preventative stance for SNAICC:

I think it focuses on the big picture, the political picture, at the expense of dealing with the programs that could play a more preventative role in dealing with Aboriginal family and child welfare programs. (interview 16 Oct. 97).

Focusing on the micro issues represents a means of being able to achieve progress at some level, when some of the broader struggles have been unsuccessful. On this latter point, Jenny Munro refers to the ongoing difficulties of trying to get recognition of matters of political importance, noting that:

Sixty years ago they were articulating the things that we were articulating twenty years ago. There is no change in anything said by Aboriginal people. We haven't come up with any new magic formula. What was said sixty years ago by William Ferguson and Jack Patten was said thirty years before by their parents and thirty years before by their parents (interview 25 Oct. 97).

She refers to institutionalised racism in Australia which she sees as deep-seated, entrenched and indoctrinised, with white society keeping the power (interview 25 Oct. 97). Her views are consistent with the findings from the recent Newspoll survey where, despite accepting that Aboriginal people were harshly treated in the past, 'almost half the population agrees that Aborigines have themselves to blame for their plight'; 61% believe that Aborigines receive too much special assistance; and most do not believe there is a link between current disadvantage and the past.<sup>51</sup>

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<sup>51</sup> M. Gordon, 'Nation divides over reconciliation issue', *The Age*, 8 March, 2000, p. 8.



## Making a difference

Finishing this account of SNAICC requires me to reflect on my role within it and to personally assess whether I achieved the goals I established. The questions that particularly arise are: Have I told the story accurately; have I been true to my plan to keep the narratives central; does my theorising fit? With close to 90,000 words behind me, I have told a story of an Organisation within the context of a wider struggle, but there are some limitations.

To keep within the word limit, it was not possible to incorporate as much of the interview transcripts as anticipated, and I have focused on extracts which were central to the framework of the story. The policy context, important in setting the scene, was seen by me as secondary to the narrative, which I did not want to undermine by the minutiae of state government arrangements. I am conscious that in so doing, I have not been able to provide comprehensive detail of each jurisdiction, but others have done that effectively.<sup>52</sup> I have hopefully not influenced the story too much with my approach and interpretation, but, in order to meet the demands of a PhD thesis, overt analysis was a necessary component. The original goals set by SNAICC were to write the story, drawing primarily on oral history sources, with the dual purposes of telling the story from an Indigenous perspective and acclaiming the people involved. Although an additional document for SNAICC will be produced, I have endeavoured to make the thesis as close to those goals as possible.

Will my research make a difference? Here I am left with some pessimism, for the difference I would wish for is change to policies and practices. In an era of government disinterest, even calculated uninterest, where there are few policies and fewer ambitions, the political climate does not bode well for positive change. Perhaps the research will only make a difference in the academy, contributing to the questions that are raised about researching groups marginalised from the dominant discourse. The production of a smaller booklet for SNAICC may generate some interest in the wider community as 'stories are central to reconciliation because they elicit an act of imagination on the part of

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<sup>52</sup> For example Broome (1982), Chesterman & Galligan (1997), HREOC (1997), McCorqudale (1987), Reynolds (1998), Rowley (1970).

non-Aboriginal people'.<sup>53</sup> For me, the greatest contribution will be providing SNAICC with a document which will proudly demonstrate its struggles and achievements.

The research raises questions without ready-made answers. Given the resistance of the dominant society, and in particular the major political parties, what has sustained the resilience of the ongoing struggle of Aboriginal groups to guarantee their rights? Why has the mainstream society been so resistant to recognising responsibilities and obligations to Indigenous Australians? Wherein lies the future, particularly with the emergence of globalisation and economic rationalism? In her examination of the Hindmarsh Bridge incident, Diane Bell talks about the significance of the Ngarrindjeri struggle in late twentieth century Australia. Some of the questions raised by her add further questions useful for future inquiry in examining the struggles of Aboriginal organisations. These include questions about the role of the courts, the parliament, the media, anthropological discourse; and the issue of where Indigenous people turn when the courts, parliament and the general public weary of their stories. A critical issue is how Australia will represent itself to the international community during the Olympic Games to be held in Sydney in the year 2000.<sup>54</sup>

Julian Burger, in 1988, commented on behalf of the British Anti-Slavery society, that 'the demands of Aboriginal people are not unreasonable. They are aware that they will have to coexist with other peoples. They have no desire to determine the quality of life of non-Aborigines ...'.<sup>55</sup> At the turn of the century this statement is more telling than ever, with evidence from the willingness of Indigenous people to negotiate over land, to join a process of reconciliation and to engage in peaceful means to establish their rights as first nations people.

Writing an account of an Organisation results in problems of keeping up to date with developments. In 1999, as my research was coming to an end, SNAICC was addressing a further issue confronting Indigenous organisations throughout the country. Through funding from the Stegley Foundation SNAICC has been analysing the impact of Competition

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<sup>53</sup> R. Manne in J. Wheatley, 'Back from the Dead', *The Age Good Weekend*, 26 February, 2000, p. 38.

<sup>54</sup> D. Bell, *Ngarrindjeri Wurruwarrin: A world that is, was, and will be*, Spinifex Press, Melbourne, 1998, p. 39.

<sup>55</sup> Burger, *Aborigines Today*, 1988, p. 78.

Policy, privatisation and tendering on Aboriginal organisations. In the introduction to his report, Nigel D'Souza comments that there is a widely held pessimism among Aboriginal organisations, which feel that the future of such organisations is bleak. Under a different guise the same issues are arising, including the feeling that governments do not understand the real nature of Aboriginal organisations, 'their histories, their place in the community, their role in representing identities and their incarnation as the pride of the people'. He suggests that some have an even 'darker' explanation of the intent of governments who want to see the demise of such organisations and thus 'herald in a new period of assimilation in Australia'.<sup>56</sup> Although it is beyond the scope of this thesis to analyse such developments, it is likely that there will continue to be an ongoing assault on Indigenous organisations. Political commentator and academic Robert Manne, has commented that when he voted for the Coalition in the 1996 Federal election he did not anticipate 'how swiftly the relationship with the Aboriginal leadership in Australia would deteriorate'.<sup>57</sup> Scott Bennett has pointed out how the current Howard Government's Minister for Aboriginal Affairs, John Herron, gave implicit support for assimilationist ideas by launching the controversial book by Geoffrey Partington<sup>58</sup> which espoused the 'good' of past assimilation policies.<sup>59</sup>

I realise that I would be naive to suggest that this thesis will bring about a policy utopia, influencing practice on a wide scale. The research is perhaps unusual in that it has meshed political thought and personal narrative within defined theoretical frameworks. It brings to the public domain the importance of collective approaches to Indigenous affairs, which stand in stark contrast to the vaunted individualism of the Howard Government. The question of race has been at the forefront of my analysis, supported by the narratives of the interviewees who have highlighted their experiences of being Aboriginal in this land. These includes the account by Jenny Munro of a child trying to scrape off her black skin (interview 25 Oct. 97) and Marjorie Thorpe wondering 'what

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<sup>56</sup> D'Souza, *The Impact of Competition Policy*, 1999, p. 5.

<sup>57</sup> Manne, *The Way We Live Now*, 1998, p. 11.

<sup>58</sup> G. Partington, *Hasluck vs Coombs: White Politics and Australia's Aborigines*, Quakers Hill Press, Sydney, 1996.

<sup>59</sup> Bennett, *White Politics and Black Australians*, 1999, p. 65.

we had done wrong' when she experienced racism in Victoria (interview 2 Aug. 97). As asserted by Pearson, 'most non-Aboriginal Australians do not appreciate how crushing this racism has been and continues to be'.<sup>60</sup>

In their endeavours to influence the policies of Australian governments, Aboriginal activists have engaged in a struggle over ideas in which notions of Aboriginal identity have played a key role.<sup>61</sup> My views are consistent with those of Stokes who calls for a dual mode of citizenship, asserting that along with the usual rights due to them as Australian citizens, Indigenous people could claim further rights based on special need. Stokes expresses it thus:

The 'sameness' of contemporary Aborigines to the original inhabitants, underscores their 'difference' from whites, which in turn can be used to demand special *political* recognition. Aboriginal activists have expanded their claim to equal justice beyond that of equal welfare entitlements so that it now embraces various notions of self-government, self-determination and even national or sub-national sovereignty.<sup>62</sup>

The reality of this concept requires further dissection across the spectrum of Indigenous affairs in Australia. An analysis of SNAICC reveals that neither point of the duality has yet been achieved. Continuing over-representation of Indigenous children in 'the system', the ongoing implementation of repressive legislation and the imposition of policy does not equate with 'equality' for all citizens. Nor is there much evidence of 'special status' with the reduction of funding experienced by Aboriginal bodies, the resistance to a national approach and the reluctance of the current Federal Government to recognise the significance and policy implications of the past. According to Kalantzis, the nation state needs to remake itself, to develop a new 'mainstream' in which diversity is core feature.<sup>63</sup> For Indigenous people this utopian goal is a long way off as they continue to be relegated to the position of

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<sup>60</sup> N. Pearson, *Our Right to Take Responsibility*, c. 1999, p. 4.

<sup>61</sup> G. Stokes, 'Citizenship and Aboriginality: Two Conceptions of Identity in Aboriginal Political Thought', in ed. G. Stokes, *The Politics of Identity in Australia*, 1997, p. 158.

<sup>62</sup> Stokes, 'Citizenship and Aboriginality', 1997, p. 167.

<sup>63</sup> M. Kalantzis, *The New Citizen and the New State: An Australian Case for Civic Pluralism*, Occasional Paper No. 9, Centre for Workplace Communication and Culture, Sydney, 1997, p. 47.

victims, rather than having their rights as the original inhabitants of this land recognised. Philosopher Raymond Gaita sees the Australian community as blind to the 'full humanity' of Aboriginal people.<sup>64</sup>

In reflecting on what could be achieved, the minimum for me would be to contribute to understanding the past, so that in the very least we do not repeat and perpetuate past mistakes and mistaken beliefs. As Inga Clendinnen has stated, 'only disciplined, critical remembering will resist the erasure of fact and circumstance effected by time, by ideology, and by the natural human impulses to forget'.<sup>65</sup>

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<sup>64</sup> R. Gaita, *A Common Humanity: Thinking About Love, Truth and Justice*, Text Publishing, Melbourne, 1999, p. 129.

<sup>65</sup> Clendinnen, *Reading the Holocaust*, 1998, p. 206.

## **ADDENDUM: INTERROGATING SNAICC**

### **Introduction**

Throughout this thesis I positioned myself as a 'subjective observer', immersed in the organisation. I derived my method of presenting the account of SNAICC from the organisational brief. This approach does not lend itself to an overtly critical analysis of the achievements, failures and possible tactical options of SNAICC. Nor does it lend itself to a deconstruction of the policy and practice arguments which have underpinned SNAICC's agenda. This chapter addresses these issues, particularly those which arise from the self-imposed limitation to give the dominant voice to Indigenous viewpoints. In this addendum, I unravel some of the vexed questions which have arisen over the life of SNAICC - questions of options, tactics and political philosophies which remain unresolved. Some have been bitterly contested; others have simply never been contemplated. As some time has elapsed since the initial research was undertaken and analysed, new developments and debates are incorporated. I also draw on recent comments from SNAICC's current Co-ordinator, Julian Pocock, and more recent reflections from the former Executive Officer, Nigel D'Souza.

Although SNAICC has had significant successes, it has also experienced defeats. Reasons for unsuccessful campaigns are complex. Some are attributable to external factors such as government policies and practices, and community opinion. Others pertain to the nature of Indigenous organising and strategic positioning of organisations. The dominance of assimilationist perspectives, the lack of goodwill of successive governments and the rise of right-wing movements are among the contributing factors which have been referred to in the thesis. I turn my attention in this addendum to factors within SNAICC, including how these elements interact with the external environment. The chapter brings together process, practice and policy perspectives. The three areas analysed are:

- 1. Strategies**, including the specific example of 'insider/outsider' activism.

**2. Complex Practice Issues and Responses**, examining inadequately addressed areas of concern, and analysing the questions of expertise, training and 'professionalism'.

**3. Commonwealth/State Tensions**, probing one of SNAICC's most persistent pursuits - the quest for national legislation.

## 1. Strategies

The strategies adopted by SNAICC have been documented throughout the thesis. They span both 'soft' and 'hard' approaches to activism. At the soft end of the spectrum, the organisation has presented its case through conference papers, information booklets and the formation and promotion of National Aboriginal and Islander Children's Day. These activities have been embraced by those who support SNAICC's approach, and who value SNAICC's dissemination of information and its ideological and practice frameworks. Conference audiences, particularly those from peak bodies and from academic institutions, are likely to engage in similar critiques to those of SNAICC, suggesting that the political and service systems act against the interests of marginalised groups. Children's Day is an event seen by SNAICC as a resounding success (see Chapter 8), and represents a powerful, yet somewhat benign activity, that does not threaten the status quo, but engenders at least a modicum of self-respect.

At the other end of the spectrum, SNAICC has been unrelenting in its public criticism of Federal and state governments in relation to funding, legislation, policy and practice. This includes speaking out at international forums utilising what Jennett defines as 'the politics of embarrassment'.<sup>1</sup> Chapter 8 documents the nature of these activities, and the ensuing criticism that has arisen from the Australian Federal Government and right-wing critics. Although speaking out abroad has had minimal impact at the domestic level, it has, particularly through media attention, raised awareness and provided an important policy platform for the opposition Labor Party whose rhetoric of outrage towards the Federal Coalition Government is likely to come under close policy scrutiny if it achieves government.

The boundaries between soft and hard edged activism are not necessarily exclusive. The pressure applied by SNAICC in advocating for the Stolen Generations Inquiry is an example of a campaign which, although initially appearing to be a zealous approach, became incorporated into mainstream consciousness. Although not all members of the Australian

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<sup>1</sup> cited in C. Magallanes, 'International Human Rights and their Impact on Domestic Law on Indigenous Peoples' Rights in Australia, Canada and New Zealand', in ed. P. Havemann, *Indigenous Peoples' Rights in Australia, Canada and New Zealand*, Oxford University Press, Auckland, 1999, p. 251.



public supported the Inquiry or its findings, the process is an example of social marketing<sup>2</sup> which captured the hearts and minds of many people, and created an awareness of what Prime Minister Howard has tagged 'black armband history'. Accounts of the downside of Australian history are only now finding a wider audience, and have had flow-on consequences in intellectual debates.

The multiple strategies adopted by SNAICC have been both a strength and weakness. The flexibility and diversity has meant that the interests of its member Aboriginal and Islander Child Care Agencies (AICCAs), and more recently the Multifunctional Aboriginal Children's Services (MACS), could be generally accommodated, mitigating the potential for serious internal divisions and conflicts which can beset organisations. Openness to a range of issues has meant that SNAICC has been responsive to emerging concerns, as well as engaging in its long-term endeavours. Yet, the range of strategies and issues may have diluted the substance of specific struggles. For example, the quest for national legislation in the field of Aboriginal child welfare, documented in Chapter 9, has been adopted somewhat uncritically, without the necessary research and legal advice, and lacking a detailed analysis of the implications.

Social action is about influencing the policies supported by and maintained by powerful interest groups.<sup>3</sup> In employing the language of social justice and rights to assert their aspirations, social change movements have used advocacy to enhance the status of their constituencies and to improve the outcomes of their interactions with government and with the market.<sup>4</sup> Almost invariably, the strategic thinking of social action groups has been to demonstrate the moral superiority of their cause over that of their opponents. Frequently, demonstration of this claimed moral advantage is expected to embarrass adversaries and policy makers into supporting the goals of the action

<sup>2</sup> Social marketing is defined as the adaptation of commercial marketing technologies to programs designed to influence the voluntary behaviour of target audiences to improve their personal welfare and that of the society of which they are a part. (A. Andreasen, 'Social Marketing: Its definition and domain', *Journal of Public Policy and Marketing*, Vol. 13, No. 1, Spring, 1994, p. 110.

<sup>3</sup> F. Baldry & T. Vinson, (eds.), *Actions Speak: Strategies and lessons from Australian social and community action*, Longman Cheshire, Melbourne, 1991, p. 1.

<sup>4</sup> M. Hogan, 'Advocacy and democratic governance', in eds. A. Farrar & J. Inglis, *Keeping it Together: State and civil society in Australia*, Pluto Press, Leichardt, 1996, p. 158-159.

campaign.<sup>5</sup> Stolen generations advocacy is a campaign in which SNAICC has been successful in establishing 'moral superiority'. The exertion of pressure on Prime Minister Howard for an apology to the stolen generations has received widespread support from diverse sections of the community, even though the original outcome has not been achieved. In pursuing its quest, SNAICC is typical of the new social movements, movements which transcend class-based politics in favour of new subjects of knowledge, with principal demands made to the state. In part, the responsiveness of the state to such social movements depends, according to Burgmann, on the capacity of these movements to make trouble through extremist tactics and by forging strategic alliances.<sup>6</sup> The two forms of 'trouble-making' are not those overtly adopted by SNAICC. Its activities have remained lawful and its extremist intent equates to little more than attempting to embarrass governments into action. However, alliance building has been an activity which has assisted its cause. Although not one of its documented aims, SNAICC in recent years has forged alliances with relatively powerful non-Indigenous peak bodies which have joined with Indigenous spokespeople in promoting Indigenous rights. The reconciliation process, outlined in Chapter 1, has, in part, contributed to both the visibility of and the development of alliances.

SNAICC's activist approaches have been selective. The organisation has rejected strategies which it views as inconsistent with its change agenda. My examination of SNAICC documentation and analysis of interview content, reveals a persistent approach to building up the resources and capacity of the AICCAs, and a rejection of policies which promote the employment of Indigenous workers within state welfare and community services departments. In pursuing this approach, SNAICC may have curtailed its capacity, and that of the AICCAs, to effect policy change through the state bureaucracies, the sites of policy formulation. Would SNAICC and the AICCAs have been better able to initiate change from within the bureaucratic structures? The tensions and debates between 'insider' and 'outsider' activism are explored in the next section.

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<sup>5</sup> Baldry & Vinson, *Actions Speak*, 1991, p. 13.

<sup>6</sup> V. Burgmann, 'The Point of Protest: Advocacy and social action in twentieth century Australia', *Just Policy*, Issue No. 19/20, September, 2000, p.9.

### Insider/outsider activism

This thesis has highlighted examples of the problematic relationship which both SNAICC and the AICCAs have had from the outset with government bureaucracies, Federal and state. Reflecting on SNAICC's relationship with governments, former Executive Officer, Nigel D'Souza, expresses some regret that the building of these relationships was not pursued more rigorously:

We didn't understand the way Australian politics works. We didn't have the level of sophistication and analysis within our organisation. For us, it was a matter of trying to power our way through.<sup>7</sup>

The relationship between SNAICC and the Federal Department of Family and Community Services has remained difficult to the present day. According to the current SNAICC Co-ordinator, Julian Pocock, 'the Department until recent times was fairly antagonistic towards SNAICC, as it viewed the Commonwealth's involvement in child welfare as inappropriate'.<sup>8</sup> At the state level, alliance-building between SNAICC and the state/territory bodies has been hesitant. Although senior bureaucrats in some jurisdictions were sympathetic to SNAICC and invited dialogue, SNAICC did not pursue their approaches. One of the problems was that as a national body, SNAICC needed to tread warily by not intruding on the role of the AICCAs. Julian Pocock agrees that SNAICC's influence locally is limited: 'SNAICC can't jump in if AICCAs do not support this stance'.<sup>9</sup> D'Souza asserts that when the AICCAs were having difficulties in their own jurisdictions, they were hostile to SNAICC pursuing co-operative relationships at a broader level with state governments. Even if SNAICC had wished to engage in dialogue with state governments, the organisation had constraints of resources, and also took the view that the concessions offered by the states were meagre. In hindsight, D'Souza questions whether more effort on the part of SNAICC would have resulted in greater gains.<sup>10</sup>

The development of SNAICC's 'outsider' stance needs contextualising alongside the development of Indigenous organising. The 1970s were arguably a heyday for Aboriginal activism. Haebich talks of 'windows

<sup>7</sup> N. D'Souza, personal communication, 9 August, 2001.

<sup>8</sup> J. Pocock, email communication, 7 August, 2001.

<sup>9</sup> J. Pocock, personal communication, 31 July, 2001.

<sup>10</sup> D'Souza, personal communication, 9 August, 2001.

of opportunity' which provided openings for Aboriginal activists to push for political, social and economic equality. In 1970 a group of Aboriginal leaders addressed the United Nations about Australian government neglect.<sup>11</sup> A 'separatist' approach to organisational aspects of Aboriginal affairs developed with vigour at that time. In 1970, the Federal Council for the Advancement of Aborigines and Torres Strait Islanders (FCAATSI) split over the issue of non-Aboriginal involvement.<sup>12</sup> This contributed to heralding in a new era of the 'Black Power' political movement which became a dominant force in Aboriginal politics in the 1970s.<sup>13</sup> During this period, Aboriginal organisations, run by and for Aboriginal people, were established, including the AICCAs which began with the formation of the Victorian agency in 1976. From the time of their establishment, as documented in earlier chapters, a contest occurred between the AICCAs and the established bureaucracies over matters of funding, policy and practice.

### **The enemy within**

As the thrust to building up Aboriginal community controlled organisations took hold from the mid-1970s on, a subsequent resistance to the employment of Indigenous people within government departments emerged. The intransigence of this approach raises questions. Would such employment have resulted in a more negotiated position, rather than an adversarial stance? And more importantly, would the aims and objectives of SNAICC and the AICCAs have been better achieved?

Working from the inside has been viewed by SNAICC and other Indigenous activists as diverting scarce resources which would be best allocated to Indigenous-controlled organisations. Insider employment has been seen as limiting political influence, and detracting from the autonomy and community control achieved through employment and lobbying within the Indigenous community sector alone. However, working outside presents another set of constraints, particularly when organisations are dependent on government for their very existence. By accepting government monies one can question whether the influence of

<sup>11</sup> A. Haebich, *Broken Circles: Fragmenting Indigenous Families 1800-2000*, Fremantle Arts Centre Press, Fremantle, 2000, p. 571.

<sup>12</sup> Haebich, *Broken Circles*, 2000, p. 571.

SNAICC has been automatically weakened.<sup>14</sup> It is not unusual for agencies funded by government to be threatened for 'rocking the boat', with concern about co-option and compromise creating ongoing dilemmas for those relying on state funding.<sup>15</sup> There is a view that policies that provide status to interest groups assign certain semi-public or public functions to them, and regulate the type and scope of their activities.<sup>16</sup> Despite these inherent limitations, SNAICC has engaged in a relentless pursuit for change in a way that does not obscure its independent voice for Indigenous children and families. Outsider activism such as SNAICC's is seen as having a particular strategic purpose. It is fuelled by a belief in the notion of applying force to governments to bring about policy reforms. Many community activists perceive their contest with governments as a form of 'shoot-out' over the content and direction of policy.<sup>17</sup> Such activists see their involvement in community sector organisations or groups, as opposed to public sector organisations, as intrinsic to their identity as activists.<sup>18</sup>

Although there have been many instances of employment within government, including Aboriginal designated positions, these have been viewed with suspicion by some sectors of the Indigenous community and other commentators.<sup>19</sup> In New South Wales there were strong critiques of incorporation in the 1980s. Milne tells of the frustration of Aboriginal caseworkers about their treatment and the 'impossible demands', with their roles often resulting in conflicting responsibilities between the employer and their communities.<sup>20</sup> Chisholm expresses the view that although Aboriginal Community Welfare Officers were participating in the system, they were in relatively low and powerless positions.<sup>21</sup> According to Sykes, policies and practices of the Department of Youth

<sup>13</sup> G. Foley, 'Whiteness and Blackness in the Koori Struggle for Self-determination: Strategic considerations in the struggle for social justice for Indigenous people', *Just Policy*, Issue 19/20, September, 2000, p. 78.

<sup>14</sup> Chapter 5 details SNAICC's original intention to seek private, rather than state, funding.

<sup>15</sup> Hogan, 'Advocacy and Democratic Governance', 1996, p. 175.

<sup>16</sup> C. Offe, *Disorganised Capitalism: Contemporary transformations of work and politics*, Polity Press, Cambridge, 1985, p. 223.

<sup>17</sup> J. Nyland, 'Activists in the Woodwork: Policy activism and the housing reform movement in New South Wales', in ed. A. Yeatman, *Activism and the Policy Process*, 1998, p. 215.

<sup>18</sup> Nyland, 'Activists in the Woodwork', 1998, p. 215.

<sup>19</sup> L. Freedman, *The Pursuit of Aboriginal Control in child welfare*, Unpublished MSW thesis, University of Melbourne, 1989.

<sup>20</sup> C. Milne, *Aboriginal Children's Research Project*, Sydney, 1982, p. 74.

and Community Services (YACS), which drove a wedge between the dual roles of Aboriginal worker and Aboriginal community participation, negated benefits to both the Department and the community, creating an untenable situation.<sup>22</sup>

My own experience with Commonwealth funded training positions in a Victorian state department, Community Services Victoria (CSV), reinforces these concerns. The positions in question, funded under the National Employment Strategy for Aborigines (NESA) in the early 1980s, aimed to redress the unemployment and under-employment of Indigenous people. As the funding was for a designated period only, this primary goal was only partially achieved. More problematic was that the workers were almost totally powerless, expected to conform to the rules of the system and not supported in working towards the greater well-being of their own communities. There were criticisms of other roles, with the Victorian Aboriginal Community Services Association (VACSAI), in the mid-1980s, expressing concern about the Aboriginal Unit within CSV and regional Community Development Officers, with VACSAI questioning lines of authority, policy input, and relationships with community organisations.<sup>23</sup> One memorable example of a rift was the formulation of a Departmental policy instructing staff to avoid involvement in community organisations in order to avoid a 'conflict of interest'.

In pursuing agendas of increasing Indigenous public sector employment, government departments failed to acknowledge the concerns of Indigenous organisations. When the Working Party of Social Welfare Administrators supported the concept of public service employment in the mid-1980s, there was widespread opposition by Aboriginal organisations.<sup>24</sup> SNAICC was among the critics, stating:

The States are proceeding with the employment of aboriginal workers in welfare departments. Time and time again we have seen this practice occurring with the Aboriginal community losing control won through political action to the bureaucrats in State departments. Aboriginal people must be

<sup>21</sup> R. Chisholm, *Black Children: White Welfare*, Social Welfare Research Centre, Sydney, 1985, p. 92.

<sup>22</sup> R. Sykes, *The Unique Role of Aborigines in Welfare: A Discussion Paper*, nd. c. 1980s, p. 31.

<sup>23</sup> These critiques have been documented more fully by me, with examples, in L. Freedman, *The Pursuit of Aboriginal Child Welfare*, unpublished MSW thesis, University of Melbourne, 1989.

<sup>24</sup> Freedman, *The Pursuit of Aboriginal Control*, 1989.

made accountable to them. The State should provide direct grants to communities to employ Aboriginal workers.<sup>25</sup>

The criticisms have been pervasive. Speakers at the first Aboriginal Child Survival Seminar of 1979 emphasised the need for adequate funding of community based organisations, opposing funding through public service positions which were seen as paternalistic.<sup>26</sup> Earlier still, during the period of the Whitlam Labor Government from 1972-1975, Hamilton was one of the most vocal critics suggesting that those most able to comprehend the implications of policy were offered jobs with prestige and financial reward within the Government service. According to Hamilton, they would be subject to the same limitations on speech as other public servants, and the move would also reduce the number of vocal Aborigines in the general population as they were removed to the 'hot-house fantasy world of Canberra'.<sup>27</sup> Outspoken Indigenous activist, Gary Foley, refers to the emergence of a Black 'elite' which he saw as a deliberate conspiracy on behalf of the government to take control away from communities.<sup>28</sup>

Despite the critics, some optimists were hopeful that the recruitment of Indigenous people in welfare bureaucracies would dismantle oppressive bureaucratic structures. Disappointingly, there is little evidence that this has occurred. Indigenous staff employed by statutory child welfare agencies are still faced with the dilemma of working within a system which has been implicated in the ongoing social and cultural trauma for Indigenous Australians. While Indigenous staff of a state agency can ameliorate the bureaucratic excesses of statutory authorities, their capacity to influence policy remains constrained by the institutional framework.<sup>29</sup> Former Executive Officer of SNAICC, Nigel D'Souza, now working within a Victorian Government bureaucracy, speaks of

<sup>25</sup> SNAICC, *First Interim Report on the Aboriginal Fostering and Adoption Principles and its Implementation in Australia*, n.d., c. mid-1980s, p. 16.

<sup>26</sup> Jackson, B. (ed.), *The First Aboriginal Child Survival Seminar*, 1979, p. 16.

<sup>27</sup> A. Hamilton, 'Aboriginal Cultures, Management or Autonomy', *Arena*, No. 34, 1974, pp. 17-18.

<sup>28</sup> G. Foley, 'Blacks for Australian Independence', *Aboriginal and Islander Identity*, Vol. 3, No. 3, 1977, p. 18.

<sup>29</sup> J. Litwin, 'Child Protection Interventions within Indigenous communities: An "anthropological" perspective', *Australian Journal of Social Issues*, Vol. 32, No. 4, November, 1997, p. 334.

institutionalised racism within the public sector, commenting that 'it is little wonder that Aboriginal people in the system get frustrated'.<sup>30</sup>

The question of racism within the public sector is an area which needs to be more directly tackled. When supervising Aboriginal staff in the 1980s, I experienced antagonism by some white employees, and even clients, to the appointments of Aboriginal people. Claims of 'privileged exception' to formal qualifications, expectations that the Departmental mandate would be followed with neither question nor deviation, and lack of understanding of cultural practices, such as the need to attend funerals, were the norm. The Indigenous employees were effectively isolated from community support, and often lacked confidence to speak out. Retreat was the coping method frequently adopted

Referring to the situation in the New South Wales Youth and Community Services Department (YACS) Roberta Sykes states that Aboriginality was seen as second class, instead of as a specialised skill.<sup>31</sup> Other marginalised groups have spoken of workplace discrimination. A study of workplace experiences of lesbians, gay men and transgender people has revealed high rates of discrimination and prejudice.<sup>32</sup> In my research interviews, Indigenous and non-Indigenous participants discuss their struggles from 'inside' when working to advance Indigenous rights. Joe Agius (interview 21 Oct. 97) spoke of the difficulties of traversing the role of bureaucrat and community member; Eileen Baker (interview 23 Sep. 97), discussed her personal struggle as a public servant asking a community organisation to be 'more accountable' in ways acceptable to the Department.

### Working the system

Strategic approaches to activism inside and outside the formal system have been subject to scholarly analysis. Yeatman suggests that activism is a category of political action which is wedded to participatory conceptions of democracy, which have come to displace paternalistic models of democracy in recent decades.<sup>33</sup> Policy activists positioned in strategic organisational or policy roles often find they cannot be open

<sup>30</sup> N. D'Souza, personal communication, 9 August, 2001.

<sup>31</sup> R. Sykes, *The Unique Role of Aboriginals in Welfare*, n.d., p. 27.

<sup>32</sup> Gay & Lesbian Rights Lobby, *Workplace Discrimination*, 25 June, 2000, [http://www.rainbow.net.au/~girl/Work\\_Place\\_Discrimination.htm](http://www.rainbow.net.au/~girl/Work_Place_Discrimination.htm)



about their vision and commitments, or at least this openness has to be disciplined within a professionalised discourse.<sup>34</sup> This raises questions as to whether those who display visionary tendencies within public sector organisations can be truly activist. These questions are not only raised by Indigenous groups. One of the criticisms levelled at femocrats, women working within the bureaucracy at senior levels, formerly dominated almost entirely by males, is that they have 'sold out' the interests of sisterhood. Criticism of this model can be a criticism of policy reform processes which remain top-down and closed, as opposed to those endeavours which are open and participatory.<sup>35</sup> The preferred activist methods of SNAICC have been transparent, consultative and verging on confrontational, methods that usually stand outside the terrain of public service restrictions. Members would have been constrained if working within 'the system' which potentially limits their right to demonstrate publicly and to speak-out against institutional injustices. The late Charles Perkins is a case in point. Beginning as an outsider activist, he became committed to insider change strategies by joining the Aboriginal affairs bureaucracy and rising to senior positions and public prominence. Although there are examples of many Indigenous workers moving from a community based focus to bureaucracies, including SNAICC interview participants, few encountered the public contest repeatedly faced by Perkins. In a biography of Perkins, Peter Read tells of successive Federal Governments intent on suppressing his outspokenness, with Perkin's actions pitted against the Government of the day and the bureaucracy.<sup>36</sup>

Not all agree that insider activism is limiting. Writing about insider activism in the sphere of public health, Dugdale posits that such activists deploy different methods to their outsider counterparts.<sup>37</sup> For example, insider activists may build networks of relationships across government agencies with outsiders who share their cause or activist leanings. They may go beyond the brief of their allocated work and push for their cause. They may prioritise their activist interests at the expense of other work.

<sup>33</sup> A. Yeatman, *Activism and the Policy Process*, Allen & Unwin, Sydney, 1998, pp. 32 & 33.

<sup>34</sup> Yeatman, *Activism and the Policy Process*, 1998, p. 33.

<sup>35</sup> Yeatman, *Activism and the Policy Process*, 1998, p. 34.

<sup>36</sup> P. Read, *Charles Perkins: An Autobiography*, Revised edition, Penguin Books, Ringwood, 2001.

<sup>37</sup> P. Dugdale, 'The Art of Insider Activism: Policy activism and the governance of health', in Yeatman, *Activism and the Policy Process*, 1998, p. 104.

They may argue their causes passionately with their superiors.<sup>38</sup> For Dugdale, they are able to engage in activities closed to outsiders including the discernment of opportunities in policy debates, and the 'practical mapping of a path through the policy process'.<sup>39</sup> The work of Indigenous people employed in the Aboriginal and Torres Strait Islander Commission (ATSIC), including those who previously worked in the community sector, is an example of this.

Many who work in human service organisations experience a discrepancy between the needs and methods they identify, and demands and expectations of the organisation in which they work. One option used to overcome this is to find ways around the official structure, but without directly confronting or conflicting with it. This usually involves activities that are not officially sanctioned.<sup>40</sup> In Victoria, Freedman and Stark describe the way they unofficially manipulated a designated foster care program to respond to Aboriginal demands for a system which acknowledged extended family support mechanisms.<sup>41</sup> In New South Wales, some Aboriginal District Officers working with YACS manoeuvred their job descriptions to meet community needs.<sup>42</sup> Drawing on experiences in the United Kingdom, Jordan refers to empirical research which suggests that social workers at times condone isolated, occasional or trivial acts of 'banditry'. These acts include breaking rules, flouting policies and colluding with clients against large organisations or their own departments. For Jordan, this can be justified in an ad hoc way. However, systematic and frequent breaching of this kind would signal something more radically wrong which demands a public debate.<sup>43</sup> In reality public debate does not always occur, and a risk remains of sanctions by government or frustration by workers who may leave positions they find untenable. For Indigenous people, anecdotal evidence suggests that this is common practice, when their mission in joining the public sector is in effect sabotaged by rigid structures and racism. Trying to change or bend inflexible systems can be a futile and draining experience for even the most experienced strategists. For Indigenous

<sup>38</sup> Dugdale, 'The Art of Insider Activism', 1998, p. 107.

<sup>39</sup> Dugdale, 'The Art of Insider Activism', 1998, p. 111.

<sup>40</sup> Jones & May, *Working in Human Service Organisations*, 1992, p. 213.

<sup>41</sup> Freedman & Stark, 'When the White System Doesn't Work', 1995.

<sup>42</sup> R. Sykes, *The Unique Role of Aboriginals in Welfare*, n.d., p. 21.

<sup>43</sup> B. Jordan, *Social Work in an Unjust Society*, Harvester Wheatsheaf, Hemel Hempstead, 1990, p. 67.

people with a strong community focus, the quest may be nigh impossible. Changing the culture of an organisation in which white western paradigms are dominant becomes a herculean task.

Of course responsibility for changing the insider culture cannot and should not rest solely with Indigenous groups. Some Indigenous people do take up employment with government departments without experiencing conflict or dilemmas. However, to be truly effective, this requires those wielding professional power to move over and create a space for Indigenous voices. In practice this may be resisted by whites in high places. Changing places in the power structures is a challenging task, not least because of the way bureaucratic and corporate structures are organised. In the making of public policy, and in its implementation, there is frequently a contest over the status of new ideas. This struggle may lie 'just beneath the surface of bureaucratic and interest group posturing'.<sup>44</sup> Employing Indigenous people in the public service can be seen as a means of the state holding on to power. A constant call by Indigenous groups for community control has met with barriers from governments unwilling to relinquish authority and control. Although Indigenous groups pressure for changes to alter the power balance, the Federal and state governments have rarely been willing to do so in the child welfare system. As Hage argues, status systems resist the development of new ideas which will disturb the distribution of power, status and privilege.<sup>45</sup> This type of resistance was reinforced by Caroline Munns (interview 5 Feb. 98), who commented that governments would not like the AICCAs to take control. In relation to the Queensland situation, she suggests that the Department 'would be out of a job if they had to turn around and relinquish all their rights.' Ife contends that it is the voices of the powerful and economically advantaged that are heard in what passes for debate in modern society. For Ife, the continued marginalisation of Indigenous people, among others excluded from the dominant society, has resulted in their effective exclusion from the discourses of power, with attempts to allow an alternative expression of

<sup>44</sup> M. Considine, *Public Policy: A critical approach*, Macmillan, Melbourne, 1994, p. 192.

<sup>45</sup> G. Hage, *Theories of Organizational Form, Process and Transformation*, John Wiley & Sons, 1980.

views and to argue for more inclusiveness, labelled as political correctness.<sup>46</sup>

From my experience, when a Labor Government is in power there is some evidence that people move from outsider roles to join the bureaucracy, out of a belief that the progressive politics evident in opposition will translate into sound policy reforms. This optimism is not always realised as the constraints of a conservative regime tend to remain in place despite the ideological position and rhetoric of government. Gough Whitlam's Prime Ministership from 1972 - 1975, initially hailed as a reforming Government in Aboriginal affairs, has been reflected upon as a disappointment. Despite undertaking to pay special attention to the education, housing, health and employment needs of Aboriginal communities, and promising to legislate for Land Rights<sup>47</sup>, criticisms of both implementation and outcomes are common. Foley refers to the massive spending on Aboriginal affairs which was mostly consumed by white administration, with Aboriginal community-controlled organisations 'frustrated and hampered' by the lack of funds.<sup>48</sup> Lloyd and Troy suggest that reforming governments need to be clear about the constraints they face in implementing their policies, including the resistance of bureaucracy which is not a neutral instrument.<sup>49</sup> Blackshield posits that one of the crucial areas of law reform in which the promise of the Whitlam years remains unfulfilled is the continuing national failure to overcome the injustices and alienation of relations between Aboriginal and other Australians.<sup>50</sup>

Nyland proposes a potential link between 'top down' and 'bottom up' elements, which avoids total rejection of insider tactics. Using the example of housing reform, she argues that dual strategies can forge complementary approaches which form a bridge between both forms of reformism. She speaks of how some in the community sector may be presented with an opportunity to enter a part of the policy process from

<sup>46</sup> J. Ife, *Rethinking Social Work: Towards critical practice*, Longman Australia, Melbourne, 1997, pp. 180-181.

<sup>47</sup> T. Roper, 'Social Welfare', in eds. H. Emy, O. Hughes & R. Mathews, *Whitlam Revisited: Policy Development, Policies and Outcomes*, Pluto Press, Sydney, 1993, pp. 194-195.

<sup>48</sup> Foley, 'Whiteness and Blackness', 2000, p. 81.

<sup>49</sup> C. J. Lloyd & P. N. Troy, *Innovation and Reaction: The life and death of the Federal Department of Urban and Regional Development*, George Allen & Unwin, Sydney, 1981, pp. 266-267.

<sup>50</sup> T. Blackshield, 'Law Reform', in eds. Emy et. al *Whitlam Revisited*, 1993, p. 115.

which they were previously excluded, enabling direct participation in the design and formulation of new policy directions.<sup>51</sup> However, concern about consumer co-option, which implies incorporation into formal decision-making processes, results in many groups remaining as outsiders and adopting adversarial stances.<sup>52</sup> Yet it is possible that bureaucratic structures may create leverage for advocates of policy change to understand the channels of policy making and have direct access to senior bureaucrats on more consistent levels than outside operations will permit. Working within may create opportunities to change the stance of opponents by operating through engagement rather than confrontation. Opportunities may also be created for those within the systems to be proactive around issues, rather than reactive. There may be scope for influence with ideas presented by Indigenous people. There is always the prospect that penetrating institutions with Indigenous workers, may make the workplaces more aware of Indigenous culture and issues. Relationship-building may be a forerunner to having the issues addressed in social policy terms, although this process tends to be incremental and unsystematic. For SNAICC another complication is in instances where 'the bureaucrats may be on side, but this is ineffective if the Ministers are disinterested'.<sup>53</sup>

The question of whether working within the system can effectively produce change is one explored by community services workers and by social work academics. Healy refers to the activist social worker who highlights the political nature of social work which remains concealed in orthodox practice theories.<sup>54</sup> For Jordan and Parton, social workers cannot ignore the political dimensions of social work practice if they are to provide a caring, responsive and sensitive service to their clients and the wider community.<sup>55</sup> I concur with the view that social welfare work is essentially a political activity. However, organisational constraints do not easily lend themselves to acknowledging activist work within their walls. Furthermore, it raises the question of the focus of the AICCA's

<sup>51</sup> Nyland, 'Activists in the Woodwork', 1998, pp. 220 & 221.

<sup>52</sup> Jones & May, *Working in Human Service Organisations*, 1992, p. 339.

<sup>53</sup> J. Pocock, personal communication, 31 July, 2001.

<sup>54</sup> K. Healy, 'Power and activist social work', in eds. B. Pease & J. Fook, *Transforming Social Work Practice: Postmodern critical perspectives*, Allen & Unwin, Sydney, 1999, p. 120.

<sup>55</sup> B. Jordan & N. Parton, 'Introduction', in eds. B. Jordan & N. Parton, *The Political Dimensions of Social Work*, Basil Blackwell, 1983, p. 1.

and SNAICC on rights as opposed to welfare,<sup>56</sup> with the welfarist discourse still prevailing in most jurisdictions.

It is far from obvious which form of strategic position is most effective; nor is there one cohesive view among those advocating Indigenous rights, within and outside Indigenous communities. In determining which way to proceed, actors need to make strategic assessments about the calibre of activists, the extent of mobilisation by those affected by policies and the ideologies of the variety of stakeholders involved.<sup>57</sup> Those employed by governments may elect to support the interests of clients and campaign against official policies. Churches, trade unions and others may join to push values which propose different government programs from those currently provided. Since the 1970s, supportive non-government organisations, academics and politicians have also used the politics of shame and embarrassment to place issues on the national political agenda and to push for their resolution.<sup>58</sup> Different forms of advocacy open doors to new visions of the way policy should be organised.<sup>59</sup>

### Alternative strategies

There are alternative means of advocacy which avoid the insider/outsider dichotomy, and through which SNAICC and the AICCAS could play a pivotal role. These alternatives recognise that an essential element for Aboriginal community success in shaping government decisions is, of necessity, bureaucratic support.<sup>60</sup> Canadian academic, Brian Wharf, argues for the development of 'policy communities.' Representing a range of stakeholders, they bring together government agencies concerned with a particular field, together with their attentive publics which comprise institutions, pressure groups, specific interests and individuals who are interested in the policies of specific agencies and make it their business to follow influence these policies. In the (indigenous) child welfare field this could expand the design of policies generally restricted to the information supplied by senior bureaucrats and

<sup>56</sup> J. Pocock, personal communication, 31 July, 2001.

<sup>57</sup> Considine, *Public Policy*, 1994, p. 105.

<sup>58</sup> Magallanes, 'International Human Rights', 1999, p. 251.

<sup>59</sup> Considine, *Public Policy*, 1994, p. 105.

<sup>60</sup> C. Fletcher, *Aboriginal Politics: Intergovernmental relations*, Melbourne University Press, Melbourne 1992, p. 140.

politicians, with the process enriched by information from other sources including clients, academics, representatives from concerned social movements and professional groups.<sup>61</sup> In the Australian context, Davis advocates the concept of community cabinets. He draws on the Queensland experience, whereby Queensland Government Ministers travel to a 'community cabinet location', with their political advisers and director-generals. The community meetings are held in local communities, bringing together a variety of Government and community stakeholders.<sup>62</sup>

Another means has been developed by Indigenous groups in Western Australia whereby the main Aboriginal organisations in that State have announced the formation of a single lobby group to negotiate with the State Government on the delivery of services to Indigenous people. The group will lobby and advise the Western Australian Government on a broad range of Indigenous issues and also develop policy. Aiming to work in a consultative manner with Aboriginal people, the peak body proposes to speak in a single, powerful voice in expressing the desired targets for Indigenous people in key areas, including health, employment, housing and education.<sup>63</sup>

The alternatives however, still do not break down the inherent restrictions of the bureaucracy, and even those within mainstream community sector organisations. Despite the rhetoric of governments about the development of culturally appropriate services, it is still the case that Indigenous Australians are expected to fit within the current structures of child welfare agencies, with expectations to conform with the accepted orthodoxies that govern child protection interventions.<sup>64</sup> Referring to the situation in New South Wales, Litwin argues that while the Department of Community Services promotes the ideal of community autonomy and participation, it does so within a context in which such autonomy and participation may be severely circumscribed.<sup>65</sup> Consultation becomes overwhelmingly concerned with the identification

<sup>61</sup> B. Wharf, 'Rethinking Child Welfare', in ed. B. Wharf, *Rethinking Child Welfare in Canada*, McClelland & Stewart, Toronto, 1993, p. 213.

<sup>62</sup> G. Davis, 'Government by Discussion', in eds. P. Botsman & M. Latham, *The Enabling State: People before bureaucracy*, Pluto Press, Sydney, 2001, pp. 224 & 225.

<sup>63</sup> ATSIIC, *WA's Aboriginal groups unite as one*, Media release, 14 June, 2001.

<sup>64</sup> Litwin, 'Child protection interventions', 1997, p. 317.

<sup>65</sup> Litwin, 'Child protection interventions', 1997, p. 327.

of the views of Indigenous Australians in a way that is comprehensible to the outside consulting agencies which control both the agenda and the conceptual framework.<sup>66</sup> Using New South Wales as an example, the Human Rights and Equal Opportunity Commission (HREOC) Inquiry noted that despite the employment of Aboriginal field workers there remained suspicion and antipathy towards the Department of Community Services. It observed that Indigenous families were reluctant to approach welfare departments and perceived contact as threatening the removal of the child. In fact, not a single submission to the Inquiry saw welfare department intervention as an effective way of dealing with Indigenous child welfare services. Although departments recognised the need to provide culturally appropriate services, they failed to develop them.<sup>67</sup> A total paradigm shift is obviously required to achieve the goals set by the AICCAs, and they have had minimal success in achieving this as semi-outsiders. In order to gain power, to have a key influence on policies and to empower their communities a means of establishing innovative partnerships with the key bureaucracies and the funding programs has to be established.

### **Directions for the future**

The increasing quest by Indigenous people for control of their own destinies has shaped the endeavours of SNAICC and the AICCAs. However, SNAICC has gradually opened its doors to involvement of other stakeholders. Although it can still be seen predominantly as a group operating outside 'the system', it has forged a number of key alliances in the non-Indigenous sector. SNAICC's specific networking has been with peak bodies like itself, including the Australian Council of Social Service, the Children's Welfare Association of Victoria and the Council of Australian Family Welfare Associations. In recent years a wide variety of stakeholders have joined the social change movements, including the Defenders of Native Title (DONT) and regional Reconciliation groups. The (still unsuccessful) campaign to force the Prime Minister to apologise for past injustices drew together a variety of interests across the political and community spectrum. Through this collectivity, SNAICC has received much endorsement and support from sections of the general public and has not generally received criticism

<sup>66</sup> Litwin, 'Child protection interventions', 1997, pp. 332-333.

<sup>67</sup> HREOC, *Bringing Them Home*, 1997, pp. 584 & 585.



from leading public figures. SNAICC has taken other initiatives in its strategising, by its preparedness to now admit that it cannot carry the entire children's advocacy agenda by itself. This has led it to seek the stronger involvement with ATSIC in pursuing children's issues. Building on endeavours of 1993/94, the last eighteen months have seen the development of a campaign by SNAICC to co-operate with ATSIC.<sup>68</sup>

There is no clear evidence that SNAICC has critically analysed the tactics undertaken by other groups advocating for change, although the appointment of Julian Pocock as Co-ordinator draws on his expertise with three other peak bodies, particularly in the youth sector, which have had significant levels of success. Although each campaign strategy is unique, many organisations develop tactics on the basis of what others have found successful and analyse their adaptability to their own causes. By not shifting its methods to accommodate different dynamics which emerge, SNAICC may indeed be doing itself a disservice. Although SNAICC progressed its causes through a more confrontational agenda in the early days, other responses may be more effective given the changing knowledge and increased support within the Australian community. For example SNAICC has successfully endeavoured to get others to position themselves in relation to Indigenous issues. The success of this has been evidenced by how the community at large has been able to identify with the horror they would feel if their children were removed. SNAICC however, has done little to place itself in the shoes of the dominant culture, by, for example, examining what drives fear and resistance to change. Such a positioning may result in more effectiveness in countering views which are seemingly implacable to fairer Indigenous policies.

One problem SNAICC has faced is its wide brief. With only a few staff and limited funds, it has been impossible to tackle all issues comprehensively. SNAICC has been clear that it has advocated across the breadth of children's issues, to ensure that the rights of Indigenous children are recognised and responded to by all areas of government.<sup>69</sup> SNAICC's agenda has focused on past and present injustices. Through its achievements with the Stolen Generations Inquiry it may well have

<sup>68</sup> J. Pocock, email communication, 7 August, 2001.

<sup>69</sup> N. D'Souza, cited in J. Pocock, *National Aboriginal and Torres Strait Islander Children's Policy*, 2000.

believed that the issues of the past were laid to rest. Instead, the situation took new twists and turns and opened up increasing roles for the organisation. These included endeavours to ensure that governments and other key players implemented the Inquiry recommendations, promoting and supporting new programs arising from the Inquiry, particularly expansion of Link-up services, and the addressing of 'new' issues such as mental health. These endeavours detracted from advocacy associated with the core problems confronting AICCA in the various states and territories, particularly practice endeavours associated with the underlying issues in child protection and out-of-home placements. Indeed, many of the state organisations have believed their focus should be on the present problems which are overwhelming in scale and complexity, including domestic violence and sexual assault. It is likely that the inclusion in SNAICC's formal membership of the MACS, with their emphasis on early childhood issues, will result in more attention being given to current pressing problems. In addition, some of most difficult policy and practice issues confronting SNAICC are emerging in the public domain.

So far I have examined the nature of SNAICC's activism in terms of contributing to wider change agendas. But what of practice? With much of the emphasis of SNAICC's members focused on day to day practice, questions arise as to how well placed the AICCA are in dealing with complex issues facing communities. How skilled are the AICCA workers at performing their activities? Can non-Indigenous professionals make a contribution? These are among the issues elaborated in the next section.

## 2. Complex practice issues and responses

SNAICC's agenda focuses on systems abuse, violations which particularly through assimilation policies have resulted in the ongoing imposition of policies and practices in the field of child welfare, and, to a lesser extent, juvenile justice. These policies and practices fail to acknowledge, let alone affirm, Aboriginal cultural values, and act against the best interests of Aboriginal children and families. Yet underpinning the rigidity of political and bureaucratic systems, and the continuing impact of colonial processes, lie the persistent unresolved problems facing Indigenous children and their families.

Indigenous communities remain at risk from a range of social problems including high levels of domestic violence<sup>70</sup>, drug and alcohol problems<sup>71</sup> and child protection issues.<sup>72</sup> Anecdotal remarks by Indigenous organisations reveal their fears that the AICCAs will be the next to remove children from their families. This scenario would arguably result in criticisms from Indigenous communities and an abrogation of the responsibility of government departments. Paradoxically, these emerging patterns are in direct contrast to the goal of establishing the AICCAs to keep families together and to halt removal practices.<sup>73</sup> How to balance the tensions between keeping children safe, with the need to keep families together, remains a critical debate for the AICCAs.

Increasingly the state AICCAs are turning their endeavours to addressing immediate problems, rather than to a wider structural reform agenda. Some interview participants, albeit a minority, consider this is the direction that the AICCAs should in fact follow. To some extent, this shift is understandable, given that many of the day-to-day problems remain overwhelming in severity and scale. For example, Graham Atkinson talked of the need to take action to remedy the ongoing placement of Aboriginal children in substitute care, and the need for more preventative strategies (interview 16 Oct. 97). In acknowledging the importance of prevention, SNAICC has lamented that large case

<sup>70</sup> Sam, *Through Black Eyes*, 1992.

<sup>71</sup> Choo, *Aboriginal Child Poverty*, 1990; Drugs and Crime Prevention Committee, *Inquiry into Public Drunkenness: Final Report*, Parliament of Victoria, Melbourne, June 2001.

<sup>72</sup> Australian Institute of Health & Welfare, *Child Protection in Australia, 1997-98*;

Broadbent & Bentley, *Children on Care and Protection Orders*, 1997.

<sup>73</sup> B. Butler, cited in J. Pocock, *National Aboriginal and Torres Strait Islander Children's Policy*, 2000.

loads have precluded the AICCAs from developing appropriate preventative measures.<sup>74</sup> Compounding the problem is that some of the AICCAs have taken on far-reaching roles including dealing with problems of past removal practices (through Link-up services) and present child protection issues (through direct service roles). The techniques adopted by SNAICC, which give prominence to advocacy and policy endeavours, have effectively limited its capacity to deal with the issues confronting the AICCAs in their everyday operations. Given limited resources and caution about intruding upon the role of the AICCAs this is understandable. However, there is potential for alienating some member organisations which lack recognition for their daily struggles.

Participants in my research referred to the overwhelming practice issues confronting the AICCAs, including child protection, family violence, substance abuse and problems associated with mental illness. A stark reminder of the child welfare situation recently reached the front page of the *Melbourne Age*, in headlines announcing a 72% increase in reports of Indigenous child abuse in Victoria.<sup>75</sup> The following day, the same newspaper reported that VACCA had identified chroming, the inhalation of volatile substances, to be the most serious parenting issues that Indigenous people face.<sup>76</sup> This was reinforced soon after by interview participant, Marjorie Thorpe, in exposing the problem of chroming in the Gippsland area of Victoria where she lives.<sup>77</sup>

Such issues receive prominent coverage in the daily press, as Indigenous groups continue to come under a microscope in almost every sphere of their lives, a fate generally not experienced in non-Indigenous endeavours. Issues of child welfare, substance abuse, unemployment, health and housing are rarely masked by Indigenous organisations in their quests to create community awareness, to seek increased resources and to work towards change. For example, SNAICC, in responding to media reports about child abuse statistics, has been quick to point out that it is in fact the 'neglect' category which is the main reason for over-representation, a category which reflects the high levels of

<sup>74</sup> D'Souza, *Proceedings*, 1997, p. 102.

<sup>75</sup> J. Davies, 'Black child abuse alarm', *The Age*, 9 May, 2001, p. 1.

<sup>76</sup> *The Age*, 'Children painted into grim corner', *The Age*, 10 May, 2001.

<sup>77</sup> M. Thorpe, 'Reconciliation', Paper presented at *Community Advocacy: Cause and Effect*, RMIT University workshop, 12 May, 2001.

unemployment, poverty and homelessness of Indigenous people.<sup>78</sup> However, other issues are not so publicly tackled by the AICCAs and SNAICC, including domestic violence and sexual assault. The reluctance to publicly expose and rectify these problems has many causes, not the least the stereotyping to which Indigenous people are subjected. This stereotyping occurs even though domestic violence in Indigenous communities can be understood within the context of the historical, political, social and cultural environments in which it occurs.<sup>79</sup>

Other constraints are closer to home for Indigenous communities. One concern is the prospect of deflecting and dividing the wider Indigenous struggle, with the risk of divisions on gendered lines. In a recent newspaper feature article, Paul Toohey comments that as claims about levels of abuse against women are anecdotally based, claimants are left open to charges of racism. He suggests that white women working in welfare practice rarely speak, and black women remain silent knowing they will not have support from their people or could face retribution.<sup>80</sup> Indigenous women may fear for their safety and the safety of other family members if police or social welfare officials become involved.<sup>81</sup>

In Chapter 8, I analysed how SNAICC had tackled the issue through the publication of *Through Black Eyes* in the early 1990s. However, there has been no assessment of its effectiveness aside from the continuing demand for the document from Indigenous and non-Indigenous organisations and individuals. When the report was released, the Chairperson of SNAICC, Brian Butler, acknowledged in the book that it was dealing with a subject that had been taboo for a long time.<sup>82</sup> Introductory comments refer to the seriousness of the issue: 'Family violence is our big shame. It effects everyone, women children, men - the whole community'.<sup>83</sup>

With Indigenous communities and families now exposed to frequent media reports on domestic violence, urgent responses are required by Indigenous organisations. Evidence exists that Indigenous women are

<sup>78</sup> SNAICC, *Newsletter*, August, 2001.

<sup>79</sup> J. Astbury, J. Atkinson, J. E. Duke, Patricia L. Easta, Susan E. Kurrie, Paul R. Tait and J. Turner, 'The impact of domestic violence on individuals', *MJA*, No. 173, 2000.

<sup>80</sup> P. Toohey, 'Sticks and Stones', *The Weekend Australian*, 14-15 April, 2001, p. 21.

<sup>81</sup> Astbury et al., 'The impact of domestic violence', 2000.

<sup>82</sup> B. Butler, in Sam, *Through Black Eyes*, 1992, p. vii.

much more likely to be victims of domestic violence than non-Indigenous women, and to sustain more serious injuries. In some areas in Western Australia, the rate of domestic violence is 45 times higher than non-Aboriginal women.<sup>84</sup> In the Northern Territory, two-thirds of reported domestic violence and sexual assault victims, and nearly three-quarters of offenders, are Aboriginal - a rate of abuse nearly three times their population share.<sup>85</sup> In Queensland, a report released in 1999 referred to 'appalling acts of physical brutality and family violence'. The report incorporated 123 recommendations,<sup>86</sup> but according to interview participant and ATSIC Commissioner Jenny Pryor, many of the report's recommendations were only partially implemented or not implemented at all.<sup>87</sup> The Chairperson of the Goolburri Regional Council states that the Queensland ATSIC commissioners endorsed the report but have been frustrated by the lack of government action in response.<sup>88</sup> ATSIC itself has argued that it is doing something about domestic violence in Aboriginal communities, with expenditure of \$3.9 in 2000-01 on funding the National Family Violence Legal Prevention Program which focuses on both support for victims and prevention education.<sup>89</sup> ATSIC has given support to a recent meeting of the Ministerial Council of Aboriginal and Torres Strait Islander Affairs which adopted a seven point strategy to reduce Indigenous family violence and audit existing initiatives to identify and document examples of best practice. At that meeting the Council also endorsed a decision by ATSIC to establish a National Indigenous Women's Forum to provide a national voice for Indigenous people on violence by communicating with local Indigenous networks on culturally appropriate initiatives. However, disappointment was expressed at the lack of any new targeted funding or resources.<sup>90</sup>

The former Chair of the Council for Aboriginal Reconciliation, Evelyn Scott, has stated that the 'hidden frequency of violent and deliberate

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<sup>83</sup> Sam, *Through Black Eyes*, 1992, p. 3.

<sup>84</sup> Office of the Status of Women, *Partnerships Against Domestic Violence: Second Report of the Taskforce*, Commonwealth of Australia, Canberra, 2000, p. 10.

<sup>85</sup> B. Birnbauer, J. Davies & C. Saltau, 'Black violence, black despair', *The Age*, 23 June, 2001, p. 5.

<sup>86</sup> M. Gordon & K. Taylor, 'Aboriginal leaders in conflict over abuse', *The Age*, 21 June, 2001, p. 1.

<sup>87</sup> M. Gordon, 'A question very close to the bone', *The Age*, 23 June, 2001, p. 6.

<sup>88</sup> ATSIC, *Family violence not such a priority for governments*, Media release, 30 July, 2001.

<sup>89</sup> K. Taylor, 'ATSIC says it acted on sex abuse', *The Age*, 20 June, 2001, p. 2.

<sup>90</sup> ATSIC, *Action on Media Violence*, Media release, 30 July, 2001.

sexual abuse against Aboriginal women and children has many causes and is now deeply rooted in the community. While many people are working to overcome it, the first barrier that has to be knocked down is secrecy'.<sup>91</sup> Similarly, the former ATSIC Chairperson, Lowitja O'Donoghue, refers to the 'veil of silence in the past', but suggests that people are now more prepared to 'stand up'.<sup>92</sup> However, breaking the silence comes at a cost.

The recent accusations by four Aboriginal women of rape by a key Aboriginal community figure, provide evidence of how issues of contention can be distorted and manipulated by the media and the wider community. The querying of the credibility of the testimonies of rape victims by an Aboriginal magistrate has caused widespread controversy, with feminist and legal groups attacking her stance and calling for action to be taken against her. Notwithstanding the seriousness of the allegations, the ensuing publicity has the potential to divert attention from the wider Aboriginal struggle, giving credence to opponents who use 'divide and rule' tactics and allowing white 'experts' to propose solutions for Aboriginal 'problems'.

A number of Indigenous people have spoken out about these matters in recent months. Interview participant Graham Atkinson has told of indifference towards the problem, and the impact on partners and children who are 'prisoners of this self-destructive process of family and community violence'.<sup>93</sup> The Chairperson of SNAICC, Muriel Cadd, locates the problem squarely in the past, suggesting that what is being seen now is a reflection of past policies, including victims becoming perpetrators. She argues for priority to be given to sex education 'because at present our children don't know that what is happening to them is wrong...child sexual abuse is today's problem'.<sup>94</sup> Cairns research participant, Margaret Ahkee, has told the media that for 40,000 years Indigenous men had been responsible husbands and fathers, and that this

<sup>91</sup> E. Scott, 'Black women's burden', *The Age*, 20 June, 2001, p. 17.

<sup>92</sup> Cited in M. Gordon & K. Taylor, 'Clark urged to step down', *The Age*, 22 June, 2001, p. 1.

<sup>93</sup> G. Atkinson, 'Family violence is a human rights issue', Letter to the editor, *The Australian*, 27 June, 2001, p. 12.

<sup>94</sup> Cited in J. Davies, 'My daughters were sexually assaulted...I was devastated', *The Age*, 20 June, 2001, p. 1.

cannot be discounted by the actions of a few. She expresses concern about the negative stereotyping of Aboriginal people by the media.<sup>95</sup>

Reconciliation Australia board member, Jackie Huggins, has said the current debate is horrendous for communities who are being put under the microscope. She expresses the view that public debate on these issues, which results in bitter disputes and ill-feeling, does nothing to improve the situation in communities.<sup>96</sup> There is little doubt that when media interest subsides, the dust will settle and those who have been part of the contest including the Federal Government, a range of Indigenous spokespeople, white 'experts', civil libertarians and others are unlikely to be part of the solution. The AICCAs and other Indigenous organisations will be left with the fallout in their efforts to bring about change.

SNAICC has continued to work consistently and in a relatively in-house manner to find solutions and strategies to family violence and related issues. Part of this strategy was to keep the issue away from the media spotlight, a quest which was overturned by recent news reporting.<sup>97</sup> Despite the variety of viewpoints evident among Indigenous groups, it is likely that now the issue has been so directly in the public domain, it will be tackled with renewed vigour in policy and practice endeavours. For this to occur the contests which have emerged will need to subside including the stereotypical depictions of Aboriginal people as both victims and perpetrators, and the question of whether feminist or race perspectives have dominance. This will allow issues of funding, service delivery and the respective responsibilities of governments and communities to be tackled with less emotion. One problem for SNAICC has been that the business that the AICCAs and SNAICC deal with, particularly child abuse and family violence, has meant operating 'on the fringe of the broader Indigenous political community'. According to Julian Pocock, the organisations deal with the issues no-one else wants to talk about or face up to, particularly on the 'internal' and 'shameful' business of their communities. This silence also occurs at the wider political level. He gives a practical example:

Ministers/shadow ministers are always happy to visit a MACS but never want to visit an AICCA - I suspect this reflects the different work they do. This has

<sup>95</sup> Cited in G. Roberts, 'Grass-roots call for Clark to step down', *The Age*, 13 July, 2001, p. 1.

<sup>96</sup> Cited in K. Taylor, 'Call to arms over black abuse', *The Age*, 27 June, 2001, p. 2.

<sup>97</sup> J. Pocock, personal communication, 31 July, 2001.



a profound impact on the ability and willingness of AICCAs to network and build alliances with other Indigenous organisations and has contributed to their isolation. It has a similar impact on SNAICC and its working relationship with other national organisations such as the National Aboriginal and Islander Community Controlled Child Care Organisation (NAICCHO) and the National Aboriginal and Islander Legal Service (NAILS).<sup>98</sup>

Jenny Pryor argues that communities can in fact fix the problem if given the appropriate voices to do it and the appropriate powers.<sup>99</sup> She calls on Federal, state and territory governments 'to stop talking and start acting to assist us in improving the health and well being of our communities'.<sup>100</sup> In its Draft Family Policy, ATSIC states that the problem will only be resolved by 'our communities with commitment and assistance from all levels of government'.<sup>101</sup> These are crucial points. The solutions cannot be the sole responsibility of Indigenous people, and it is certainly unfair to put the responsibility totally on Indigenous women. Resources are needed, combined with a transfer of power, to enable the relevant organisations and communities to deal with the situation in an appropriate manner. Any non-Indigenous expertise which is utilised must recognise that the solutions must be in accordance with Indigenous cultural expectations. In a consultation in New South Wales, Aboriginal women publicly stated that domestic violence in their communities must be addressed holistically, by analysing the problem within the framework of the disintegration of tribal and kinship ties.<sup>102</sup>

There remains a danger that focusing attention on what is perceived as dysfunction within Indigenous communities, diverts attention from a wider social justice and right-based agenda and is seized upon by those advocating practical reconciliation, premised conceptually on a paradigm of liberal individualism. One recent example is the questioning by the Federal Parliamentary Secretary for Reconciliation and Aboriginal and Torres Strait Islander Affairs, Chris Gallus, as to why 'land rights, a treaty and an apology were regarded as the "big" issues by outspoken proponents of Aboriginal rights, when women and children were being abused and battered to death'.<sup>103</sup>

<sup>98</sup> J. Pocock, email communication, 7 August, 2001.

<sup>99</sup> Cited in Gordon, 'A question very close to the bone', 2001, p. 6.

<sup>100</sup> J. Pryor, *Breaking the silence on domestic violence*, ATSIC Media release, 1 August, 2001.

<sup>101</sup> ATSIC, *Draft Family Policy*, 2001, p. 12.

<sup>102</sup> New South Wales Women's Coordination Unit, 'Consultations with Aboriginal Communities', in *NSW Domestic Violence Strategic Plan*, Sydney, 1991.

<sup>103</sup> C. Gallus, 'How the conspiracy of silence hurt Aborigines', *The Age*, 4 July, 2001, p. 15.

Despite the divergence of opinion about priorities, the means of dealing with the scale of these issues, and who should take responsibility, is far from resolved. There is no doubt that imposition of policies and practices from the dominant society has often been an abysmal failure, and contributed to ongoing problems. Leaving the issues to Indigenous organisations themselves, in line with requests for self-determining approaches, has sometimes meant a retreat from responsibilities of government. Inadequate assistance with education, support and operational funding has been a recipe for failure in some instances. According to SNAICC Co-ordinator, Julian Pocock, 'this is precisely what has happened to the AICCAs - they have in many instances been set up to fail'.<sup>104</sup> Partnership approaches are favoured in the government rhetoric of today. However, the power imbalance in these partnerships has not been addressed and increasingly 'managerialist' approaches, with their emphasis on efficiencies, contracts and outputs,<sup>105</sup> have acted against the interests of Indigenous services. It may be timely for SNAICC and other organisations to collectively advocate for a review of initiatives to date in the areas of child abuse, sexual assault and domestic violence.

The question of who should speak about these issues remains contentious, as emerged a decade ago when academic Diane Bell was criticised by Aboriginal women for arguing that rape is every woman's business.<sup>106</sup> The feminist debate has been re-ignited in the current controversy. Again, the contested position of a radical feminist view of universal sisterhood, positioned against the particularism of Indigenous perspectives blurs the quest for solutions. Diane Bell has again spoken out, arguing that the issue of rape touches a 'very raw nerve' because it is the intersection of colonial oppression and violence, gender and race.<sup>107</sup> Media commentator, Pamela Bone, recognises the difficulty that some Aboriginal women have encountered with white feminists over sexual violence. She states that many feel more harmed by racism than sexism, 'because they do not want their men to be oppressed by the white society than they already are'. She suggests that in view of the recent

<sup>104</sup> J. Pocock personal communication, 31 July, 2001.

<sup>105</sup> D'Souza, *Competition Policy*, 1999.

<sup>106</sup> Huggins et. al. 'Letter to editor', 1990, pp. 506-507.

<sup>107</sup> S. Rintoul, 'No more secret business', *The Weekend Australian*, 30 June-1 July, 2001, p. 21.

allegations, Aboriginal women are now confronting the misogyny, violence and sexual abuse in their communities.<sup>108</sup>

Open discussion of Indigenous mental health was once a taboo in Aboriginal organisations, but is now discussed more openly among Indigenous communities. It is likely that the issues of domestic violence and sexual assault can also be tackled directly by Indigenous communities if they can gain control of the debate, the problems and the solutions. The Stolen Generations report, which located Indigenous mental health problems in the experience of colonisation, has been a watershed for discussion of this issue. Aboriginal groups had previously attacked predominant mental health paradigms, espousing their irrelevance to Indigenous cultural values. Alongside this, Indigenous people were generally under-represented as users of mainstream mental health services. However, the HREOC Inquiry threw out a major challenge, as well as contributing to increasing recognition by mental health service providers and policy personnel on the impact of colonisation and dispossession on the ongoing emotional health and self-esteem of Indigenous people. In the process of gathering oral testimony for the Stolen Generations Inquiry, Indigenous people, for the first time as a group (although one constructed in effect by the Inquiry itself), talked about the emotional impact the stolen generations had on their lives.<sup>109</sup> Not only was this impact felt by those directly involved, but also on the generations that followed. This re-assessment has led to the development of alternative paradigms which incorporate the western and the Aboriginal way of contextualising, assessing and intervening, approaches supported by interview participants Mary-Ellen Passmore Edwards (interview 16 Dec. 97) and Marjorie Thorpe (interview 27 Aug. 97).

### **Expertise and professionalism**

Associated with the complexity of the problems confronting the AICCAs is the issue of expertise, an area of some debate within Indigenous organisations and to an increasing extent among professional groups. By working outside mainstream organisations, the AICCAs have developed their own means of operating, often with staff who do not

<sup>108</sup> P. Bone, 'How our society and the law fail rape victims', *The Age*, 30 June, 2001, p. 7.

<sup>109</sup> HREOC, *Bringing Them Home*, 1997.

have social welfare qualifications. Although Indigenous knowledge is paramount in the quest for community control, the practice reality has been unmanageable workloads, burnout and sometimes lack of credibility with the large, formal organisations with whom the AICCAs have to work.

An area requiring greater exploration is the training needed to tackle the difficult tasks confronting organisations. Alongside this is the need to consider the role of professional groups, particularly social workers, in responding to Indigenous issues, and in developing Indigenous-sensitive education. The need to engage with the professions will not go away. Indigenous organisations need to build their expertise, and non-Indigenous social welfare workers who hold key practice positions in mainstream organisations need to be cognisant of appropriate practice responses in dealings they may have with Indigenous organisations and Indigenous clients. These two developments are taking place in a situation where Indigenous organisations are increasingly employing non-Indigenous workers to fill the gaps created by the lack of qualified Indigenous personnel. Julian Pocock states that the need and appropriateness of employing white people inside the AICCAs is an area of current debate within the AICCAs and SNAICC.<sup>110</sup> Although the debates on training and education need to be dealt with first and foremost by Indigenous organisations, the social work profession needs to confront its past and future roles and responsibilities.

There are increasing numbers of Indigenous people seeking social work training, with the aim of increasing their knowledge and skills to take back to work in their own communities. The numbers are still relatively small, which is not surprising given that social work has been described by some commentators as the profession of oppressors,<sup>111</sup> intent on maintaining an apolitical therapeutic approach<sup>112</sup> and resistant to activism.<sup>113</sup> Aboriginal academic Stephanie Gilbert points out that social workers were participants in the process of dispossession and oppression, albeit sometimes only by default. Social workers continue to hold central

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<sup>110</sup> J. Pocock, email communication, 7 August, 2001.

<sup>111</sup> G. Atkinson, W. Weeks, L. Hoatson & L. Briskman, *Long Overdue: Collaboration between the Indigenous community and social work education in Victoria*, Paper presented at AASW National Conference, Canberra, 1997.

<sup>112</sup> *Ile, Rethinking Social Work*, 1997, p. 198.

roles in such areas as child protection and health, sites where great injustices have been carried out against Indigenous peoples. There is also evidence that social workers accepted popular Darwinist thoughts and other doctrines that have harmed the lives of many.<sup>114</sup> According to David Thorpe, the accepted standards of European child rearing practices grossly distort the judgments workers make about children and families reported to child welfare agencies.<sup>115</sup> Moreover, HREOC maintains that welfare departments continue to 'pathologise and individualise' needs of Indigenous children.<sup>116</sup>

These views of social welfare activities remain within and outside the social work profession, despite the approaches of those who have moved from the more conventional ranks of social work theorising and practice, to promote the profession in a way that fosters transformation, emancipation and liberation.<sup>117</sup> There have been endeavours in social work theoretical developments to shift attention away from victim-blaming models, to critically examining the larger economic and political issues, including social dislocation and racism.<sup>118</sup> Adherents of critical social work approaches are specifically oriented to a discourse which accepts and validate wisdom and experience from 'below' as well as from 'above'.<sup>119</sup> Yet despite good intentions, social work schools have generally lacked an appreciation of the impact of racism on clients and communities.<sup>120</sup> What changes would need to be made to social work training? Is this an area to which SNAICC should be directing its lobbying?

Progressive movements within the social work profession are nothing new. In the 1970s there was a move among social workers to find ways of working with Aboriginal people within the context of progressive

<sup>113</sup> W. de Maria, 'Flapping on clipped wings: Social work ethics in the age of activism', *Australian Social Work*, Vol 50, No 4, 1997.

<sup>114</sup> S. Gilbert, 'Social work with Indigenous Australians', in eds. M. Alston & J. McKinnon, *Social Work: Fields of Practice*, Oxford University Press, Melbourne, 2001, pp. 48 & 54.

<sup>115</sup> D. Thorpe, *Evaluating Child Protection*, Open University Press, Buckingham, 1994, p. 168.

<sup>116</sup> HREOC, *Bringing Them Home*, 1997, p. 584.

<sup>117</sup> L. Briskman & C. Noble, 'Social work ethics: Embracing diversity?', in eds. J. Fook & B. Pease, *Emancipatory Social Work Practice*, Allen & Unwin, Sydney, 1999.

<sup>118</sup> Y. House & H. Stalwick, 'Social Work and the First Nation Movement: "Our Children, Our Culture"' in ed. B. Wharf, *Social Work and Social Change in Canada*, McClelland & Stewart, Toronto, 1990, p. 80.

<sup>119</sup> J. Ife, *Rethinking Social Work: Towards critical practice*, Longman Australia, Melbourne, 1997, pp. 136 & 137.

<sup>120</sup> Carniol, *Case Critical*, 1990, p. 78.

Federal initiatives at that time, and with Aboriginal endeavours.<sup>121</sup> According to Gilbert, social workers have been part of 'the long and worthy list' of non-Indigenous Australians who have stood up for the rights of Indigenous people. She sees social work as having a place in ameliorating the suffering of Aboriginal and Torres Strait Islander peoples.<sup>122</sup> Yet, despite the isolated pockets of resistance and re-invention, little has changed structurally with social work and welfare training; nor has there been extensive engagement with broader critiques and resentment of the ways in which Indigenous knowledge is undervalued and undermined. One example is the rejection of spirituality which, according to Ife, is 'to deny or marginalise Australia's indigenous population'.<sup>123</sup> It has been many years since the 1974 social worker's strike in the Northern Territory, a protest against the government's failure to clean up child welfare.<sup>124</sup> Queensland social work academic, Bill de Maria, laments the reluctance of the Australian Association of Social Workers to encourage activism on the part of its members.<sup>125</sup> Although there may be fewer instances of the 'screaming matches' or 'car chases' referred to earlier in the thesis, there has not been a massive improvement in the relationship between white social workers and the AICCs.

Drawing on the writings of Edward Said, New Zealand Indigenous academic Linda Smith talks about how the Western discourse of 'other' is supported by institutions, vocabulary, scholarship, imagery, doctrines and colonial bureaucracies.<sup>126</sup> For Smith, decolonisation does not mean a total rejection of Western knowledge, but is about 'centring our concerns and world views, and then coming to know and understand theory and research from our own perspectives and for our own purposes'.<sup>127</sup> The report on the Aboriginal Child Placement Principle in Australia recognises particular expertise in Aboriginal communities, commenting

<sup>121</sup> Haebich, *Broken Circles*, 2000, p. 573.

<sup>122</sup> S. Gilbert, 'Social work with Indigenous Australians', 2001, p. 53.

<sup>123</sup> Ife, *Rethinking Social Work*, 1997, p. 10.

<sup>124</sup> Haebich, *Broken Circles*, 2000, p. 598.

<sup>125</sup> W. de Maria, 'Flapping on clipped wings', 1997, pp. 3-19.

<sup>126</sup> Smith, L., *Decolonizing Methodologies: Research and Indigenous Peoples*, Zed Books,

London, 1999, p. 2.

<sup>127</sup> Smith, *Decolonizing Methodologies*, p. 39.

that their strength is the understanding of Aboriginal ways of caring for children and the complex matters of kinship and social structure.<sup>128</sup>

Professionalism and the entrenched elitism of social work practice has served to obfuscate Indigenous knowledge in the Australian context. Although many educators are aware of the cultural vacuum of their course offerings, endeavours to address this are often tokenistic and limited by organisational and resource constraints faced by tertiary institutions. Unlike New Zealand with its bi-cultural emphasis,<sup>129</sup> Australian social work has not led the way in ensuring that the ways of teaching, theorising, and practicing in complex areas, bind together social work expertise and Indigenous knowledge. The scales of knowledge need to be balanced in a way that affirms Aboriginal knowledge and expertise, while utilising 'professional' expertise, largely derived from dominant culture paradigms. In order to avoid undermining Indigenous voices through the legitimisation of Western 'experts', there is a need to incorporate those voices without colonising them in a manner which reinforces patterns of domination.<sup>130</sup> This means that social workers must pay attention to their lack of knowledge of the processes and experience of colonialism and work consciously to counter the effects of colonialism, avoiding practice emanating from a colonialist position.<sup>131</sup>

According to Jordan many social workers have a stake in a style of work which is power-laden, formal and individualised. There is a fear of a transition to an approach that involves greater sharing in groups, and more negotiated, informal work.<sup>132</sup> A prevailing view is that the governance of modern society is too complex to be left in the hands of 'amateurs' or the people themselves, and must be turned over to the

<sup>128</sup> New South Wales Law Reform Commission, *The Aboriginal Child Placement Principle*, 1997.

<sup>129</sup> C. Noble & L. Briskman, 'Social Work Ethics: The challenge to moral consensus', *New Zealand Social Work Review*, Vol. 8, No. 3, 1996, pp. 2-8.

<sup>130</sup> R. Scheyvens & H. Leslie, 'Gender, ethics and empowerment: Dilemmas of development fieldwork', *Women's Studies International Forum*, Vol. 23, No. 1, 2000, p. 120.

<sup>131</sup> J. He, *Human Rights and Social Work: Towards Rights Based Practice*, Cambridge University Press, Cambridge, 2001, p. 155.

<sup>132</sup> B. Jordan, 'Partnership with service users in child protection and family support', in ed. N. Parton, *Child Protection and Family Support: Tensions, contradictions and possibilities*, Routledge, London, 1997, p. 219.

'experts'.<sup>133</sup> Problems related to skills and knowledge development have occurred in other countries. In Canada for example, there have been endeavours by Native students to undertake social work training to contribute something to their own people despite the damage inflicted. Of those who graduate however, some become disillusioned as they are not accepted by the white society or by their own community.<sup>134</sup>

Exacerbating the problem is the fact that professional social work in Australia has largely depended on British and United States perspectives which have not acknowledged the Australian context, including prior Aboriginal ownership of the land.<sup>135</sup> The colonising effect of social work formulations from other cultural and national contexts denies the validity of local experience.<sup>136</sup> To redress this, social workers need to understand the perspective on the role of the state, its institutions and organisations that flows from Aboriginal experience.<sup>137</sup> Without this shift, there will remain a large number of non-Indigenous practitioners who will graduate from social work programs without having had any direct contact with Indigenous peoples. Whatever work social workers are engaged in they are likely to encounter Indigenous people, and need to be adequately prepared for this.<sup>138</sup>

SNAICC promotes the development and implementation of culturally relevant educational programs for Aboriginal and Islander workers involved in child and family care.<sup>139</sup> But on the ground, Indigenous workers are still having to grapple with complex practice issues. An Aboriginal social worker in Victoria refers to the reluctance of Federal and state governments to source suitably skilled Aboriginal professionals and place them at the level of government (setting policies) where they can do the most good for the communities. She argues that 'Aboriginal professionals know where to start and what to do, but are not given the

<sup>133</sup> G. Sturgess, 'Beating the Bureaucracy - Humanising modern government', in eds. P. Botsman & M. Latham, *The Enabling State: People before bureaucracy*, Pluto Press, Sydney, 2001, p. 196.

<sup>134</sup> Carniol, *Case Critical*, 1990, p. 79.

<sup>135</sup> A. McMahon, *Who'll Come a Waltzing Matilda: Developing an Australian Social Work*, Paper presented at the Asian Pacific Association of Social Work Educators, Bombay, November, 1993.

<sup>136</sup> Ife, *Human Rights and Social Work*, 2001, p. 155.

<sup>137</sup> A. Jones & J. May, *Working in Human Service Organisations*, 1992.

<sup>138</sup> S. Gilbert, 'Networking: Idea or Lifestyle', Address to the Conference of the Rural Social

<sup>139</sup> Workers Action Group, Beechworth, July, 2001.

SNAICC, *Statement of Purposes (Amended)*, 1986.



latitude or the support to accomplish outcomes'.<sup>140</sup> SNAICC has argued that there are two child welfare systems operating in Australia, one which is well-resourced and controlled and operated in the main by white people who make the rules, and the other under-resourced sector, overloaded and run by Aboriginal people who are under-paid and over-worked, whose experience does not count for anything and who are described as unqualified.<sup>141</sup> The Executive Director of Indigenous Services at Centrelink, former Chief Executive Officer of ATSIC, Pat Turner, comments on how Indigenous people find the multitude of problems confronting them overwhelming. She supports the harnessing of expertise, including professional expertise, as there are not enough trained Indigenous workers and others need to be involved.<sup>142</sup> Given increasing questioning of social work education from within the profession, combined with increased general awareness of social workers post-reconciliation, it is timely for SNAICC to reassess its quest for the introduction of culturally relevant education programs, and to see if it can engage productively with social workers. At the same time, social workers need to collectively and individually explore their roles and relationships to Indigenous groups. These endeavours can go some way to cementing partnerships which can assist in practice responses to the issues facing Indigenous children, families and communities.

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<sup>140</sup> M. Burchill, 'Make Aboriginal welfare accountable', Letter to the editor, *The Age*, 27 June, 2001, p. 18.

<sup>141</sup> N. D'Souza, 'Aboriginal Child Welfare', 1993, p. 40.

<sup>142</sup> P. Turner, 'Keynote Address', *Rural Practice: Building Bridges*, Address to the Conference of the Rural Social Workers Action Group, Beechworth, 5 July, 2001.

### 3. Commonwealth/state tensions

Despite the dogged pursuit for national legislation by SNAICC, documented in Chapter 9, many commentators have argued that federalism and state political cultures are so entrenched in the Australian political landscape that the pursuit of such legislation is unrealistic.

The ongoing problems associated with Federalism and Indigenous people have their roots in colonial policies and in the subsequent formation of the Commonwealth, and go far beyond Indigenous matters. Federation has been described as a pragmatic compromise between the need to cede just enough power to the centre to create a viable Commonwealth Government, while leaving the states with sufficient responsibilities for them to agree to join the union.<sup>143</sup> The Australian constitutional structure was designed by the founding colonies to provide a weak

Commonwealth Government and strong state governments,<sup>144</sup> although a variety of legal, extra-legal, constitutional and economic factors have resulted in the reverse of this being the case. Some of the wider critiques of federalism are similar to those advanced by SNAICC, including that Federal structures are conservative in nature and inhibit social reform,<sup>145</sup> encourage fragmented policies and regional inequalities,<sup>146</sup> and divide and obscure lines of responsibility causing difficulties in obtaining agreement on legislation in certain areas of needed reform.<sup>147</sup> Others see it differently. Fletcher believes that citizen's demands are more likely to be addressed by the combined operations of several governments than through the limited efforts of one central authority.<sup>148</sup> Lipson argues that state governments, in being partly independent of the centre, can provide

<sup>143</sup> H. Emy & O. Hughes, *Australian Politics: Realities in Conflict*, Second edition, Macmillan, Melbourne, 1991, p. 305.

<sup>144</sup> Magallanes, 'International Human Rights, 1991.

<sup>145</sup> Wilenski, cited in Emy & Hughes, *Australian Politics*, 1991, p. 309.

<sup>146</sup> G. Maddox, *Australian Democracy in Theory and Practice*, Longman Cheshire, Melbourne, 2nd edition, 1991, pp. 131-133.

<sup>147</sup> Emy & Hughes, *Australian Politics*, 1991, p. 308.

a focus of resistance if tyranny should ever be established there, the assumption being that 'Leviathan's grip is weaker when its skeleton is loosely jointed'.<sup>149</sup>

The success of the 1967 Referendum, discussed in Chapter 3, which reversed exclusionary clauses of the Australian constitution in relation to Aborigines, was partly triggered by a questioning of the desirability of different approaches in different jurisdictions.<sup>150</sup> The constitutional change has not resulted in a plethora of Commonwealth legislation, and there has been considerable resistance to the type of legislative change for which SNAICC has advocated. Haebich contends that a serious barrier is that Aboriginal child welfare had always been a state matter, with states unwilling to relinquish control for reasons of the lure of ongoing Federal grants, the economic self-interest of departments and continuing adherence to processes of social order where state instrumentalities endeavoured to control Aboriginal families through their children.<sup>151</sup> The Commonwealth's problem in asserting its power has in fact not been a constitutional one, but a political and administrative one, when the Commonwealth has had to rely on the states for the delivery of services.<sup>152</sup>

Pre-1967, the Commonwealth Government actively encouraged states to take greater responsibility for the provision of a wider range of services to Aboriginal and others Australians. However, what gradually emerged was confrontation between the various levels of Australian Government over respective responsibilities, changing the face of Aboriginal affairs.<sup>153</sup> The process of constitutional reform heightened public awareness of Aboriginal policy. In the wake of the 1967 Referendum, new Aboriginal administrative structures were established by Prime Minister Harold Holt. Soon after, the Commonwealth reversed a previously held position, revising its opposition to special-purpose grants to the states for Aboriginal welfare. These grants nonetheless devolved much authority to the state welfare authorities who could use them as they wished, with

<sup>148</sup> C. Fletcher, *Responsible government: Duplication and overlap in the Australian federal system*, Discussion Paper, Federalism Research Centre, No. 3, August, 1991, p. 1.

<sup>149</sup> L. Lipson, *The Great Issues of Politics: An introduction to political science*, Ninth edition, Prentice Hall, Englewood Cliffs, 1993, p. 287.

<sup>150</sup> Sanders, 'Aboriginal Affairs', 1991, pp. 272 & 273.

<sup>151</sup> Haebich, *Broken Circles*, 2000, pp. 608 & 609.

<sup>152</sup> Sanders, 'Aboriginal Affairs', 1991, p. 273.

<sup>153</sup> Sanders, 'Aboriginal Affairs', 1991, p. 257.

some conditions attached.<sup>154</sup> The election of the Whitlam Government in 1972 heralded a policy plank of Aboriginal self-determination and a new era of the Commonwealth assuming greater control over Aboriginal affairs, including the establishment of the Department of Aboriginal Affairs (DAA). However, the policy directions still retained devolved functional responsibility to the states, with special purpose grants to enable them to cater better for Aborigines.<sup>155</sup> All states except Queensland agreed to transfer their former Aboriginal welfare authority personnel to the DAA. Queensland remained a bastion of resistance to the Commonwealth's wish to establish dominance in Aboriginal affairs,<sup>156</sup> an area of pressure by SNAICC, documented in this thesis. For the remainder of the twentieth century Aboriginal affairs contrived to be administered by state departments within a welfarist mode, a mode likely to be challenged at the federal level where national political issues, including land rights, make bureaucrats question the basic assumptions more readily than their state equivalents.

In order to progress the debate, this section provides: a) some specific examples of problems of attempts towards Commonwealth dominance in Indigenous matters; b) an analysis of the difficulties of the implementation of the US *Indian Child Welfare Act* of 1978, upon which SNAICC's quest for national legislation is built; c) an examination of newly emerging trends towards a national standards approach.

### **Best and worst practice**

There are a number of illustrations of the vexed relationship between the Commonwealth and the states. Richard Chisholm (interview 23 Oct. 1997), raises the question of 'what if the states do better'?

In the field of Aboriginal child welfare some states introduced legislation considered progressive for its time. For example, Victoria's adoption legislation was applauded for endeavours to challenge the practices of adoption of Indigenous children by non-Indigenous families. In 1984 the *Adoption Act* in Victoria specified that the court must not make an order for the adoption of an Aboriginal child unless satisfied that the parent had received counselling from an Aboriginal agency. Other

<sup>154</sup> Sanders, 'Aboriginal Affairs', 1991, p. 261.

<sup>155</sup> Sanders, 'Aboriginal Affairs', 1991, p. 262.

<sup>156</sup> Sanders, 'Aboriginal Affairs', 1991, p. 263.

provisions of the legislation were consistent with the tenor of the Aboriginal Child Placement Principle. The legislation aimed to safeguard the rights of Aboriginal children to their origins and to provide conditions of access by extended family members to the adopted child.<sup>157</sup>

The shaky path of national land rights agenda of the Hawke Government is an example of the tensions arising where the states/territories had better provision than the Commonwealth proposed. The Hawke Government came to power in 1983 with a strong assertion of Commonwealth dominance in Aboriginal Affairs.<sup>158</sup> The 1976 Northern Territory *Aboriginal Land Rights Act*, passed by the previous Fraser Federal Coalition government, had granted large areas in that Territory to Aboriginal ownership,<sup>159</sup> and included a right of Aboriginal veto on exploration and mining. The land councils were determined that this provision would not be watered down by Commonwealth legislation.<sup>160</sup> Their fear was realised. When the Commonwealth Preferred Model was presented to the Federal Cabinet in February 1985 it fell short of expectations, and the abandonment of the veto was at the forefront of the criticism from Aboriginal groups. This meant that Aboriginal title holders who refused to consent to a miner's proposals would have to submit to a Tribunal's arbitration, amounting to a loss of rights among Northern Territory Aborigines. According to Goot and Rowse, the divisions among Aboriginal groups to a 'watered down' version of the proposed veto were seen by the Government 'as reflecting the essential inability of the Aboriginal community to agree about anything', although as their researching argued, the divisions were created by the model itself.<sup>161</sup> Aboriginal opposition to the bill was the reason given for a deferral of the legislation by Aboriginal Affairs Minister Clyde Holding. By October 1985 it was clear that national uniform land rights was off the political agenda.<sup>162</sup>

There are examples of the Federal Government's difficulty in over-riding the states. One notable episode was the Whitlam Government's

<sup>157</sup> Freedman, *The Pursuit of Aboriginal Control*, 1989, p. 183-184.

<sup>158</sup> Sanders, 'Aboriginal Affairs', 1991, p. 268.

<sup>159</sup> O. E. Hughes, *Australian Politics*, Third edition, Macmillan Education, Melbourne, 1998, p. 214.

<sup>160</sup> Read, *Charles Perkins*, 2001, p. 294.

<sup>161</sup> M. Goot & T. Rowse, *Make a Better Offer: The Politics of Mabo*, Pluto Press, 1994, p. 2.

<sup>162</sup> Read, *Charles Perkins*, 2001, p. 299.

endeavour to invoke its international treaty obligations under the 1965 International Convention on the Elimination of Racial Discrimination, in order to confront the Queensland Government. The aim was to get the Queensland Government to amend the discriminatory provisions of its *Aborigines and Torres Strait Islander Affairs Act* which prevented the Commonwealth from ratifying the international Convention. Ultimately the Commonwealth enacted its own overriding legislation - the *Aboriginal and Torres Strait Islanders (Queensland Discriminatory Laws) Act and the Racial Discrimination Act* of 1975. However, the legislation had little practical effect, with the Queensland Department of Aboriginal and Islander Affairs' entrenched control, particularly over reserve-dwelling Aborigines within the state, little changed.<sup>163</sup> Queensland's dogged refusal to change was in part because of bureaucratic resistance, evidenced by the 'deadening effect of "recycled" staff steeped in old ways of working, who held key positions in policy and management'.<sup>164</sup>

#### National child welfare: Lessons from America

In pursuing national legislation, SNAICC was inspired by the provisions of the Federal *Indian Child Welfare Act* (ICWA) of 1978 in the United States. The legislation returns the right of jurisdiction of Indian children to their communities, and specifies requirements of state agencies in their dealings with Indian children. The Act aims to protect the integrity of Indian families, by eliminating abusive child welfare practices which result in unwarranted parent-child separations. Additionally, the Act provides Indian communities with comprehensive child welfare and family service programs,<sup>165</sup> and regulates placement proceedings involving Indian children who are a member of a tribe or eligible for membership in a tribe. The rights of protection under the ICWA include child protection, guardianships, adoptions, and voluntary placements.<sup>166</sup>

Congress enacted ICWA to stop the unwarranted removal of Indian children from their homes, and to preserve the child-rearing rights and cultural traditions of tribes and their extended family networks. This is

<sup>163</sup> Sanders, 'Aboriginal Affairs', 1991, p. 264.

<sup>164</sup> Haebich, *Broken Circles*, 2000, p. 572.

<sup>165</sup> *Indian Family Defense*, 1979, p. 1.

<sup>166</sup> Pine Tree Legal Assistance, 'Indian Child Welfare Update', *Wabanaki Legal News*, Fall 1996, p. 1.

not unlike the rationale for the introduction of the Aboriginal Child Placement Principle in Australia, which was first codified in Department of Aboriginal Affairs guidelines in 1980.<sup>167</sup> As with Indigenous Australians, for native Americans the fate of their continued existence as discrete cultures is seen as inextricably intertwined with the future of their children and the viability of their extended family, clan and tribal networks.<sup>168</sup> Although the United States Supreme Court stated that achieving a consistent application of the law nation wide was the intent of Congress when it enacted the ICWA,<sup>169</sup> this objective has been described as 'illusory' and the goal of uniformity a 'farce', with many state courts creating exceptions to the application of the ICWA and interpreting the statute in such a manner as to render many of its provisions superfluous.<sup>170</sup>

Eight years after its introduction, in 1986, Native American Terry Cross, warned, during a visit to Australia, that the legislation did not have any 'teeth', thus rendering it unenforceable. In addition, financial resources for implementation were insufficient, the language of the legislation vague, and the definition of Indian resulting in eligibility problems and the potential of narrow interpretation by State courts.<sup>171</sup> SNAICC did not heed the warning. One more decade since the introduction of the Act, the criticisms are pervasive. There remains widespread separation of Indian children, with one-third of Indian children still being placed outside their natural tribal and family environments, primarily in non-Indian foster care and out-of-culture adoptions. Reasons given include the fact that policy makers and practitioners have concentrated on protecting children and native culture, and only minimally dealing with the preservation of families, and case worker bias where the Act is simply not recognised. Bias of judges is also cited as a contributing factor. Even more serious have been challenges mounted against the legislation itself. For example, in 1996 a proposal was introduced into

<sup>167</sup> Details of the Principle are in Chapter 7.

<sup>168</sup> B.J. Jones & J. Richardson, *The Indian Child Welfare Act: A cultural and legal education program*, Model Guide 4, National Center for State Courts, 1997.

<sup>169</sup> B. J. Jones, 'The Indian Child Welfare Act: In search of a Federal forum to vindicate the rights of Indian tribes and children against the vagaries of state courts', *North Dakota Law Review*, Vol. 73, No. 3, 1997, p. 396.

<sup>170</sup> Jones, 'The Indian Child Welfare Act', 1997, p. 396.

<sup>171</sup> Cited in Freedman, *Aboriginal Child Welfare*, 1989.

the House of Representatives to amend the Act to make it easier for non-Indians to adopt Indian children without tribal consent.<sup>172</sup>

Recent analyses suggest that problems remain in both Federal and state jurisdictions. The Act continues to be misunderstood and compliance is haphazard.<sup>173</sup> Inadequate Federal commitment to Indian children and continued state resistance to the ICWA have limited the impact of the Act. Many tribes and legal service advocates have discovered judicially created exceptions to the Act. Failure to follow its mandates is all too common.<sup>174</sup> Jones considers that there is no more pernicious development in the application of the Act than the continuing expansion of 'existing Indian family exception'. This was introduced to cover situations where an Indian parent places her child with a non-Indian parent.<sup>175</sup>

Lack of knowledge and training of those responsible for implementing the legislation is a problem. Most law schools in the United States fail to include even an introduction to the Act in their family law courses. This means that few attorneys have even heard of the Act, let alone incorporate it in their practice.<sup>176</sup> State courts have continually disagreed about the Act's requirements and when it should be applied.<sup>177</sup> Numerous state decisions interpreting ICWA have resulted in confusion and inconsistency in its application.<sup>178</sup>

Nationwide responses to the Act have been mixed. Some states with highly populated reservations, such as Arizona and New Mexico, appear to have excellent records of compliance with provisions of the ICWA. Other states, particularly those with high urban Indian populations, experience difficulties with implementation. As a result of this mixed response at state levels, more Indian children are placed outside Indian

<sup>172</sup> R. Thoma, *Under Siege: The Indian Child Welfare Act of 1978*, 1997, <http://home.rica.net/rthoma/icwa.htm>

<sup>173</sup> L. J. George, 'Why the Need for the Indian Child Welfare Act?', *Journal of Multicultural Social Work*, Vol. 5, No. 3-4, 1997, p. 165.

<sup>174</sup> R. McCarthy, 'The Indian Child Welfare Act: In the best interests of the child and tribe', *Clearinghouse Review*, December, 1993.

<sup>175</sup> Jones, 'The Indian Child Welfare Act', 1997, p. 400.

<sup>176</sup> L. Klaila, 'Introduction to the Indian Child Welfare Act', *Maine Bar Journal*, Vol 9, No. 6.

<sup>177</sup> C. Meuter, 'Hard Cases Making Bad Law: The need for revision of the Indian Child Welfare Act', *Santa Clara Law Review*, 1998.

<sup>178</sup> D. DuMontier-Pierre, 'The Indian Child Welfare Act of 1978: A Montana analysis', *Montana Law Review*, Vol. 56, No. 2.



families today than during the years preceding passage of the ICWA.<sup>179</sup> A specific problem with the ICWA is that its provisions direct that preferences of placement are to be followed in the absence of good causes to the contrary, but it does not include a corresponding definition of what constitutes good cause. The result under this vague standard has been a lack of uniformity in state court treatment of the 'good cause' determination.<sup>180</sup>

An inherent tension is the divergence between Anglo and indigenous philosophies concerning individual and collective rights in matters of concern to children and families, an issue explored in Chapter 3 of this thesis. The former gives priority to the rights of the individual, while Indian cultures focus on the collective rights of the community.<sup>181</sup> Despite the uniqueness of the Act in balancing individual and collective rights, the legislation has not lived up to its intended goals.<sup>182</sup>

As in Australia, there is a belief in the United States by many native peoples and their supporters that the American Federal Government has a 'moral imperative' to extricate indigenous concerns from the vagaries of state judicial power. This is not just for reasons of uniformity, but to compensate for the role the Federal Government played in the forced removal of Indian children.<sup>183</sup>

The problems identified in the United States context are likely to be replicated in Australia where policy and practice endeavours have resulted in inconsistencies, lack of awareness and disinterest. These have been highlighted throughout the thesis and include questions of ad hoc responses in many jurisdictions, lack of awareness by professional groups, the question of individual as opposed to collective rights, problems associated with vague provisions and insufficient resources. Would the introduction of Federal legislation in Australia result in the introduction of another complex layer of administration, with the added complication of legal contests? If the American experience is to be taken

<sup>179</sup> T. Johnson, 'The Indian Child Welfare Act: Indian homes for Indian children (The next ten years)', *Conference proceedings of The Regents of the University of California*, 1991.

<sup>180</sup> D. Stiffarm, 'The Indian Child Welfare Act: Guiding the determination of good cause to depart from the statutory placement preferences', *Washington Law Review*, Volume 70, No. 4.

<sup>181</sup> D. Goldsmith, 'Individual vs. Collective Rights: The Indian Child Welfare Act', *Harvard Women's Law Journal*, Vol. 13, Spring, 1990, p. 1.

<sup>182</sup> B. Gallagher, 'Indian Child Welfare Act of 1978: The Congressional foray into the adoption process', *Northern Illinois University Law Review*, Vol. 15, No. 1.

into account, there have been many instances where the law has been challenged.

The question of 'exception' as a component of the ICWA is a critical one. In his interview (23 October, 1997), Richard Chisholm poses the question as to whether Aboriginal children should never be removed from their families, 'or are we saying that decisions about Aboriginal children should only be made by Aboriginal organisations?' Although SNAICC is clearly arguing for fostering and adoption to be the 'sole prerogative' of Aboriginal communities,<sup>183</sup> this does not always occur in practice. However, because of legislation in some jurisdictions and the consultations and proactive endeavours of the AICCAs, adoptions of Aboriginal children outside the Aboriginal community are now rare. In many jurisdictions the AICCAs have a great say in the placement of Indigenous children, and, in some instances, support out-of-home placements in non-Indigenous settings when circumstances warrant this. Although 'vagueness' can present problems, it can also engender flexibility and responsiveness on a case by case basis, rather than the court-driven approach arising from the US legislation. Convincing arguments would need to be presented that Federal legislation would enhance outcomes for Indigenous children. The question of 'exception' in the US legislation could present difficulties if applied in Australia, resulting in combative legal proceedings which may not be in the interests of the child and other parties involved. And what of situations where there is a shortage of Indigenous foster parents or extended family members able to take on children as is the case in some communities? This has been a problem in the United States where 'the dire shortage of licensed Native American foster families located either on reservations or in urban areas' exists,<sup>185</sup> and is also the case in Australia.<sup>186</sup>

There are of course legal and constitutional impediments. Chisholm's comments are illuminating in identifying that one of the reasons why national legislation has not been introduced in Australia, is that it would mean the Federal authorities making laws that control the way state

<sup>183</sup> Jones, 'Indian Child Welfare Act', 1997, p. 399.

<sup>184</sup> N. D'Souza & M. Cadd, *The future for Aboriginal children in foster care: Indigenous cultural care or back door assimilation?*, Paper presented at International Foster Care Organisation Conference, IFCO, Melbourne, July, 1999.

<sup>185</sup> Myers, Gardner & Geary, 'Adoption of Native American Children and the Indian Child Welfare Act', *State Court Journal*, Summer, 1994, p. 25.

<sup>186</sup> J. Pocock, personal communication, 31 July, 2001.

public services ran the child welfare system (interview 23 Oct. 97). An area under current investigation, with somewhat parallel debates, is the operation of the *Family Law Act* of 1975 in relation to, and in its interaction with, the diversity of child and family legislation existing in the states and territories. One of the problems under investigation is that the Federal legislation prevents state and territory child protection laws from becoming operative if inconsistent with the Federal Act. The question of Federal dominance has arisen, with a suggestion that a national court be established with power to deal with all care and protection matters, adoption, juvenile crime and civil and criminal cases where children are victims. The creation of a unified Family Court would require constitutional amendment or a referral of powers by the States to the Commonwealth, in relation to child care and protection.<sup>187</sup> Neither option appears to have much chance of success, with the bleak history of success of referenda in Australia, and the potential lack of political support from all jurisdictions for a legislative transfer of powers. This is not surprising when one looks at the administrative systems set up in the states and territories to administer child welfare and child protections systems, including government departments and specialist support services contracted by the states to the non-government service sector. This combines with Commonwealth resistance to expand its role, and the entrenched reluctance of the states to relinquish authority.

The timing of the introduction of legislation is an important consideration. The American Act, introduced following hearings conducted in 1974, revealed patterns of discrimination against American Indians in child welfare and child custody cases. Testimony revealed that for decades state officials had removed large numbers of Indian children from their homes and reservations, and placed them in non-Indian homes. Informants also revealed that officials showed little deference to, or understanding of, Indian cultural norms.<sup>188</sup> The policy of cultural displacement which the ICWA attempts to redress by reforming the state judicial process, was the aftermath of a Federal policy of assimilation which states and agencies perpetuated.<sup>189</sup> In the 1970s

<sup>187</sup> Family Law Council, *The Best Interests of the Child? The Interaction of Public and Private Law in Australia*, Discussion paper No. 2, October, 2000.

<sup>188</sup> Myers, Gardner & Geary, 'Adoption of Native Indian Children', 1924, p. 17.

<sup>189</sup> Jones, 'Indian Child Welfare Act', 1997, p. 399.

similar scenarios were evident in Australia, with an assimilation discourse even more overt. In the last twenty years and more, there have been significant changes throughout Australia, with the establishment of the AICCA's, attention to the Aboriginal Child Placement Principle (despite its limitations) and increased awareness of the harm of removing children from their cultural heritage. The demise of the Bjelke-Petersen Queensland Government (1968-1987) reduced the main site of SNAICC's activism against a particular jurisdiction.

Notwithstanding the improvements, the situation in Australia remains problematic, and the continuing over-representation of Indigenous children in the child welfare and juvenile justice systems is analysed in Chapter 9. Interview participant, Jenny Munro, reported that Aboriginal children in New South Wales were still placed with white families (interview 25 Oct. 97), and this was confirmed by the New South Wales Law Reform Commission in 1997.<sup>190</sup> Statistics released by the Australian Institute of Health and Welfare for 1997-1998, expose jurisdictions where the number of Indigenous children placed with a non-Indigenous caregiver is high. For example, in Western Australia 12% of Indigenous children in out-of-home care reside with a non-relative non-Indigenous caregiver. In Queensland the percentage is 23 and in South Australia 31.<sup>191</sup> On National Aboriginal and Islander Children's Day in August 2001, both Brian Butler (ATSIC Social Justice Commissioner) and Muriel Cadd (SNAICC Chairperson) called for priority to be given to reducing the numbers of children still being removed from their homes and placed in non-Indigenous care.<sup>192</sup> Like Australia, most of the removals in America which made the introduction of the Act more urgent were removals on the grounds of 'neglect', based on standards inconsistent with Indian cultural values and social norms. The role of the extended family in child rearing and child care was similarly misunderstood.<sup>193</sup>

Following the demise of the Bjelke-Petersen Government in Queensland in 1987, ongoing problems with the implementation of the Aboriginal Child Placement Principle and mandatory imprisonment laws of Western

<sup>190</sup> NSW Law Reform Commission, *Aboriginal Child Placement Principle*, 1997, p. 99.

<sup>191</sup> Australian Institute of Health and Welfare, *Child protection Australia 1997-98*.

<sup>192</sup> ATSIC, 'Ten steps to a better future for Indigenous children - Challenging political leaders to act', Media release, 2 August, 2001.

<sup>193</sup> Myers, Gardner & Geary, 'Adoption of Native Indian Children', 1994, pp. 17-18.

Australia and the Northern Territory have spurred on SNAICCs quest for a national response. The current Co-ordinator of SNAICC, Julian Pocock, concedes that throughout the ten years of advocating for a federal approach, there has been no clear documented sense of what this means.<sup>194</sup> Yet in the United States, the difficulties have not prevented some commentators from stressing the importance of retaining the legislation. According to Monsivais, although the Act may not be perfect, it does provide a much-needed legal basis for trying to preserve the culture of Indigenous peoples.<sup>195</sup>

### National standards

There is some evidence that, in recent years, SNAICC has been less certain about advocating for national legislation based on the American model. One of the influences on this shift is the HREOC Stolen Generations report which in Chapter 26 talked of national minimum standards. HREOC recommends negotiations for nationally binding minimum standards of treatment for Indigenous children and young people. According to HREOC, the negotiation parties should include the Commonwealth, the state and territory governments, peak Indigenous organisations with responsibility for families and children, ATSIC, SNAICC, NAILS and the Aboriginal and Islander Social Justice Commissioner. In advocating its approach, HREOC refers to Australia's obligations under international conventions, including the *Convention on the Rights of the Child*, the quest for Indigenous self-determination and the failure of welfare departments in all jurisdiction in respect of Indigenous children. It sees Commonwealth responsibility for Indigenous rights flowing from Australia's adoption of international human rights treaties. The intention of the standards is to address the rights and needs of Indigenous children, prevent unjustified removals and provide an open framework in which Indigenous control over child welfare and juvenile justice can develop. The minimum standards would establish a benchmark from which particular systems can develop which suit the requirements of Indigenous children and communities in different areas.<sup>196</sup> National standards legislation may go some way to address the question posed by Chisholm as to 'what if the states do

<sup>194</sup> J. Pocock, Personal communication, 7 August, 2001.

<sup>195</sup> J. Monsivais, 'A Glimmer of Hope: A proposal to keep the Indian Child Welfare Act of 1978 intact', *American Indian Law Review*, Vol. 22, No. 1, 1998, p. 35.

better' as it is about establishing minimum benchmarks, as opposed to a uniform prescription.

Canada has an interesting mix, with the Canadian constitution establishing family and child welfare as a provincial jurisdiction, but responsibility for First Nations people remaining Federal. As Federal law and obligations take precedence over provincial ones, the Federal Government has the primary responsibility for establishing family and child welfare policy and programs for 'Status Indians'. Yet, as explained by Armitage, until the 1960s Federal authority was directly exercised, but since this time the responsibility for family and child welfare policy for status Indians has been delegated to the provinces. Despite this delegation, the consistency of the Department of Indian Affairs and Northern Development (DIAND) has resulted in similar developments in Indian child and family services throughout Canada, with the differences related to differences in Indian people's culture and history, and differences in provincial child welfare policies.<sup>197</sup> In Canada, the push to dismantle DIAND and repeal the Indian Act (first enacted in 1876), has met with resistance as Indians generally did not trust the provinces. Described as a paradox of Indian reform, even the harshest critics of the Act, who decry its paternalistic and constraining provisions, are reluctant to see it repealed or amended. However, in Canada the Federal department has shrunk considerably in size although the budget for Indian affairs increased.<sup>198</sup> The benefits and constraints of the Canadian approach would be worth exploring in more detail by SNAICC and other stakeholders when formulating a national standards approach.

Julian Pocock believes that 'the mantra of national legislation may disappear with more recent endeavours by SNAICC to push for national standards in line with the HREOC recommendations'.<sup>199</sup> In practice, this may be a more effective way of dealing with Commonwealth and state resistance to national legislation on the lines of the American Act. The ATSIC Draft Family Policy's section on 'Strategy for Children' refers to

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<sup>196</sup> HREOC, *Bringing Them Home*, 1997, pp. 581-597.

<sup>197</sup> A. Armitage, 'In the first nation communities', in ed. B. Wharf, *Rethinking Child Welfare in Canada*, McClelland & Stewart, Toronto, 1993, pp. 131-132.

<sup>198</sup> H. Foster, 'Indian Administration from the Royal Proclamation of 1763 to Constitutionally Entrenched Aboriginal Land Rights', in ed. P. Havemann, *Indigenous Peoples' Rights*, 1999, pp. 365-366.

<sup>199</sup> J. Pocock, personal communication, 31 July, 2001.

the development of minimum national standards.<sup>200</sup> This is listed as a priority area in the ATSIC draft policy, which has been developed with the impetus and input from SNAICC, and which was endorsed by the ATSIC Board in August 2001. This is the first time that the topic has received serious attention since the recommendations of the HREOC report of 1997. The ATSIC Bringing Them Home Task Force, which was given the responsibility to progress the HREOC recommendations, suffered from serious resource limitations.<sup>201</sup> It needs to be ensured that the current proposals do not meet a similar fate.

In appraising SNAICC's pursuit of national legislation, Nigel D'Souza now sees it as something of an 'ambit claim' which the AICCAs were able to use when negotiating with their respective state and territory governments. He suggests that there were times in SNAICC meetings that the issue was raised as 'a mere formality'. He has little doubt that many state governments 'were racist and anti-Aboriginal' which made the ongoing pursuit of national legislation a useful strategy. D'Souza comments that unlike the pursuit of national lands rights, no document on national legislation was drafted so the quest was not put to the test. For the AICCAs there were some which, as time went on, had less interest in national legislation, as they began developing improved relationships with their state/territory governments. Despite these relationships, the problem still remained of the number of Indigenous children in the child welfare and juvenile justice systems, resulting in national legislation being continually advocated as a hope for reversing the trends. HREOC picked up this issue in its Inquiry.<sup>202</sup> Yet as Nigel D'Souza aptly points out, national legislation would not have been a panacea. Although such legislation might have reduced inequities across Australia, it would not have overcome institutional racism.<sup>203</sup>

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<sup>200</sup> ATSIC, *Draft Family Policy*, 2001, p. 17.

<sup>201</sup> J. Pocock, personal communication, 14 August, 2001.

<sup>202</sup> N. D'Souza, personal communication, 9 August, 2001.

<sup>203</sup> N. D'Souza, personal communication, 9 August, 2001.

As SNAICC moves towards its 20th anniversary celebrations in 2002, opportunities are presented for an interrogation of past endeavours and engagement with future prospects. In recent years SNAICC has been confronted with new and complex challenges, some stemming from the release of the *Bringing Them Home* report and increased awareness in the wider community of Indigenous child welfare issues. There still remains an afterglow of the support for reconciliation which can be harnessed to create a greater degree of understanding and perhaps even bi-partisan political support. At the same time, the Indigenous lobby is having to confront the counter-forces of emerging right-wing movements, mainstreaming policies and an intransigent Federal Government. If there is a change in the Federal Government in the near future, there will at least be a formal government apology. But whether entrenched government bureaucracies would contemplate devolving more real power to Indigenous groups remains to be seen.

SNAICC is entering a new three year strategic planning phase. Although this is a dictate from the Federal Department of Family and Community Services, it can provide an opportunity for reconsideration of its positioning in advocacy and policy endeavours. Alongside this, a much overdue reappraisal of SNAICC's Statement of Purposes (1986) by member organisations is warranted. This would ignite a debate by the collective on issues and tactics on which to lead the Indigenous welfare lobby for the next decade and beyond.

In recent times SNAICC has moved forward in its strategising and agenda-setting, including proposals to enhance partnerships with ATSIC, a move towards embracing a changed position on national uniformity and more proactive engagement in collaborative endeavours with non-Indigenous bodies. This chapter identified some areas where SNAICC has been more hesitant, including the failure to employ tactics to influence the bureaucracy, the failure to explore alliances with professional groups (which retain a strong influence on child welfare practice) and the tendency to avoid complex problems which besiege Indigenous communities.

I conclude on a note of optimism. SNAICC has many successes about which its members and interview participants in this study are justly proud, including its role in the Stolen Generations Inquiry, the continuing acclaim of National Aboriginal and Torres Strait Islander Children's Day



and the release of significant publications. However its primary goal, to keep Indigenous children outside the formal child welfare and juvenile system, has not been realised. Referring to the range of problems confronting Indigenous communities in the health and welfare field, Marjorie Thorpe asserts that there still exists a catastrophe in communities.<sup>204</sup> SNAICC cannot rest on the laurels of its past endeavours and methods. It needs to respond to external changes, while maintaining the moral imperative which forms the basis of its mission. A mixture of pragmatic, targeted realism and more caution in confrontational advocacy is one way for SNAICC to proceed.

Interview participant Marjorie Thorpe suggests that you need to agree on what you can, and leave the rest for another day. She argues that there are some things that will not happen at present, including an apology from the Prime Minister, the introduction of Aboriginal customary law and policies of self-determination. The unfinished business should be relegated for now to the 'too hard basket'.<sup>205</sup>

To maintain its momentum and credibility, SNAICC's activities cannot be independent of the broader Indigenous struggle for rights. In Chapter 3, I argue for a dual approach to citizenship constructed along legal equality, and a tier of citizenship which recognises 'difference' and the special place of Indigenous people as the custodians and occupiers of the land. As with other cultural groupings, maintaining difference while participating in the nation as full citizens, remains a core political objective. A full reassessment of the balance between rights and justice, and policy and practice, in the light of suggestions in this chapter, is one way forward.

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<sup>204</sup> M. Thorpe, 'Reconciliation', 2001.

<sup>205</sup> M. Thorpe, 'Reconciliation', 2001.

## GLOSSARY OF INTERVIEW PARTICIPANTS

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### **Joe Agius**

Joe Agius worked as a Project Officer with the Special Services Branch of the Office of Child Care in the 1980s. As the only Aboriginal person working with the OCC, he had considerable contact with state government departments and with the emerging Aboriginal child care agencies. The interview took place on 21 October 1997 in Port Victoria (South Australia) where he now resides.

### **Margaret Ahkee**

Margaret Ahkee works for Yuddika, the Aboriginal and Islander child care organisation based in Cairns. She is a long-standing member of the SNAICC Executive. The interview took place in Cairns on 2 February 1998.

### **Graham Atkinson**

Graham Atkinson was appointed Senior Social Worker with the Victorian ACCA in 1976. He remained there until 1981 when he took up the position of Regional Director with the Aboriginal Development Commission for the Victoria-Tasmania Region. The interview took place in Melbourne on 16 October 1997.

### **Eileen Baker**

Eileen Baker has been a long-standing Commonwealth Public Servant. She commenced working in the Office of Child Care in the mid-1980s as a Project Officer in the Special Branch, and attended a number of SNAICC meetings in that capacity. The interview took place in Canberra on 23 September 1997.

### **Norm Brown**

Norm Brown has had a long involvement in Aboriginal affairs, including in the spheres of health, legal services, housing and education. His nine year involvement in child welfare commenced as a committee member of the Brisbane AICCA. At the time of his interview he held the position of Executive Officer with that organisation. Norm has represented Queensland on the SNAICC Executive on a regular basis. The interview took place in Brisbane on 6 February 1998.

**Brian Butler**

Brian Butler is a descendant of the Aranda tribe of Central Australia. He has spent the past thirty years working for the advancement of Aboriginal and Torres Strait Islander children in Australia. Until 1997 Brian held the position of Director of the South Australian Aboriginal Child Care Agency. In that year he stood down as Chairperson of SNAICC, a position he had held for almost thirteen years. Brian has also held positions on a number of national bodies and has represented SNAICC at national and international conferences. In 1999 Brian was elected as South Australian Commissioner for ATSIC. The interview took place in Melbourne on 1 July 1997.

**Richard Chisholm**

Richard Chisholm's involvement in Aboriginal issues began in 1970 when he was employed in an academic position with the Faculty of Law at the University of New South Wales. Together with Hal Wooton, Paul Coe and others he contributed to the formation of the first Aboriginal Legal Service in Australia. As an academic he had considerable contact with Aboriginal organisations and was engaged in field work with Aboriginal people. His main role with SNAICC was to advocate for national child welfare legislation. The interview took place in Sydney on 23 October 1997.

**Christine Choo**

Christine Choo first became exposed to Aboriginal issues when she studied Anthropology at the University of Western Australia. After completing a degree in social work, she was instrumental in establishing the welfare section of the Aboriginal Medical Service in Perth. Christine is the author of the *Aboriginal Child Poverty* report, co-auspiced by SNAICC and the Brotherhood of St Laurence. The interview took place in Perth on 14 December 1997.

**Michelle Clarke**

Michelle Clarke has worked with juvenile offenders in the top end of the Northern Territory. This work triggered an interest in adolescent welfare issues and she undertook further study in South Australia during the 1980s, and gained knowledge of the South Australian Aboriginal Child Care Agency in Alice Springs. After returning to the Northern Territory she was appointed as Coordinator at the Central Australian Aboriginal

Child Care Agency. Michelle's involvement with SNAICC during that period included holding the position of National Secretary. The interview took place in Darwin on 17 November 1997.

### **Marie Coleman**

Marie Coleman was appointed as the Director of the Commonwealth Office of Child Care in 1976. Previously held positions included Director of the Victorian Council of Social Service and Chairperson of the Australian Government Social Welfare Commission.<sup>1</sup> Together with Senator Margaret Guilfoyle, Marie contributed to the establishment of a network of Aboriginal and Islander child care agencies throughout Australia. The interview took place in Canberra on 22 September 1997.

### **Doreen Coller**

Doreen Coller's involvement in Aboriginal child welfare issues stemmed from caring for children in her own extended family network. Her employment in a Homemaker position with the Child Welfare Department led to her interest in the Western Australian Aboriginal Child Care Agency. Doreen attended SNAICC meetings in the early days and was on the initial Steering Committee. She remains connected with the Western Australian agency. The interview took place in Perth on 16 December 1997.

### **Vicki Cooney**

Originally from Toowoomba in Queensland, Vicki Cooney was the first Chairperson of Yuddika in Cairns, and is now an employee of that organisation. She regularly attends SNAICC meetings. The interview took place in Cairns on 2 February 1998.

### **Barbara Cummings**

Barbara Cummings was born in Darwin and is a member of the 'stolen generations', having been institutionalised in the Retta Dixon Home. She is the author of *Take This Child* which exposes the removal of Aboriginal children in the Northern Territory. A graduate in both social work and community development, Barbara has worked in a variety of positions including with the Department of Aboriginal Affairs and the Northern Territory Government, as well as being involved in a voluntary capacity with other organisations. She played a pivotal role in the establishment of

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<sup>1</sup> A. Lofthouse, *Who's Who of Australian Women*, Methuen Australia, Sydney, 1982.

Karu, the Aboriginal and Islander Child Care Agency in Darwin. In 1991, Barbara received the Aboriginal of the Year award.<sup>2</sup> The interview took place in Melbourne on 26 September 1997.

### **Nigel D'Souza**

In 1984 Nigel D'Souza completed a twelve month appointment at the Pintupi Homelands Health Service in remote Central Australia. He was recommended to Marjorie Thorpe, the National Coordinator of SNAICC at that time, for the position of a research worker. He returned to Melbourne for this position with the newly established Organisation which was then based at the Aboriginal Child care Agency. Nigel subsequently became Executive Officer of SNAICC, a position he held until 1999. The interview took place in Melbourne on 7 August 1997.

### **Mollie Dyer**

Mollie Dyer was instrumental in establishing the Aboriginal child care agency in Victoria, now known as VACCA. Mollie was given encouragement in her quest from Native Americans who visited Australia. Mollie visited native American organisations and was inspired by their vision. Not only was Mollie the first Program Director of the Victorian agency, but she took on the direct care of many foster children from the Aboriginal community. Mollie was involved with SNAICC in its establishment stages. She also worked for the Aborigines Advancement League in Victoria and was on their Board of Management. Mollie's vision was inspirational in the establishment of Aboriginal child care agencies throughout Australia. Mollie died in 1998 after a long illness. She wrote an autobiography which is not yet published. The premises of the Victorian Aboriginal Child Care Agency have been named Mollie Dyer House in her honour. The interview took place at the Aboriginal Community Elders Services in Melbourne, where she was a resident, on 15 August, 1997.

### **Kathy Fisher**

Kathy Fisher's involvement in Aboriginal child welfare commenced after a personal encounter with a young relative who was involved with the juvenile justice system. Concerns about children within that system led to her seeking and gaining employment at the Brisbane AICCA where she was employed as a Family Youth Welfare Counsellor. She stayed with

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<sup>2</sup> R. Sykes, *Murrawina: Australian Women of High Achievement*, Doubleday, Sydney, 1994.

the organisation for six years and started an unofficial Link-Up service. She joined the SNAICC committee at the invitation of Mary Graham. Since leaving the Aboriginal child welfare field, Kathy has pursued a career in the performing arts with Aboriginal theatre groups. The interview took place in Murgon, Queensland on 5 February 1998.

#### **Mary Graham**

After completing University, Mary Graham relocated to Brisbane from the Gold Coast to gain more experience in the Aboriginal community. She commenced working with the AICCA as a Liaison Officer and later as Administrator. She subsequently worked in a variety of positions including as a cross-cultural trainer and as a Lecturer with the University of Queensland. She was involved with SNAICC in its establishment and early phase. The interview took place in Brisbane on 4 February 1998.

#### **Peter Haroa**

It was through the Indigenous Peoples Council (IPC) that Peter Haroa became involved with Aboriginal children in foster care. After finishing an apprenticeship in carpentry, Peter obtained a position with the Aboriginal Children's Services in Redfern and simultaneously studied for the Associate Diploma in Welfare. In 1987 Peter attended his first SNAICC Annual General Meeting and was voted onto the Executive as a New South Wales representative. He remained active until the early 1990s and, at the 1997 AGM in Townsville, he again became a State delegate and SNAICC Treasurer. Peter is still employed with the New South Wales agency. The interview took place in Melbourne on 30 October 1997.

#### **Christine King**

Initially working in a community welfare role with Barbara Cummings, Christine was invited by Barbara to become involved with the newly-developed Aboriginal child care agency in Darwin. She held the position of Coordinator of Karu for a time, and was a member of the SNAICC Executive. The interview took place in Darwin on 17 November 1997.

#### **Shireen Malamoo**

In the 1970s Shireen Malamoo was working at the Department of Social Security in Townsville. Her belief in a holistic approach to the problems facing the Aboriginal community led to her bringing the Townsville Aboriginal community together to discuss issues of concern. Her participation with SNAICC included membership of the Finance

Committee. Other Townsville involvements were with the Aboriginal legal and medical services. She was an ATSIC Commissioner from 1991 to 1993. The interview took place on 25 October 1997 in Sydney.

### **Sandy Miller**

Sandy Miller's interest in Aboriginal child welfare stemmed from the early 1980s when she was working for the Department of Community Welfare in Adelaide, endeavouring to change legislation and policies which were detrimental to Aboriginal children. Inspired by Brian Butler, Sandy participated in endeavours to convince Aboriginal people to become foster parents. The interview took place in Adelaide on 21 October 1997.

### **Caroline Munns**

Caroline Munns was involved with the establishment of the Mt Isa ACCA in Queensland. The establishment of that ACCA specifically stemmed from concerns about the removal of children from remote areas. Carolyn also personally cared for children from remote communities. She became a Queensland representative for SNAICC. Caroline remains a strong advocate for the Remote Aboriginal and Torres Strait Islander Child Care Program (RAATSICC) which takes care of the needs of Aboriginal and Islander children in remote communities. The interview took place in Cairns on 5 February 1998.

### **Jenny Munro**

Originally from Cowra, Jenny Munro's involvement with Aboriginal organisations stems from 1978 when she began working at the Aboriginal Children's Service as a trainee bookkeeper and then became Administrator by 1979/80. A long-standing activist, Jenny was involved in endeavours to get the New South Wales State welfare department to change its policies and practices. She was a participant with SNAICC in the early years of its establishment and one of the first Chairpersons. Jenny has since studied for a degree in Law. The interview took place in Sydney on 25 October 1997.

### **Jackie Oakley**

Originally working at the Aboriginal Legal Service in Perth, Jackie Oakley became concerned at the high rate of incarceration of Aboriginal children and the separation from families. Hearing directly from Mollic Dyer inspired Jackie and others to establish a similar service to the Victorian organisation in Perth in the late 1970s. Jackie was on the

Steering Committee and was employed as the first Coordinator of the West Australian ACCA. She was present at the initial SNAICC meeting and participated in drawing up the objectives of the Organisation. After leaving the ACCA, Jackie studied for a Bachelor of Arts at the Western Australian Institute of Technology and was subsequently employed by the State Government of Western Australia to implement the Aboriginal Child Placement Principle. The interview took place in Canberra on 23 September 1997.

#### **Mary-Ellen Passmore-Edwards**

Mary-Ellen Passmore-Edwards' activism in the field of Aboriginal child welfare emerged from a belief that 'if anything is going to change for Aboriginal society, it has got to happen with the children'. In Queensland Mary-Ellen worked with abused women entering shelters, providing counselling and support to them and their children. Returning to Perth, she began working with the Education Department until taking up a position with the Aboriginal child care agency, Yorganop. With SNAICC she held the position of Treasurer for some time and travelled to a number of meetings. She represented SNAICC at an Indigenous forum in Geneva in 1995. She is a strong advocate for addressing mental health issues confronting the stolen generations. The interview took place in Perth on 16 December 1997.

#### **Betty Pearce**

At the age of 15 Betty Pearce became Secretary of the first Aboriginal organisation established in Darwin. In 1962, she was active in the land rights movement, and later became the first Aboriginal person in the Australian Labor Party on the National Aboriginal Policy Committee. The late Vi Stanton inspired Betty to become involved in the establishment of an Aboriginal child care agency in Darwin and she participated in its early struggles. In 1982 Betty worked with the Central Aboriginal Congress in Alice Springs and became involved in the Central Australian endeavours to establish a child care agency, which, by 1985, had occurred. Betty participated in the establishment of SNAICC. She now works for Territory Health in Alcohol and other Drug Services. The interview took place in Darwin on 15 November 1997.



**Jenny Pryor**

Jenny Pryor is Chairperson of the ATSIC Townsville Regional Council. For eight years she held the position of Administrator of the Northern Queensland Aboriginal and Islander Child Care Agency. Previous employment was with the Aboriginal Legal Service and with a housing society. She has strong ties with the Palm Island community where her mother was born. It was when working on Palm Island in the 1970s where 'I got my urge or my call in the struggle...when I saw all the injustices that were happening...' She believes the years of involvement in Aboriginal child care welfare issues stemmed from her grandfather and the fights endured 'for the sake of being alive and being proud of our own Aboriginality'. Jenny and the Townsville AICCA have been associated with SNAICC since its inception and Jenny remains involved. The interview took place in Townsville on 27 June 1997, where Townsville was hosting the Second Aboriginal and Torres Strait Islander Child Survival Conference.

**Heather Shearer**

In 1978 Heather Shearer was employed as a secretary with the South Australian ACCA. Heather soon became a field worker with SAACCA and was active in the establishment of an Aboriginal foster care program. She remained with the ACCA until 1988, a period which spanned the formation of SNAICC. She attended many SNAICC conferences. In 1988 Heather obtained the position of Coordinator of the ACCA in Alice Springs and, during that period, held the position of SNAICC Secretary. In 1990 she attended the Working Group on Indigenous Populations in Geneva as a SNAICC representative, and she also attended Indigenous peoples conferences in Norway. An accomplished artist, Heather has designed posters for SNAICC's National Aboriginal and Islander Day. The interview took place in Adelaide on 20 October 1997.

**Irene Stainton**

Irene Stainton's father was the Manager of the Aboriginal Advancement Council in Perth. For the families of managers at that time it was 'very much a family package', resulting in Irene being involved with Aboriginal affairs from the age of 13, including the campaign for the 1967 Referendum. Irene worked for the Child Welfare Department, an interest stemming from her father's role as an Honorary Probation Officer. She later went to Homes West in a field officer position and then to the Aboriginal Housing Board. Eventually Irene obtained a position with the Yorganop child care agency. Remaining at Yorganop for three-

and-a-half years she attended SNAICC meetings and for one year was SNAICC Secretary. Irene went twice to Geneva and presented papers to the Working Group on Indigenous Populations. The interview took place in Perth on 15 December 1997.

### **Jenny Thomas**

Jenny Thomas held the position of Director, Special Services Section, Office of Child Care at the time the ACCAs were in the process of formation. She is still employed with the Commonwealth Government as Assistant Secretary, Health Outcomes Branch, Department of Health and Family Services. The interview took place in Canberra on 23 September 1997.

### **Marjorie Thorpe**

Marjorie Thorpe was an administrative assistant with the Victorian ACCA in the early 1980s after prior employment with the Aboriginal Health Service, the Aboriginal Legal Service and the Aborigines Advancement League. She was subsequently appointed as Program Director of the ACCA. Marjorie was actively involved with the establishment of SNAICC, with the Victorian ACCA taking a coordinating role until SNAICC was funded. Marjorie became SNAICC National Coordinator while still undertaking the ACCA Program Director role. She was a Co-Commissioner for Victoria for the HREOC National Inquiry and is also a Member of the Council for Reconciliation. She is a strong campaigner for the resolution of mental health issues arising from the stolen generations. The interview took place in Morwell, Victoria on 27 August 1997.

### **Julie Tommy**

Julie Tommy is from the Innawongia group, whose homeland is in the Tom Price/Paraburdoo area. Her family was removed from their traditional homeland and were relocated on the Onslow Native Welfare Reserve. Julie spent her childhood in a native welfare hostel and had little interaction with her family. After commencing a social work degree at the Western Australian Institute of Technology, she worked with the Western Australian child care agency from around 1980-1986. She became Coordinator of the agency and attended a number of SNAICC conferences. The interview was conducted in Karratha, Western Australia on 17 December 1997.

## **APPENDIX 1: INTERVIEW SCHEDULE**

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The following are broad areas to be covered in a relatively open-ended format. The intent is to ensure that the interviews are as free-flowing as possible, and the dot points after the main headings are examples of prompts to be used when necessary. The discussion will not necessarily follow the sequence of the schedule below, as it is important the respondent is able to talk freely without too much guidance from the researcher. The schedule is a guide to ensure that the identified areas are covered in the interview.

### **Background to respondents involvement in Aboriginal child welfare**

- Why became involved
- How became involved
- Events/ issues which resulted in involvement

### **Role of respondent in Aboriginal child welfare**

- Role with state or territory organisation
- Role with SNAICC
- Positions held
- Activities undertaken
- Involvement with other relevant organisations
- Achievements of respondent

### **Key people and events**

- Others considered important in the development of SNAICC
- Key events/incidents
- Gains
- Setbacks
- Funding
- Programs
- Policy

### **Role of State and church**

- Policies and practices which had an impact on SNAICC activities
- Any other significant institutions or organisations

**Relationship with other organisations**

- Churches
- Government departments
- Government ministers
- Non-government organisations
- Peak bodies eg ACOSS
- International links
- Other

**Issues arising from early formation of SNAICC**

- Funding
- Policy
- Other

**Changes sought by SNAICC**

- Legislative changes
- Policy changes
- Practice changes
- Recognition of culture
- Consultation by governments

**Specific reform agenda, for example:**

- National legislation
- Stolen generations
- Aboriginal Child Placement Principle
- Fostering and adoption policies and practices
- Self-determination
- Over-representation in child welfare and juvenile justice systems
- Resourcing
- Cultural recognition
- Consultation

**Specific events and projects for example:**

- SNAICC conferences, AGMs and other meetings
- National Aboriginal and Islander Children's Day
- Newsletter
- Passive smoking campaign

- Aboriginal child poverty
- Child abuse and neglect
- Family violence

**SNAICC linkages**

- Locally/nationally, including non-Indigenous organisations
- Internationally

**Reflections on role of SNAICC**

- Degree of success
- Continuing constraints and barriers
- Ongoing work and changes required
- Respondents role in ongoing activities

**Any other issues**

APPENDIX 2: SNAICC MEMBERSHIP  
AS AT JUNE, 1999

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*Victoria:*

Victorian Aboriginal Child Care Agency

Victorian Aboriginal Community Services Association Limited

*New South Wales:*

Awabakal, Wickham

Coffs Harbour Aboriginal Community Centre

Hunter Aboriginal Children's Services, Broadmeadow

Koolyngara, Nowra

Manning Great Lakes, Taree

Murrawina ACCA, Mt Druitt

NSW Aboriginal Children's Services, Redfern

Noogaleek, Berkeley

Urimbirra Co-op, Boinnyrigg

Wiradjuri Aboriginal Children's Services, Wagga Wagga

*Australian Capital Territory*

Gorri Jullipin Gummi, ACT

*Queensland:*

Barambah AICCA, Cherbourg

Brisbane AICCA

Mackay AICCA

Mt Isa AICCA

North Queensland AICCA, Townsville

Palm Island Child Care Committee

Rockhampton AICCA

South-west Child Care Centre, Charleville

Woorabinda AICCA

Yuddika, Cairns

Yuenmandah, Mornington Island

*Western Australia:*

Manguri, Perth

Ngunga Women's Group, Derby

Yorganop, Perth

*South Australia:*

South Australian Aboriginal Child Care Agency

*Northern Territory:*

Central Australian AICCA, Alice Springs

Karu, Darwin

Pitjantajara Yankunytjatjara Ngaanyatjarra Council, Alice Springs

*Tasmania:*

Tasmania ACCA, Launceston

APPENDIX 3: SNAICC STATEMENT OF  
PURPOSES (AMENDED)  
1986

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1. To establish culturally relevant national legislation relating to Aboriginal and Islander Child Development;
2. To eliminate abusive child welfare practices that result in unwarranted Aboriginal and Islander parent-child separations;
3. End discrimination that prevents Aboriginal and Islander families from qualifying as foster-care or adoptive families;
4. To demand from State Child Welfare Departments access to records and other relevant information which will facilitate the return of Aboriginal and Islander State Wards to families, extended family and Aboriginal and Islander communities;
5. That fostering and adoption of Aboriginal and Islander children be the sole prerogative of the Aboriginal and Islander communities;
6. To work toward the abolition of any oppressive state or federal government acts or legislation against Aborigines and Torres Strait Islanders;
7. To work towards public recognition of the emotional and spiritual needs of Aboriginal and Islander children as opposed to the basically materialistic and destructive practices of Government child welfare policies;
8. To develop and implement culturally relevant educational programs in child care for foster and adoptive parents;
9. To develop and implement race relations programs to effectively counteract present negative societal attitudes towards the Aboriginal and Islander communities;
10. In instances where contentious issues are affecting any Aboriginal or Islander individual or community and the relevant agency is having difficulty in resolving the issue, the Secretariat will take up that issue on a National basis;



11. To pressure the Federal Government to enforce the United Nations Charter on the Rights of the Child by adopting effective measures conferred by mandate of the 1967 Referendum to:

- a. end discrimination;
- b. ensure maximum potential of Aboriginal and Islander Child Development in areas of emotional, mental, physical and spiritual growth; and
- c. to introduce the national land rights legislation as determined by the Aboriginal nation.

12. To develop and implement culturally relevant educational programs in child care for Aboriginal and Islander workers involved in child and family care.

APPENDIX 4: RECOMMENDATIONS  
FROM NATIONAL  
INQUIRY INTO THE  
SEPARATION OF  
ABORIGINAL AND  
ISLANDER CHILDREN  
FROM THEIR FAMILIES<sup>1</sup>

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<sup>1</sup> From HREOC, *Bringing Them Home*, 1997.

**RECOMMENDATIONS FROM NATIONAL INQUIRY INTO THE  
SEPARATION OF ABORIGINAL AND ISLANDER CHILDREN  
FROM THEIR FAMILIES**

**RECORDING TESTIMONIES**

1. That the Council of Australian Governments ensure the adequate funding of appropriate Indigenous agencies to record, preserve and administer access to the testimonies of Indigenous people affected by the forcible removal policies who wish to provide their histories in audio, audio-visual or written form.

**PROCEDURE FOR IMPLEMENTATION**

- 2a. That the Council of Australian Governments establish a working party to develop a process for the implementation of the Inquiry's recommendations and to receive and respond to annual audit reports on the progress of implementation.
- 2b. That the Commonwealth fund the establishment of a National Inquiry audit unit in the Human Rights and Equal Opportunity Commission to monitor the implementation of the Inquiry's recommendations and report annually to the Council of Australian Governments on the progress of implementation of the recommendations.
- 2c. That ATSIC fund the following peak Indigenous organisations to research, prepare and provide an annual submission to the National Inquiry audit unit evaluating the progress of implementation of the Inquiry's recommendations: Secretariat of National Aboriginal and Islander Child Care (SNAICC), Stolen Generations National Secretariat, National Aboriginal Community Controlled Health Organisation (NACCHO) and National Aboriginal and Islander Legal Services Secretariat (NAILSS).
- 2d. That Commonwealth, state and territory governments undertake to provide fully detailed and complete information to the National Inquiry audit unit annually on request concerning progress on implementation of the Inquiry's recommendations.

**COMPONENTS OF REPARATIONS**

3. That, for the purposes of responding to the effects of forcible removals, 'compensation' be widely defined to mean 'reparation'; that reparation be made in recognition of the history of gross violations of human rights; and that the van Boven principles guide the reparation measures.

Reparation should consist of:

1. acknowledgment and apology;
2. guarantees against repetition;

APPENDIX 4: RECOMMENDATIONS FROM NATIONAL INQUIRY INTO THE SEPARATION  
OF ABORIGINAL AND ISLANDER CHILDREN FROM THEIR FAMILIES

3. measures of restitution;
4. measures of rehabilitation, and
5. monetary compensation.

**CLAIMANTS**

4. That reparation be made to all who suffered because of forcible removal policies including:
  1. individuals who were forcibly removed as children;
  2. family members who suffered as a result of their removal;
  3. communities which, as a result of the forcible removal of children, suffered cultural and community disintegration; and
  4. descendants of those forcibly removed who, as a result, have been deprived of community ties, culture and language, and links with and entitlements to their traditional land.

**ACKNOWLEDGMENT AND APOLOGY: PARLIAMENTS AND POLICE FORCES**

- 5a. That all Australian parliaments:
  1. officially acknowledge the responsibility of their predecessors for the laws, policies and practices of forcible removal;
  2. negotiate with the Aboriginal and Torres Strait Islander Commission a form of words for official apologies to Indigenous individuals, families and communities and extend those apologies with wide and culturally appropriate publicity; and
  3. make appropriate reparation as detailed in following recommendations.
- 5b. That state and territory police forces, having played a prominent role in the implementation of the laws and policies of forcible removal, acknowledge that role and, in consultation with the Aboriginal and Torres Strait Islander Commission, make such formal apologies and participate in such commemorations as are determined.

**ACKNOWLEDGMENT AND APOLOGY: CHURCHES AND OTHERS**

6. That churches and other non-government agencies which played a role in the administration of the laws and policies under which Indigenous children were forcibly removed acknowledge that role and in consultation with the Aboriginal and Torres Strait Islander Commission make such formal apologies and participate in such commemorations as may be determined.

**COMMEMORATION**

- 7a. That the Aboriginal and Torres Strait Islander Commission, in consultation with the Council for Aboriginal Reconciliation, arrange for a national Sorry Day to be celebrated each year to commemorate the history of forcible removals and its effects.
- 7b. That the Aboriginal and Torres Strait Islander Commission, in

APPENDIX 4: RECOMMENDATIONS FROM NATIONAL INQUIRY INTO THE SEPARATION  
OF ABORIGINAL AND ISLANDER CHILDREN FROM THEIR FAMILIES

consultation with the Council for Aboriginal Reconciliation, seek proposals for further commemorating the individuals, families and communities affected by forcible removal at the local and regional levels. That proposals be implemented when a widespread consensus within the Indigenous community has been reached.

**SCHOOL EDUCATION**

- 8a. That state and territory governments ensure that primary and secondary school curricula include substantial compulsory modules on the history and continuing effects of forcible removal.
- 8b. That the Australian Institute of Aboriginal and Torres Strait Islander Studies be funded by the Commonwealth to develop these modules.

**PROFESSIONAL TRAINING**

- 9a. That all professionals who work with Indigenous children, families and communities receive in-service training about the history and effects of forcible removal.
- 9b. That all undergraduates and trainees in relevant professions receive, as part of their core curriculum, education about the history and effects of forcible removal.

**GENOCIDE CONVENTION**

- 10. That the Commonwealth legislate to implement the Genocide Convention with full domestic effect.

**ASSISTANCE TO RETURN TO COUNTRY**

- 11. That the Council of Australian Governments ensure that appropriate Indigenous organisations are adequately funded to employ family reunion workers to travel with clients to their country, to provide Indigenous community education on the history and effects of forcible removal and to develop community genealogies to establish membership of people affected by forcible removal.

**LANGUAGE, CULTURE AND HISTORY CENTRES**

- 12a. That the Commonwealth expand the funding of Indigenous language, culture and history centres to ensure national coverage at regional level.
- 12b. That where the Indigenous community so determines, the regional language, culture and history centre be funded to record and maintain local Indigenous languages and to teach those languages, especially to people whose forcible removal deprived them of opportunities to learn and maintain their language and to their descendants

### **INDIGENOUS IDENTIFICATION**

13. That Indigenous organisations, such as Link Ups and Aboriginal and Islander Child Care Agencies, which assist those forcibly removed by undertaking family history research be recognised as Indigenous communities for the purposes of certifying descent from the Indigenous peoples of Australia and acceptance as Indigenous by the Indigenous community.

### **HEADS OF DAMAGE**

14. That monetary compensation be provided to people affected by forcible removal under the following heads:
1. racial discrimination;
  2. arbitrary deprivation of liberty;
  3. pain and suffering;
  4. abuse, including physical, sexual and emotional abuse;
  5. disruption of family life;
  6. loss of cultural rights and fulfilment;
  7. loss of native title rights;
  8. labour exploitation;
  9. economic loss;
  10. and loss of opportunities.

### **NATIONAL COMPENSATION FUND**

15. That the Council of Australian Governments establish a joint National Compensation Fund.

### **NATIONAL COMPENSATION FUND BOARD**

- 16a. That the Council of Australian Governments establish a Board to administer the National Compensation Fund.
- 16b. That the Board be constituted by both Indigenous and non-Indigenous people appointed in consultation with Indigenous organisations in each state and territory having particular responsibilities to people forcibly removed in childhood and their families. That the majority of members be Indigenous people and that the Board be chaired by an Indigenous person.

### **PROCEDURAL PRINCIPLES**

17. That the following procedural principles be applied in the operations of the monetary compensation mechanism:
1. widest possible publicity;
  2. free legal advice and representation for claimants;
  3. no limitation period;
  4. independent decision-making which should include the participation of Indigenous decision-makers;
  5. minimum formality;
  6. not bound by the rules of evidence; and
  7. cultural appropriateness (including language).

**MINIMUM LUMP SUM**

18. That an Indigenous person who was removed from his or her family during childhood by compulsion, duress or undue influence be entitled to a minimum lump sum payment from the National Compensation Fund in recognition of the fact of removal. That it be a defence to a claim for the responsible government to establish that the removal was in the best interests of the child.

**PROOF OF PARTICULAR HARM**

19. That upon proof on the balance of probabilities any person suffering particular harm and/or loss resulting from forcible removal be entitled to monetary compensation from the National Compensation Fund assessed by reference to the general civil standards.

**CIVIL CLAIMS**

20. That the proposed statutory monetary compensation mechanism not displace claimants common law rights to seek damages through the courts. A claimant successful in one forum should not be entitled to proceed in the other.

**DESTRUCTION OF RECORDS PROHIBITED**

21. That no records relating to Indigenous individuals, families or communities or to any children, Indigenous or otherwise, removed from their families for any reason, whether held by government or non-government agencies, be destroyed.

**RECORD PRESERVATION**

- 22a. That all government record agencies be funded as a matter of urgency by the relevant government to preserve and index records relating to Indigenous individuals, families and/or communities and records relating to all children, Indigenous or otherwise, removed from their families for any reason.
- 22b. That indexes and other finding aids be developed and managed in a way that protects the privacy of individuals and, in particular, prevents the compilation of dossiers.

**JOINT RECORDS TASKFORCES**

23. That the Commonwealth and each state and territory government establish and fund a Records Taskforce constituted by representatives from government and church and other non-government record agencies and Indigenous user services to:
1. develop common access guidelines to Indigenous personal, family and community records as appropriate to the jurisdiction and in accordance with established privacy principles;
  2. advise the government whether any church or other non-government record-holding agency should be assisted to

preserve and index its records and administer access;

3. advise government on memoranda of understanding for dealing with interstate enquiries and for the interstate transfer of files and other information;

4. advise government and churches generally on policy relating to access to and uses of Indigenous personal, family and community information; and

5. advise government on the need to introduce or amend legislation to put these policies and practices into place.

#### **INTERSTATE ENQUIRIES**

24. That each government, as advised by its Records Taskforce, enter into memoranda of understanding with other governments for dealing with interstate enquiries and for the interstate transfer of records and other information.

#### **Minimum access standards**

25. That all common access guidelines incorporate the following standards.

1. the right of every person, upon proof of identity only, to view all information relating to himself or herself and to receive a full copy of the same;

2. no application fee, copying fee or other charge of any kind to be imposed;

3. a maximum application processing period to be agreed by the Records Taskforce and any failure to comply to be amenable to review and appeal;

4. a person denied the right of access or having any other grievance concerning his or her information to be entitled to seek a review and, if still dissatisfied, to appeal the decision or other matter free of charge;

5. the right of every person to receive advice, both orally and in writing, at the time of application about Indigenous support and assistance services available in his or her state or territory of residence;

6. the form of advice provided to applicants to be drafted in consultation with local Indigenous family tracing and reunion services and to contain information about the nature and form of the information to be disclosed and the possibility of distress;

7. the right of every person to receive all personal identifying information about himself or herself including information which is necessary to establish the identity of family members (for example, parent's identifying details such as name, community of origin, date of birth); and

8. the right of every person who is the subject of a record, subject to the exception above, to determine to whom and to what extent that information is divulged to a third person.



**FREEDOM OF INFORMATION LEGISLATION IN THE NORTHERN TERRITORY**

26. That the Northern Territory Government introduce Freedom of Information legislation on the Commonwealth model.

**INDIGENOUS FAMILY INFORMATION SERVICE**

27. That the Commonwealth and each state and territory Government, in consultation with relevant Indigenous services and its Records Taskforce, establish an Indigenous Family Information Service to operate as a first stop shop for people seeking information about and referral to records held by the government and by churches. That these services be staffed by Indigenous people. That to support these services each government and church record agency nominate a designated contact officer.

**TRAINING**

28. That the Commonwealth and each state and territory government institute traineeships and scholarships for the training of Indigenous archivists, genealogists, historical researchers and counsellors.

**INDIGENOUS REPOSITORIES**

- 29a. That, on the request of an Indigenous community, the relevant Records Taskforce sponsor negotiations between government, church and/or other non-government agencies and the relevant Indigenous language, culture and history centre for the transfer of historical and cultural information relating to that community and its members.
- 29b. That the Council of Australian Governments ensure that Indigenous language, culture and history centres have the capacity to serve as repositories of personal information that the individuals concerned have chosen to place in their care and which is protected in accordance with established privacy principles.

**ESTABLISHMENT OF FAMILY TRACING AND REUNION SERVICES**

- 30a. That the Council of Australian Governments ensure that Indigenous community-based family tracing and reunion services are funded in all regional centres with a significant Indigenous population and that existing Indigenous community-based services, for example health services, in smaller centres are funded to offer family tracing and reunion assistance and referral.
- 30b. That the regional services be adequately funded to perform the following functions:
1. family history research;
  2. family tracing;
  3. support and counselling for clients viewing their personal records;
  4. support and counselling for clients, family members and community members in the reunion process including travel with clients;

5. establishment and management of a referral network of professional counsellors, psychologists, psychiatrists and others as needed by clients;
6. advocacy on behalf of individual clients as required and on behalf of clients as a class, for example with record agencies;
7. outreach and publicity;
8. research into the history and effects of forcible removal;
9. indigenous and non-indigenous community education about the history and effects of forcible removal;
10. engaging the service of Indigenous experts for provision of genealogical information, traditional healing and escorting and sponsoring those returning to their country of origin;
11. participation in training of Indigenous people as researchers, archivists, genealogists and counsellors;
12. participation in national networks and conferences;
13. effective participation on Record Taskforces; and
14. support of test cases and other efforts to obtain compensation.

#### RETURN OF THOSE REMOVED OVERSEAS

- 31 a. That the Commonwealth create a special visa class under the *Migration Act 1951 (Cth)* to enable Indigenous people forcibly removed from their families and from Australia and their descendants to return to Australia and take up permanent residence.
- 31 b. That the Commonwealth amend the *Citizenship Act 1948 (Cth)* to provide for the acquisition of citizenship by any person of Aboriginal or Torres Strait Islander descent.
- 31 c. That the Commonwealth take measures to ensure the prompt implementation of the *International Transfer of Prisoners Bill 1996*.

#### RESEARCH

32. That the Commonwealth Government work with the national Aboriginal and Torres Strait Islander Health Council in consultation with the National Aboriginal Community Controlled Health Organisation (NACCHO) to devise a program of research and consultations to identify the range and extent of emotional and well-being effects of the forcible removal policies.

#### INDIGENOUS WELL-BEING MODEL

- 33 a. That all services and programs provided for survivors of forcible removal emphasise local Indigenous healing and well-being perspectives.
- 33 b. That government funding for Indigenous preventive and primary mental health (wellbeing) services be directed exclusively to Indigenous community-based services including Aboriginal and Islander health services, child care agencies and substance abuse services.

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- 33c. That all government-run mental health services work towards delivering specialist services in partnership with Indigenous community-based services and employ Indigenous mental health workers and community members respected for their healing skills.

**HEALTH PROFESSIONAL TRAINING**

- 34a. That government health services, in consultation with Indigenous health services and family tracing and reunion services, develop in-service training for all employees in the history and effects of forcible removal.
- 34b. That all health and related training institutions, in consultation with Indigenous health services and family tracing and reunion services, develop undergraduate training for all students in the history and effects of forcible removal.

**MENTAL HEALTH WORKER TRAINING**

35. That all state and territory governments institute Indigenous mental health worker training through Indigenous-run programs to ensure cultural and social appropriateness.

**PARENTING SKILLS**

36. That the Council of Australian Governments ensure the provision of adequate funding to relevant Indigenous organisations in each region to establish parenting and family wellbeing programs

**PRISONER SERVICES**

37. That the Council of Australian Governments ensure the provision of adequate funding to Indigenous health and medical services and family well-being programs to establish preventive mental health programs in all prisons and detention centres and to advise prison health services. That state and territory corrections departments facilitate the delivery of these programs and advice in all prisons and detention centres.

**PRIVATE COLLECTIONS**

- 38a. That every church and other non-government agency which played a role in the placement and care of Indigenous children forcibly removed from their families, at the request of an Indigenous language, culture and history centre, transfer historical and cultural information it holds relating to the community or communities represented by the centre.
- 38b. That churches and other non-government agencies which played a role in the placement and care of Indigenous children forcibly removed from their families identify all records relating to Indigenous families and children and arrange for their preservation, indexing and access in secure storage facilities preferably, in consultation with

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relevant Indigenous communities and organisations, in the National Library, the Australian Institute of Aboriginal and Torres Strait Islander Studies or an appropriate state library.

- 38c. That every church and non-government record agency which played a role in the placement and care of Indigenous children forcibly removed from their families provide detailed information about its records to the relevant Indigenous Family Information Service or Services.

**APPLICATION OF MINIMUM STANDARDS AND COMMON GUIDELINES**

39. That church and other non-government record agencies implement the national minimum access standards (Recommendation 25) and apply the relevant state, territory or Commonwealth common access guidelines (Recommendation 23).

**COUNSELLING SERVICES**

- 40a. That churches and other non-government welfare agencies that provide counselling and support services to those affected by forcible removal review those services, in consultation with Indigenous communities and organisations, to ensure they are culturally appropriate
- 40b. That churches and other non-government agencies which played a role in the placement and care of Indigenous children forcibly removed from their families provide all possible support to Indigenous organisations delivering counselling and support services to those affected by forcible removal.

**LAND HOLDINGS**

41. That churches and other non-government agencies review their land holdings to identify land acquired or granted for the purpose of accommodating Indigenous children forcibly removed from their families and, in consultation with Indigenous people and their land councils, return that land.

**SOCIAL JUSTICE**

42. That to address the social and economic disadvantages that underlie the contemporary removal of Indigenous children and young people the Council of Australian Governments:
1. in partnership with ATSIC, the Council for Aboriginal Reconciliation, the Office of the Aboriginal and Torres Strait Islander Social Justice Commissioner and Indigenous community organisations dealing with Indigenous families and children's issues, develop and implement a social justice package for Indigenous families and children; and
  2. pursue the implementation of the recommendations of the Royal Commission into Aboriginal Deaths in Custody which address underlying issues of social disadvantage.

### SELF-DETERMINATION

- 43a. That the Council of Australian Governments negotiate with the Aboriginal and Torres Strait Islander Commission, the Aboriginal and Torres Strait Islander Social Justice Commissioner, the Secretariat of National Aboriginal and Islander Child Care and the National Aboriginal and Islander Legal Services Secretariat national legislation establishing a framework for negotiations at community and regional levels for the implementation of self-determination in relation to the well-being of Indigenous children and young people (national framework legislation).
- 43b. That the national framework legislation adopt the following principles:
1. that the Act binds the Commonwealth and every state and territory government;
  2. that within the parameters of the Act Indigenous communities are free to formulate and negotiate an agreement on measures best suited to their individual needs concerning children, young people and families;
  3. that negotiated agreements will be open to revision by negotiation;
  4. that every Indigenous community is entitled to adequate funding and other resources to enable it to support and provide for families and children and to ensure that the removal of children is the option of last resort; and
  5. that the human rights of Indigenous children will be ensured.
- 43c. That the national framework legislation authorise negotiations with Indigenous communities that so desire on any or all of the following matters:
1. the transfer of legal jurisdiction in relation to children's welfare, care and protection, adoption and/or juvenile justice to an Indigenous community, region or representative organisation;
  2. the transfer of police, judicial and/or departmental functions to an Indigenous community, region or representative organisation;
  3. the relationship between the community, region or representative organisation and the police, court system and/or administration of the state or territory on matters relating to children, young people and families including, where desired by the Indigenous community, region or representative organisation, policy and program development and the sharing of jurisdiction; and/or
  4. the funding and other resourcing of programs and strategies developed or agreed to by the community, region or representative organisation in relation to children, young people and families.

### NATIONAL STANDARDS FOR INDIGENOUS CHILDREN

44. That the Council of Australian Governments negotiate with the Aboriginal and Torres Strait Islander Commission, the Aboriginal and Torres Strait Islander Social Justice Commissioner, the Secretariat of

National Aboriginal and Islander Child Care and the National Aboriginal and Islander Legal Services Secretariat, national legislation binding on all levels of government and on Indigenous communities, regions or representative organisations which take legal jurisdiction for Indigenous children establishing minimum standards of treatment for all Indigenous children (national standards legislation).

**NATIONAL STANDARDS FOR INDIGENOUS CHILDREN UNDER STATE, TERRITORY OR SHARED JURISDICTION**

- 45a. That the national standards legislation include the standards recommended below for Indigenous children under state or territory jurisdiction or shared jurisdiction.
- 45b. That the negotiations for national standards legislation develop a framework for the accreditation of Indigenous organisations for the purpose of performing functions prescribed by the standards:

**Standard 1: Best interests of the child factors**

- 46a. That the national standards legislation provide that the initial presumption is that the best interest of the child is to remain within his or her Indigenous family, community and culture.
- 46b. That the national standards legislation provide that in determining the best interests of an Indigenous child the decision-maker must also consider:
  - 1. the need of the child to maintain contact with his or her Indigenous family, community and culture;
  - 2. the significance of the child's Indigenous heritage for his or her future wellbeing;
  - 3. the views of the child and his or her family, and
  - 4. the advice of the appropriate accredited Indigenous organisation.

**Standard 2: When best interests are paramount**

- 47. That the national standards legislation provide that in any judicial or administrative decision affecting the care and protection, adoption or residence of an Indigenous child the best interest of the child is the paramount consideration.

**Standard 3: When other factors apply**

- 48. That the national standards legislation provide that the removal of Indigenous children from their families and communities by the juvenile justice system, including for the purposes of arrest, remand in custody or sentence, is to be a last resort. An Indigenous child is not to be removed from his or her family and community unless the danger to the community as a whole outweighs the desirability of retaining the child in his or her family and community.

**Standard 4: Involvement of accredited Indigenous organisations**

49. That the national standards legislation provide that in any matter concerning a child the decision-maker must ascertain whether the child is an Indigenous child and in every matter concerning an Indigenous child ensure that the appropriate accredited Indigenous organisation is consulted thoroughly and in good faith. In care and protection matters that organisation must be involved in all decision making from the point of notification and at each stage of decision-making thereafter including whether and if so on what grounds to seek a court order. In juvenile justice matters that organisation must be involved in all decisions at every stage including decisions about pre-trial diversion, admission to bail and conditions of bail.

**Standard 5: Judicial decisionmaking**

50. That the national standards legislation provide that in any matter concerning a child the court must ascertain whether the child is an Indigenous child and, in every case involving an Indigenous child, ensure that the child is separately represented by a representative of the child's choosing or, where the child is incapable of choosing a representative, by the appropriate accredited Indigenous organisation.

**Standard 6: Indigenous Child Placement Principle**

- 51a. That the national standards legislation provide that, when an Indigenous child must be removed from his or her family, including for the purpose of adoption, the placement of the child, whether temporary or permanent, is to be made in accordance with the Indigenous Child Placement Principle.
- 51 b. Placement is to be made according to the following order of preference:
1. placement with a member of the child's family (as defined by local custom and practice) in the correct relationship to the child in accordance with Aboriginal or Torres Strait Islander law;
  2. placement with a member of the child's community in a relationship of responsibility for the child according to local custom and practice;
  3. placement with another member of the child's community;
  4. placement with another Indigenous carer.
- 51c. The preferred placement may be displaced where:
1. that placement would be detrimental to the child's best interests;
  2. the child objects to that placement; or
  3. no carer in the preferred category is available.
- 51 d. Where placement is with a non-Indigenous carer the following principles must determine the choice of carer:
1. family reunion is a primary objective;
  2. continuing contact with the child's Indigenous family, community

and culture must be ensured; and

3. the carer must live in proximity to the child's Indigenous family and community.

- 51 e. No placement of an Indigenous child is to be made except on the advice and with the recommendation of the appropriate accredited Indigenous organisation. Where the parents or the child disagree with the recommendation of the appropriate accredited Indigenous organisation, the court must determine the best interests of the child.

**Standard 7: Adoption a last resort**

52. That the national standards legislation provide that an order for adoption of an Indigenous child is not to be made unless adoption is in the best interests of the child and that adoption of an Indigenous child be an open adoption unless the court or other decisionmaker is satisfied that an open adoption would not be in the best interests of the child. The terms of an open adoption order should remain reviewable at any time at the instance of any party.

**Standard 8: Juvenile justice**

- 53a. That the national standards legislation incorporate the following rules to be followed in every matter involving an Indigenous child or young person.
- 53b. That the national standards legislation provide that evidence obtained in breach of any of the following rules is to be inadmissible against the child or young person except at the instance of the child or young person himself or herself.

**Rule 1: Warnings**

Arrest and charge are actions of last resort. Subject to Rule 2, a police officer is to issue a warning, without charge, to a child or young person reasonably suspected of having committed an offence without requiring the child or young person to admit the offence and without imposing any penalty or obligation on the child or young person as a condition of issuing the warning.

**Rule 2: Summons, attendance notice**

A child or young person may be charged with an offence when the alleged offence is an indictable offence. The charging officer must secure the suspect's attendance at the court hearing in relation to the charge by issuing a summons or attendance notice unless the officer has a reasonable belief that the suspect is about to commit a further indictable offence or, due to the suspect's previous conduct, that the suspect may not comply with a summons or attendance notice.

**Rule 3: Notification**

When a child or young person has been arrested or detained the responsible officer must notify the appropriate accredited Indigenous organisation immediately of the fact of the arrest and make arrangements for the attendance of a representative of that organisation.



**Rule 4: Consultation**

The responsible officer, in accordance with Standard 4, must consult thoroughly and in good faith with the appropriate accredited Indigenous organisation as to the appropriate means of dealing with every child or young person who has been arrested or detained.

**Rule 5: Interrogation**

No suspect or witness is to be interviewed in relation to an alleged offence unless:

- a. a parent or person responsible for the suspect or witness is present, unless the suspect or witness refuses to be interviewed in the presence of such a person or such a person is not reasonably available;
- b. a legal adviser chosen by the suspect or witness or, where he or she is not capable of choosing a legal adviser, a representative of the appropriate accredited Indigenous organisation is present; and
- c. an interpreter is present in every case in which the suspect or witness does not speak English as a first language.

**Rule 6: Caution**

No suspect or witness is to be interviewed in relation to an alleged offence unless:

- a. the caution has been explained in private to the suspect or witness by his or her legal adviser or representative;
- b. the interviewing officer has satisfied himself or herself that the suspect or witness understands the caution; and
- c. the suspect or witness freely consents to be interviewed.

**Rule 7: Withdrawal of consent**

The interview is to be immediately discontinued when the suspect or witness has withdrawn his or her consent.

**Rule 8: Recording**

Every interview must be recorded on audio tape or audiovisual tape. The tape must include the pre-interview discussions between the suspect or witness and the interviewing officer in which the officer must satisfy himself or herself that the suspect or witness understands the caution and freely consents to be interviewed.

**Rule 9: Bail**

Unconditional bail is a right. The right to bail without conditions can only be varied where conditions are reasonably believed due to the suspect's past conduct to be necessary to ensure the suspect will attend court as notified. The right to bail can only be withdrawn where it is reasonably believed, due to the nature of the alleged offence or because of threats having been made by the suspect, that remand in custody is necessary in the interests of the community as a whole.

**Rule 10: Bail review**

The suspect has a right to have the imposition of bail conditions or the refusal of bail reviewed by a senior police officer. In every case

in which the senior officer refuses to release the suspect on bail, the officer must immediately notify a magistrate, bail justice or other authorised independent person who is to conduct a bail hearing forth with. The suspect is to be represented at that hearing by a legal adviser of his or her choice or, where incapable of choosing, by a representative of the appropriate accredited Indigenous organisation.

**Rule 11: Bail hostels**

When bail has been refused the suspect is to be remanded in the custody of an Indigenous bail hostel, group home or private home administered by the appropriate accredited Indigenous organisation unless this option is not available in the locality.

**Rule 12: Detention in police cells**

No suspect is to be confined in police cells except in extraordinary and unforeseen circumstances which prevent the utilisation of alternatives. Every suspect confined in police cells overnight is to be accompanied by an Indigenous person in a relationship of responsibility to the suspect.

**Rule 13: Non-custodial sentences**

Custodial sentences are an option of last resort. Every child or young person convicted of an offence who, in accordance with Rule 14 can not be dismissed without sentence, is to be sentenced to a non-custodial program administered by the appropriate accredited Indigenous organisation or by an Indigenous community willing to accept the child. The child's consent to be dealt with in this way is required. The selection of the appropriate program is to be made on the advice of the appropriate accredited Indigenous organisation and, where possible, the child's family.

**Rule 14: Sentencing factors**

The sentencer must take into account:

- a. the best interests of the child or young person;
- b. the wishes of the child or young person's family and community;
- c. the advice of the appropriate accredited Indigenous organisation;
- d. the principle that Indigenous children are not to be removed from their families and communities except in extraordinary circumstances; and
- e. Standard 3.

**Rule 15: Custodial sentences**

Where the sentencer, having taken into account all of the factors stipulated in Rule 14, determines that a custodial sentence is necessary, the sentence must be for the shortest appropriate period of time and the sentencer must provide its reasons in writing to the state or territory Attorney General and the appropriate accredited Indigenous organisation. No child or young person is to be given an indeterminate custodial sentence or a mandatory sentence.

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**FAMILY LAW**

54. *That the Family Law Act 1975 (Cth)* be amended by:
1. including in section 60B(2) a new paragraph (ba) children of Indigenous origins have a right, in community with the other members of their group, to enjoy their own culture, profess and practice their own religion, and use their own language; and
  2. replacing in section 68F(2)(f) the phrase 'any need' with the phrase 'the need of every Aboriginal and Torres Strait Islander child'.

Source: HREOC (1997). *Bringing them Home: A Guide to the findings and recommendations of the National Inquiry into the separation of Aboriginal and Torres Strait Islander Children from their families.*

## SUGGESTIONS FOR FOLLOW-UP

*The following suggestions were made in the course of the research project by a number of individuals. The contacts and organisations listed below may be useful in any further research activity:*

### Church organisations

- Anglican Mission to Streets and Lanes ran a Darling Babies home in Fitzroy called the Community of the Holy Name. Contact is Bill Couche.
- Further contacts for Orana: Barry Cook (Deputy Director from the late 1960s until the early 1970s) and Geoff Woodfield, now a Minister in Traralgon. (former Director of Orana). Chris Bull and Dennis Oakley may be further contacts.
- Tally Ho, which no longer exists, had a number of Aboriginal children (Wesley Central Mission). Contact is Chris Bull.
- Burwood Aboriginal Inland Missions Archives, Anglican United Inland Aboriginal Missions Archives.
- Some material may be stored at the Uniting Church Archives. Contact is Reverend Max O'Connor, PO Box 698 Elsternwick (64-68 Orrong Road).
- The Mercy Sisters are believed to have good records, and also had Aboriginal girls in their care.
- Mission of St James and St John: Adoption Information Manager, Mia Bieske, can be followed up at the Yarraville office.
- Catholic Family Welfare adoption files may have some leads
- Catholic Baptisms were another suggestion. No other details known.
- At Good Shepherd, Sister Margaret K. seems to have lots of knowledge of Aboriginal girls in placement.
- Salvation Army, especially Kardinia.

### Government organisations

- Archivist at Health and Community Services is Caroline Stevens. She would be the first point of contact for Ward files and Turana and Allambie files. Departmental registers and files may be in a number of locations, including the Public Records office.
- Police Records.
- Ministry of Aboriginal Affairs records.
- Maureen Cleary, Department of Human Services re Aboriginal Welfare Board files.
- Danny Ellen, Department of Human Services re information on children's homes.

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**Aboriginal organisations**

- Victorian Aboriginal Legal Service records.
- Sharon Hodgson, Miriambiak Nations Aboriginal Corporation, Box 11, Abbotsford 3067 (looking for protocols re accessing records).
- Link-up - Yolanda Walker re Ward data base.
- Victorian Aboriginal Child Care Agency.
- Victorian Aboriginal Community Services Association Incorporated (Bert Williams Hostel records).

**Other**

Sr. Agatha, University of Melbourne Social Work Department, may have some leads about children's homes from her research.

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