

“A personal report from the field”

John Reeves QC, member of the Prime Minister’s NT National Emergency Response Taskforce

Introduction

1. The first meeting of the Prime Minister’s NT National Emergency Response Taskforce took place in Brisbane a little over 2 months ago. So much has happened in that 2 months that it is hard to believe it is only that short period of time since it all began.
2. Another consequence of the frenetic activity over the past 2 months is that one often loses site of the catalyst for the whole NT National Emergency Response in the first place. The immediate catalyst was, of course, the Little Children are Sacred report that was published in June this year having been delivered to the NT government by its authors in April this year.
3. Before proceeding further I should clear up a common misunderstanding about the relationship between the Little Children are Sacred report and the NT National Emergency Response. While the Little Children are Sacred report was the catalyst for the NT National Emergency Response, it was never the intention of the Commonwealth government to implement the recommendations of the Little Children are Sacred report, that was left to the NT government that commissioned that report.
4. Nonetheless the Little Children are Sacred report was the catalyst for the Commonwealth’s National Emergency Response. Lest we forget, it is worth reminding ourselves what that catalyst was. Let me quote from the Little Children are Sacred report at page 18:

“In one community, an 18-year-old youth anally raped and drowned a six-year-old who was swimming with friends at a waterhole. It was an opportunistic crime and the offender was a chronic petrol sniffer and under the influence of petrol on the day of the murder.

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In yet another community, a 26-year-old man passed out drunk near a public phone in a town camp. When he awoke he saw a two-year-old child playing nearby, picked her up, carried her away and digitally penetrated her vagina and anus. He then attempted penile penetration but was unable to maintain an erection.

Some of you will recognize these examples as being among those quoted by Ms Nanette Rodgers on the Lateline program last year.

5. If sexual abuse of that horrific level were not enough, bear in mind that these children also experience unbelievable levels of violence being inflicted on their mothers. Most judges and magistrates in the NT and some prosecutors like Ms Nanette Rodgers have spoken with exasperation about the revolving door of domestic violence they have to deal with – the endless, repeated, senseless violence inflicted by Aboriginal men on their women folk.
6. Last night Mr Louis Nowra received the Bennelong medal for his work “Bad Dreaming” which records the sorry history of this violence. Let me quote from just one example from “Bad Dreaming” at pages 40 – 41 :

“On 25 May 2005, at Araru outstation on the Coburg Peninsula in the NT, Trenton Cunningham beat his wife, Jodie Palipuaminni, to death after she failed to bring him a cup of water while he was burying his dog. On the night before she died, people heard her screaming. Rather than help her, relatives told her and her husband to shut up. She was later heard calling out, ‘Please stop’. The next day one of her children told the relatives ‘My mum’s dead’. She was in the early stages of pregnancy. At the time of the brutal attack the 27- year- old Cunningham was on parole for assaulting his wife with a steel bar and pouring boiling water over her, resulting in burns to 20 percent of her body.”

So, it was these sorts of incidents of child abuse and these sorts of incidents of domestic violence that prompted the Prime Minister to launch the NT National Emergency Response intervention on Thursday 21 June this year.

Convincing middle Australia there was a problem

7. Horrific as these incidents are in themselves, they are also symptomatic of a much deeper malaise – the total dysfunction of many, if not most, of the Aboriginal communities in remote Australia – not just the NT. For some years now Mr Noel Pearson has been speaking about the high levels of child abuse, domestic violence, alcohol and other drug abuse and the all pervasive welfare malaise on his home communities on Cape York. He has proposed a new approach – to move away from a total focus on rights and move to a more balanced approach involving rights and responsibilities, encouraging Aboriginal people to take responsibility for their own lives i.e. to become self reliant.
8. There have been others who have been active in drawing attention to these issues. For example the chair of the Taskforce Dr Sue Gordon

produced a report into child abuse on Aboriginal communities in WA – that was in 2004. There have been similar reports produced in most other states including Qld and NSW.

9. As well, Mr Warren Mundine the former president of the ALP has played his part in the process – it is no co-incidence that both Dr Sue Gordon and Mr Warren Mundine have been the recipients of the Bennelong medal, like Mr Louis Nowra.
10. As a result, little by little, middle Australia living in the main on the eastern seaboard of Australia started to realize there was a problem. They slowly but steadily became convinced that these people who were speaking out were not just racists or red necks, but were genuinely concerned to draw attention to, and do something to fix, a very serious problem.

Climate for action

11. It was that shift in the debate that created the political climate for the politicians to act – and act they did swiftly, decisively and comprehensively when the Prime Minister announced the Commonwealth's NT National Emergency Response and correlated NT intervention.
12. Whilst the first opinion poll taken after the announcement of the NT National Emergency Response indicated a level of cynicism about the Prime Minister's motivation for the intervention, the subsequent opinion polls accorded with my anecdotal "polling" in the NT – that there was, and is, a very high level of public support for the Commonwealth's National Emergency Response. Perhaps more significantly, through the whole process, I am yet to hear anyone – even the most strident critics – say nothing should be done.

Finding the solutions

13. While middle Australia was being moved slowly but surely to the position where they accepted there was a problem and there was a need for action, some devoted souls were thinking and talking about the solutions. They included the people I have just mentioned. For example chapter 7 of Louis Nowra's book "Bad Dreaming" canvasses the possible solutions at some length.
14. And they include many, many others including many members of the Bennelong Society too numerous to mention. However, there is one who I must mention because his role was, I think, significant when one is trying to calculate the gestation period of this intervention plan.
15. That person is Dr Peter Shergold, the head of the Department of Prime Minister and Cabinet. Dr Shergold made a passionate speech in July last year where he highlighted the consequences of our policy failures

in this area and pointed to some of the solutions, particularly the relationship between welfare, jobs and training.

16. So by June of this year the debate had shifted, middle Australia had finally come to the view something needed to be done, some of the solutions had been identified and debated and the immediate catalyst appeared in the form of the Little Children are Sacred report. All the planets were aligned – along with another very important one – a booming economy in Australia with a jobs shortage, particularly in the more remote areas of northern Australia including Qld, NT and WA.
17. So was born the NT National Emergency Response – the Commonwealth’s intervention.
18. In the time I have left, I would like to briefly describe to you what has happened in the field with the intervention, then briefly outline what is contained in the NT NER legislation and where that is likely to take us in the immediate future.

The NT National Emergency Response in the field

19. The NT intervention applies to 73 communities in the NT. 25 in Central Australia, 7 in Tenant Creek region, 18 in the Katherine region and 23 in Arnhem Land and the islands. They all have populations of 100 or more. Some, such as Wadeye, have populations of 1000 – 2000.
20. By the end of this week just finished, assessment teams will have visited almost all of these communities. The assessment process involves getting a picture of the current status of each of these communities. In relation to each community it includes:
 - its population and age structure
 - the distribution of welfare benefits
 - its health status including the facilities available, the number and availability of doctors and nurses and any prevalent diseases
 - the policing resources including the number of police and the available policing facilities
 - its utilities – power, water and sewerage
 - the education facilities, the number of teachers and the % of children attending school – I am looking forward to reading the first report with a true 100% school attendance.
 - Its community store including its profitability, management, products range fresh foods etc.
 - The alcohol abuse problems present – I should just note that it is common, almost universal, to see supposedly “dry” communities with significant violence and disorder caused by alcohol abuse.
 - And finally, and most importantly – what jobs are available on or near each community and what economic activities could be encouraged on each community.

21. At the same time as these assessments have been proceeding many other things have been done including:
- as at the end of last week more than 1300 child health checks had been undertaken,
 - 9 government business managers have been appointed, trained and deployed in the field with about 40 more to come in the next few weeks,
 - the welfare reforms have started in about 3 or 4 communities in Central Australia and they will be rolled out through the balance of the communities over the coming months, and
 - the stores on each of these communities are being assessed more closely as a precursor to the introduction of the store licensing system.

This is a much potted history – so much has happened.

22. Turning to the role of the PM's Taskforce itself
- a. There are 2 full time members of the Taskforce: Dr Sue Gordon and Major General Dave Chalmers – they have responsibility for the supervision of the on the ground conduct of the intervention.
 - b. Then there are 4 part time members: Ms Miriam Rose Baumann, an Aboriginal lady, a school teacher and a leader in her community of Daly River in the NT, Mr Roger Corbett the former CEO of Woolworths and a member of, among many other boards, the Reserve Bank board and the board of Outback Stores, Dr Bill Glasson, an ophthalmologist and former head of the Australian Medical Association, and myself.
 - c. In addition there are the two most senior public servants in each jurisdiction: the head of the department of Prime Minister and Cabinet, Dr Peter Shergold and the head of the NT Chief Minister's department Mr Paul Tyrell.

23. The terms of reference for the Taskforce are to:
- a. Provide expert advice to the Australian Government on the implementation of the emergency response;
 - b. Provide oversight of the NTERT Operational Group;
 - c. Promote public understanding of the issues involved;
 - d. Alert Government to current and emerging issues that relate directly to the implementation of the response;
 - e. Report to the Prime Minister and the Minister for Families, Community Services and Indigenous Affairs on the progress of the response.

24. To date the Taskforce has had 2 face to face meetings and 3 by telephone conference.

The NT National Emergency Response legislation

25. Now may I briefly outline what is contained in the NT National Emergency Response legislation that was passed about 2 weeks ago

in the Australian Parliament with the support of the two major political parties – this cannot be understated because having the support of the vast majority of the Australian Parliament means that the legislation underpinning the NT National Emergency Response very much reflects the democratic will of the whole Australian Parliament and therefore its people.

26. There are 5 separate pieces of legislation in the package. They cover about 30 subject areas and extend to more than 500 pages. They are:

- a. First, two appropriation Acts, providing in excess of \$587 million in funding for the first year of the emergency response – by way of comparison the NT government’s 2007/2008 budget totaled \$ 3.3 billion, so the first years funding of the Commonwealth’s emergency response equates to just under 20% of the NT’s total budget;
- b. Then three other pieces of legislation, including:
 - i. the Northern Territory National Emergency Response Act 2007. This is the principal Act in the package and it deals with a diverse range of issues including:
 - alcohol restrictions to ban alcohol on prescribed areas of Aboriginal land and to require anyone wishing to purchase more than a certain quantity of alcohol to provide identification and state where that person intends to consume it;
 - audits of publicly funded computers on the 73 Aboriginal communities to detect prohibited pornographic material – the widespread availability of pornography was identified as a significant issue in the Little Children are Sacred report;
 - to provide for the compulsory acquisition of five year leases over the areas of the 73 communities affected by the intervention to allow the Commonwealth to better manage them and to improve living conditions on them;
 - to allow for land tenure changes so that town camps can become normal suburbs;
 - to provide for the appointment of Government Business Managers in these 73 Aboriginal communities to manage and implement the emergency measures;
 - the removal of customary law as a mitigating factor for bail conditions and sentencing; and
 - to provide for a system of licensing for community stores in these 73 Aboriginal communities to ensure they are better managed and to ensure they deliver

healthier and more affordable food to those who live in these communities.

ii. Secondly, the Social Security and Other Legislation Amendment (Welfare Payment Reform) Act 2007:

This Act combines three elements: welfare reform specific to the Northern Territory; welfare reform specific to Cape York; and the broader welfare reform package announced by the Commonwealth government in July.

Among other things, so far as the 73 communities in the NT are concerned, this Act provides for the linking of welfare payments with school enrollment and attendance and with the provision of food to children – it is intended to ensure that a family's welfare income is first and foremost devoted to the children in the family and not be frittered away on alcohol, drugs and gambling.

This Act also provides for the abolition of the CDEP scheme and its replacement with real jobs, training for jobs or income support for those that cannot do either.

iii. Thirdly, the Families, Community Services and Indigenous Affairs and Other Legislation Amendment (Northern Territory National Emergency Response and Other Measures) Act 2007.

This includes reforms to the permit system and the imposition of bans on pornography on these Aboriginal communities. It also contains a number of other provisions including those providing additional powers to the Australian Crime Commission.

Again, this is, of necessity, a much potted summary of the legislation – it is bold, it is complex and it is detailed very detailed.

Where to from now – the long road ahead

27. In the short remaining time available I cannot make an assessment of all the ways in which each of the dozens of aspects of the Commonwealth's emergency intervention is likely to impact on these communities and, indeed, the whole of the NT. I therefore want to focus on just two areas of the NT National Emergency Response and suggest what effect they may have on the 73 communities involved.

28. First the Community Development Employment Program reforms.
- a. These reforms are aimed at replacing “sit down money” i.e. unemployment benefits without any obligation to find a job or train for a job, with real jobs or training for real jobs.
 - b. As I found when I did my review of the Aboriginal Land Rights (Northern Territory) Act nine years ago, there are limited opportunities for real jobs from the enormous tracts of land that Aboriginal people in the NT “own” through Aboriginal land trusts. There are some existing real jobs in mining and tourism on Aboriginal land, but not many. I should add that the travesty in relation to these jobs is that very very few of the real jobs which exist along side communities such as the Yulara Resort near Mutijulu or the GEMCO mine near Alyangula, are held by Aboriginal people who live in these nearby communities.
 - c. Furthermore, whilst many of the real jobs on these 73 communities are currently done by white people, even if all those jobs were to be taken over by Aboriginal people there will still be a significant shortage of jobs – many thousands, in fact.
 - d. So, with the exception of nearby real jobs and replacement jobs, the remaining real jobs for the Aboriginal people on these 73 communities, the facilities to train for them, including, most importantly, on the job training, are not on these communities.
 - e. It therefore follows that those people who cannot take over one of these nearby or replacement jobs on these communities may well have to move to find a job or to participate in job training.
29. Let me turn to the other aspect of the welfare reforms, the link between welfare income and providing food to children and ensuring they attend school. In broad terms, these reforms will mean that any parents with school age children will have to be close to a school and a reliable source of food such as a community store. If they are not, they too may well have to move.
30. In my view the likely medium to long term effects of these two reform measures alone is this, putting aside options such as boarding schools, commuting for jobs and establishing VET facilities on some of the larger communities:
- a. Those people living on remote outstations with school aged children may well have to move closer to the nearest school i.e. the nearest community with a school;
 - b. Those people living on remote outstations who are capable of working or training for work may well have to move closer to the nearest available jobs or job training facilities i.e. the nearest large community;
 - c. Those people living on remote communities, including those people who have moved there from remote outstations, who are capable of working or training for work and who cannot find a job or job training there, may well have to move closer to the

nearest available jobs or job training facilities i.e. the nearest regional towns.

- d. Certainly, those young Aboriginal people who want, for example, to become doctors, environmental scientists or community business managers, and employ those skills in their home communities will have to leave those communities for some years to gain those skills at universities and training facilities in the major towns and cities.
31. The net effect of all this is that there could well be a lot of people on the move. This is not a new phenomenon. It has happened in rural Australia in recent decades with a move from the bush to towns to cities. It has also happened in remote Aboriginal communities where there was a move from pastoral properties to the missions and government settlements in the 1960s and 1970s caused by changes in the cattle industry at that time, including the equal wage decision for Aboriginal stockmen. Then there was a move from those missions and government settlements to town camps in the 1980s and 1990s caused partly by a desire to be closer to alcohol as take away alcohol sales were gradually closed down in remote areas.
 32. In Central Australia where there are much fewer larger communities like Wadeye and Maningrida in the Top End, I suspect the move will be to Alice Springs and Tennant Creek. Based upon anecdotal evidence, it appears that this move is already happening and has been for some years now.
 33. In the Top End where there are large Aboriginal communities located in regions such as Arnhem Land or the Daly/Port Keats area, I suspect the move will be to these larger communities which hopefully will become self sustaining economic units capable of sustaining small businesses, government services and, therefore, more jobs.
 34. So, in summary, I suspect that over the next decade or more we are likely to see a lot of people on the move.