



**By Mick Dodson AM,
Director of the National Centre
for Indigenous Studies at the
Australian National University**

The following is reprinted with the permission of the author from the September 1996 Edition of Parity, "Homelessness in the Lucky Country".

This article was the inspiration behind this current edition of Parity, some 14 years on.

This article is as relevant and important today as it was then. Perhaps even more so.

The Royal Commission into Aboriginal Deaths in Custody found that 43 of the 99 people whose deaths it investigated had been removed from their families as children. Most had suffered a lifetime of severe psychological distress, depression and grief caused by the trauma of this separation.

History of Removal

Between the late 1890s and the early 1970s, depending on the state or territory, Aboriginal and Torres Strait Islander children were forcibly removed from their families. In every jurisdiction laws existed that allowed Indigenous children of mixed blood to be taken from their families. In some instances legislation also condoned the taking of children of full descent. In many cases these laws relied on tests of neglect. If it could be shown that, according to the dominant white standards, an Indigenous child was being neglected he or she could legally be removed from his or her family. In NSW there was an amendment to the legislation in 1915 which allowed the removal of a child simply because he or she was Aboriginal. In that state Aboriginality was automatically and legislatively associated with neglect.

All over Australia Indigenous kids anywhere from a few days old to 15 were removed by the Protector of Aborigines and placed with white families or put into institutions. From these institutions Indigenous kids were sent to work for white families as domestics or as farm labour. Many of these homes and hostels, some of which were, some of which were inaccurately called orphanages, were run by the church. In almost all these cases children were taken without consent of their families.

Indeed, Aboriginal people and Torres Strait Islanders actively resisted the removal of

The Dispossession of Indigenous People: and it's Consequences

their children. The uprooting of a child was an event of profound distress for a family and a community. It was, in effect, an act which attempted to devastate our culture and destroy our society. Across Australia it was vehemently opposed by the Indigenous people.

The forced separation of Aboriginal and Torres Strait Islander children from their families was based on the policy of assimilation. Assimilation relied on the well-established and widely-accepted view that Aboriginal and Torres Strait Islander peoples were inferior and that their way of life, their culture and their language were substandard. Mixed blood children were seen as redeemable because they had some white blood. Assimilationist policies justified their removal on the basis that it gave them a chance in society by socialising them like white children thereby giving them better lives.

This policy also presupposed that the Indigenous people of Australia were a dying race and that the removal of children of mixed blood from their families and communities would speed up the inevitable demise of the Indigenous population. The answer to be perceived "Aboriginal problem" was to breed out the race by absorbing people of mixed blood into the dominant culture.

Often children were removed because of the living conditions of their families or because the behaviour of their parents was perceived as neglectful. Assimilationist policies required Indigenous people to live like non-Indigenous people. But the extreme historical disadvantage suffered by Indigenous peoples with respect to housing and infrastructure meant that it was virtually inevitable that many Aboriginal families failed to meet the standards of European lifestyle set by the authorities. The houses they were given and the places they were expected to live were far removed from the standard of those enjoyed by non-Indigenous people, and once enjoyed by Indigenous peoples.

Traditionally the provision of housing to Aboriginal and Torres Strait Islander peoples was not accompanied by the establishment of basic infrastructure services such as water supply, waste removal and access to goods and services such as health care and food supplies. Consequently, Indigenous families were disproportionately declared as having an unfit environment for the children who were forcibly removed.

Sometimes too, white authorities fabricated the neglect of Indigenous parents to justify

the taking of their children while apparently complying with the legislation.

Current Policies and Practices of Removal

Today the indirect operation of laws and practices continues the tradition of removing Indigenous kids from their families. Indigenous children are still removed from their families at an alarming rate. It is estimated that in NSW, for example, one in four Aboriginal children is removed from his or her family either by the welfare system or by the operation of the juvenile justice system.

The overt racist practice of removing Indigenous kids has been replaced with the covert practice of criminalising Aboriginal and Torres Strait Islander children. The criminalisation of Indigenous youth justifies their removal from family and community into juvenile justice institutions and non-Indigenous families. Nationally, Indigenous children are 18.6 times more likely to be held in detention than non-Indigenous young people.

Policies remain which allow the removal of children on the grounds of neglect. The chronic unemployment of Aboriginal and Torres Strait Islander people means that, more than any other group in society, they are reliant on the welfare system. Indigenous families are, therefore subject to high levels of surveillance and intervention by welfare agencies. This ultimately leads to the removal of their children at a far greater rate than non-Indigenous children.

Today Indigenous peoples continue to experience acute disadvantage in the areas of housing and infrastructure. In 1994 an estimated \$3.1 billion was required to fund the backlog in housing and infrastructure in Aboriginal communities in rural, remote and urban areas. It is estimated that this backlog will take 20 years to address at existing levels of funding. What this means on the ground is that Aboriginal and Torres Strait Islander children remain acutely vulnerable to removal on the grounds of neglect.

The Impact and Effect of Removal

Few Indigenous families are untouched by the effects of the policies of forced removal. These policies affect tens of thousands Aboriginal and Torres Strait Islander people, not only the children who were removed, but also the members of the families and communities from which they were, and are,

taken. It has been estimated that as many as 100,000 Aboriginal people were directly affected by the official policy of assimilation and recent statistics show that more than 10 per cent of living Aboriginal and Torres Strait Islander people over 25 said they had been taken away from their natural families.

The impact of removal policies on Indigenous society and culture has been profound. Removal resulted in a loss of identity for children who were taken, many of whom had their name and age changed. Many Indigenous kids lost all family ties and were alienated from their culture and language. For some, knowledge of their Aboriginality was kept secret from them for years, even decades, or until they stumbled upon it by mistake. The disproportionate levels of alcohol and substance abuse in Indigenous communities have been directly linked to policies of removal as has the high level of mental illness amongst Aboriginal and Torres Strait Islander peoples. Policies of removal have also had a profound influence on the capacity of many Indigenous people to parent their own children. The effects of removal have been generational and they continue to reverberate through our communities.

A National Inquiry

The impact of policies of forced removal on Aboriginal and Torres Strait Islander peoples is graphically reflected in the findings of the Royal Commission. In my recent role as a Hearing Commissioner on hearings for the National Inquiry into the Separation of Aboriginal and Torres Strait Islander Children and their Families the devastating effects of past and present policies of removal on Aboriginal and Torres Strait Islander peoples have again been brought into sharp focus. Perhaps people's accounts of their desperate attempts to hide their children from welfare agencies and the police most vividly tell the story of the profound impact of and resistance to forced separation in the Indigenous community.

The National Inquiry was established by the former Attorney-General, Michael Lavarch in 1995 in recognition of the urgent need to address the policies of removal of Aboriginal and Torres Strait Islander children, both past and present. The terms of reference of the Inquiry require it to consider:

1. The past and continuing effects of separation on Indigenous people;
2. What should be done by the Government in response to this policy such as changes in law, policies and practices, and the development of strategies to reunite families?
3. The justification for any compensation for those affected by removal;
4. Current laws, policies and practices affecting the placement and treatment of Indigenous children such as the operation of the juvenile justice system and welfare agencies.

The Inquiry is being carried out by the Human Rights and Equal Opportunity Commission and is required to report to the Government in December 1996.

Homelessness and Dispossession

Homelessness in Aboriginal and Torres Strait Islander communities is directly linked to dispossession.

The collective historical experience of Aboriginal people has been one of exclusion from the lands they traditionally occupied and used. As a consequence of that exclusion Aboriginal people lost control over the location, design and function of their living spaces.

Many Aboriginal people may not officially be "homeless" by may nonetheless consider themselves as such because of their exclusion from country. The capacity of peoples to care for country is, from an Indigenous perspective, a necessary consideration in determining and explaining levels of homelessness within a community.

Homelessness and Removal

The Indigenous homeless comes from many places. For example, homelessness may result from:

- an Indigenous teenager leaving home because the non-Aboriginal family into which he or she has been adopted or fostered has been unable to cope with his or her reaction to the experience of racism;
- Aboriginal kids leaving home because of poor parenting skills of their parents who were themselves removed and brought up in institutions or inadequate private homes and subject to abuse;
- The plight of Aboriginal old people who were taken away and who had their children taken away and who now have very specific care needs. These people cannot rely on their own children to care for them because that generation is also suffering the effects of removal. For these old people the prospect of culturally inappropriate nursing homes where no one speaks their language and they are denied contact with their country is no option at all. Instead they choose homelessness.

In Australia Indigenous families are 20 times more likely to be homeless than non-Indigenous families. Although the cycle of removal, institutionalisation and homelessness is a common one it is difficult to estimate the number of homeless Indigenous people who were also removed from their families. The Royal Commission found that a high proportion of the people whose deaths it investigated were homeless at the time of their death.

Conclusion

If there is one commitment this country must make to social justice, it is that no Australian will be deprived of the basics of survival; if there is any consensus about the future of this country, it must be that

all its people have enough to eat, somewhere to live, safe water to drink. No Australian can survive without these basic goods and services. But Aboriginal and Torres Strait Islander Australians have not been able to count on their availability.

Homelessness and the acute need of Aboriginal and Torres Strait Islander peoples with respect to housing and infrastructure require urgent attention. The continuing extreme levels of need in the Indigenous community mean Aboriginal and Torres Strait Islander Australians continue to be denied the capacity to exercise and enjoy their human rights like other Australians.

Any strategy to address homelessness in the Indigenous community must take into account its diverse faces. Land rights, the nexus between past and current policies of removal and homelessness as well as housing and infrastructure issues must all be considered in the development and implementation of any adequate policy to confront Indigenous homelessness. ■

Professor Mick Dodson is a member of the Yawuru peoples — the traditional Aboriginal owners of land and waters in the Broome area of the southern Kimberley region of Western Australia. He is currently Director of the National Centre for Indigenous Studies at the Australian National University. He is a Professor of law at the ANU College of Law.

Professor Dodson is also currently a Director of Dodson, Bauman and Associates Pty Ltd — Legal and Anthropological Consultants. He is formerly the Director of the Indigenous Law Centre at the University of New South Wales.

Mick Dodson was Australia's first Aboriginal and Torres Strait Islander Social Justice Commissioner with the then Human Rights and Equal Opportunity. (Now the Australian Human Rights Commission)

Born in Katherine, Northern Territory, Mick was educated in Katherine, Darwin and Victoria. He completed a Bachelor of Jurisprudence and a Bachelor of Laws at Monash University. He was awarded an honorary Doctor of Letters from the University of Technology Sydney in 1998. He also holds an honorary Doctor of Laws from the University of NSW. In 2010 he was awarded and honorary Doctorate from the University of Canberra. On graduating he first worked as a solicitor with the Victorian Aboriginal Legal Service then became a barrister at the Victorian Bar. He joined the Northern Land Council as Senior Legal Adviser in 1984 and became Director (CEO) of the Council in 1990.

Mick Dodson has been a prominent advocate on land rights and other issues affecting Aboriginal and Torres Strait Islander peoples.

Mick Dodson is a vigorous advocate of the rights and interests of the Indigenous Peoples of the world. He was the Co-Deputy Chair of the Technical Committee for the 1993 International Year of the World's Indigenous People. He was also chairman of the United Nations Advisory Group for the Voluntary Fund for the Decade of Indigenous Peoples. He served for 5 years as a member of the Board of Trustees of the United Nations Indigenous Voluntary Fund. He is currently a community nominated member (Pacific) of the UN Permanent Forum on Indigenous Issues.

Mick participated in the crafting of the text of the Declaration on the Rights of Indigenous Peoples in the United Nation Working Group on Indigenous Populations and the Inter-Sessional Working Group of the Human Rights Commission adopted overwhelmingly in 2007 by the United Nations General Assembly.