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Liberalism, Settler Colonialism and the Northern Territory Intervention

Melissa E. Lovell

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This thesis is my own original work and has not previously been submitted for assessment at either the Australian National University or any other institution. All sources have been acknowledged.

Melissa Lovell

To my clever and inspirational mother

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'Liberalism, Settler Colonialism, and the Northern Territory Intervention'

In June 2007 the Australian government assumed greater authority over the government of remote Aboriginal communities in the Northern Territory. The Northern Territory Intervention (NTI), also known as the Northern Territory Emergency Response (NTER), was framed as a response to the *Little Children Are Sacred* report which documented high levels of child abuse and neglect in Aboriginal communities, and which called on the Northern Territory and Australian governments to make the protection of children a priority. The Northern Territory Intervention was controversial because many of the rights, liberties, and processes typically understood as essential elements of liberal government were waived in favour of coercive, disciplinary, and authoritarian strategies of government. In this dissertation I analyse the content of parliamentary debates, political speeches and government reports to develop an understanding of the discursive and rhetorical context in which these interventionist and authoritarian strategies came to be seen as essential to the protection of Aboriginal children's safety and wellbeing. I draw on two analytical perspectives—settler colonialism and liberal governmentality—to argue that both colonial and neoliberal politics contributed to a view of Aboriginal people as dysfunctional and incapable of self-discipline and self-government. I argue that this perception of Aboriginal people played an important role in the justification of authoritarian and coercive policies in remote Aboriginal communities.

Whereas conventional perspectives on liberal politics focus on the liberal commitment to securing liberty and human dignity, my analysis of the NTI illustrates the intimate relationship between liberal and authoritarian politics. Previous scholarship on the NTI describes the policy as a return to a colonial form of politics and understand the normalising and authoritarian aspects of the Intervention as the product of an ideological shift toward neoliberal forms of government. From this perspective, colonial and neoliberal forms of politics compromise the ability of a liberal democratic society to secure the liberty, rights and wellbeing of its Aboriginal citizens. Using my analysis of the NTI, I proffer an alternative argument about the significance of the NTI for our understanding of liberal and colonial politics. First, I argue that the NTI demonstrates the tendency of liberal government to use authoritarian and coercive strategies to govern

those who are deemed incapable of self-government and the exercise of liberal economic freedoms. This concept of authoritarian liberal government is found in the scholarship on liberal governmentality and contradicts the purely emancipatory view of liberal politics. Second, I argue that the NTI case study enables an examination of the process by which this liberal tendency to authoritarian government can be reinforced in the settler colonial context. An understanding of this process is important because it demonstrates some of the challenges facing attempts to decolonise settler colonial societies.

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Chapter One: Introduction

The Northern Territory Intervention inspires considerable emotion. It has been described as 'bizarre' and 'without precedent' by some critics and as 'authoritarian', 'top down' and 'a form of apartheid' by disillusioned supporters.¹ From June of 2007 the Howard Government assumed authority over remote Aboriginal communities in the Northern Territory in an 'Intervention' designed to protect Aboriginal children from the widespread abuse identified in a recent government report.² The pledge of resources for housing, health and law and order were cautiously welcomed by some Aboriginal people in the Northern Territory. However, the Northern Territory Intervention has become controversial because many liberties and processes that are usually seen as necessary elements of liberal democratic governance were waived in favour of policies that involved intense government regulation of Aboriginal people and communities. With the initial stabilisation phase of the Intervention complete, the project has moved into a long-term development phase. This has resulted in many elements of the original Intervention becoming firmly entrenched in Australian Aboriginal Affairs and social security policy. In this context, it becomes even more important to develop an understanding of the paradigmatic shift that made the authoritarian government of the Northern Territory's Aboriginal citizens appear to be a necessary and legitimate policy.

My purpose in this dissertation is to develop a better understanding of the authoritarian aspects of the Northern Territory Intervention. In particular, I ask what understandings of Aboriginal culture, and what conceptions of good government, were employed by

1 J.C. Altman, "The Howard Government's Northern Territory Intervention: Are Neo-Paternalism and Indigenous Development Compatible?," *Centre for Aboriginal Economic Policy Research Topical Issue*, no. 16 (2007): 1; Natasha Robinson, "Yunupingu Loses Faith in Intervention. 12 August 2009," *The Australian*, <http://www.theaustralian.com.au/news/nation/yunupingu-loses-faith-in-intervention/story-e6frg6nf-1225760427615>; Tony Abbott, "Media Release. "Closing the Gap"." <http://www.tonyabbott.com.au/Pages/Article.aspx?ID=3826>.

2 John Howard and Mal Brough, "Joint Press Conference with the Hon Mal Brough, Minister for Families, Community Services and Indigenous Affairs " National Library of Australia, <http://pandora.nla.gov.au/pan/10052/20080118-1528/pm.gov.au/media/Interview/2007/Interview24380.html>.

politicians to justify the authoritarian aspects of the NTI policy? I argue that both colonial and liberal ideas have played a crucial role in the development of those political discourses used to justify the Intervention and have contributed to two related narratives of 'failure'. The first narrative is linked to colonial discourse. Recent political discourse has emphasised the dysfunctional nature of Aboriginal culture, and favoured a conception of Aboriginal people as uncivilised and unable to adapt to the demands of modern political society. The colonial discourses of both the Coalition and Labor governments have played a crucial role in the development of conceptions of Aboriginal people as incapable of normal functioning in liberal society and therefore failed liberal citizens. The second narrative is linked to liberal—specifically neoliberal—conceptions of government. Building on the neoliberal critique of the welfare state, recent governments have characterised earlier Aboriginal Affairs policy paradigms as failures. Principles of self-determination, land rights and Aboriginal rights were considered part of a welfare state paradigm and to therefore share the limitations of that paradigm. The failures of Aboriginal communities and cultures and the failure of past governmental strategies were seen as mutually reinforcing problems. Coercive and authoritarian policy came to be seen as justifiable as part of a short-term strategy for producing better forms of governance, and therefore more capable liberal citizens, within remote NT communities.

In this first chapter I provide a description of my research problem. I then move to a discussion of the analytical approach of this thesis. I conclude with a short outline of the remaining chapters in this dissertation.

1.1 The authoritarian politics of the Northern Territory Intervention

My focus in this dissertation is on the purposefully authoritarian aspects of the Northern Territory Intervention. The authoritarian elements of the NTI pose a problem for political analysis because they challenge the common view of liberal politics as an emancipatory doctrine concerned with individual liberty and the protection of individuals' liberty from the impositions of the state. In this section I provide, first, a

discussion of what I mean when I refer to an emancipatory view of liberalism. I then develop a brief overview of the NTI, with a more detailed account developed in Chapter Two. Finally, I outline the most controversial elements of the Northern Territory Emergency Response (NTER) Acts and other legislation introduced as part of the Intervention and argue that the authoritarian nature of the Intervention challenges the emancipatory view of liberal politics.³

The emancipatory view of liberal politics

First, however, it is important to clarify what I mean when I refer to an emancipatory view of liberal politics. For the purposes of this analysis I am using the term emancipatory liberalism as a synonym, or shorthand, for the traditional liberal concern for securing the liberty of individuals from oppression by either the state or the stifling conformity of social custom or prejudice. Crucial to this conception of liberal freedom is the idea that, as Duncan Ivison has put it, '[i]ndividuals are free to the degree that they are protected from such forces [of state oppression and social conformity] and secure in the pursuit of their own projects and plans, subject to the constraints necessary for other to enjoy the same rights'.⁴ This conception of freedom is found in many strands of liberal thought including that of classical liberal, social liberal, and neoliberal politics.

A classic and well known explanation of this conception of individual liberty can be found in the work of John Stuart Mill's essay *On Liberty*, in which he outlines the appropriate scope for liberty and the limits of legitimate government activity. The principles defining the scope of this liberty are basic ones. The first of these is the idea that an individual has a right to think and act as he or she thinks best without interference from society. Mill asserts that '[t]he only part of the conduct of anyone for which he is amenable to society is that which concerns others. In the part which merely

3 I use the Northern Territory Emergency Response (NTER) and Northern Territory Intervention (NTI or NT Intervention) interchangeably in this dissertation. The NTER acts were the legislative instrument for the implementation of the policy more generally known as the Northern Territory Intervention.

4 Duncan Ivison, *The Self at Liberty. Political Argument and the Arts of Government* (Ithaca: Cornell University Press, 1997), 3.

concerns himself, his independence is, of right, absolute'.⁵ The second broad principle, often referred to in contemporary scholarship as the harm principle, is the idea that freedom should only be limited if a person's actions will harm others. Mill argues that '...the only purpose for which power can be rightfully exercised over any member of a civilised community, against his will, is to prevent harm to others'.⁶ Mill argued that some government was necessary because it involved the prevention of harm to particular individuals, thereby preserving the liberty of those individuals. Excessive government, in contrast, limits freedom and discourages individual self-development, creativity and, in turn, the development and progress of society as a whole.

This concern with individual liberty, and the associated issue of where to draw the line between legitimate law and tyrannical government, has become the defining problem of liberal politics and liberal political philosophy.⁷ Different strands of liberal thought have drawn this line differently. Social liberals such as Thomas Hill Green and Leonard Trelawney Hobhouse have justified an expanded role for the state in bringing about the social conditions in which citizens could effectively pursue liberty. For Green, government could legitimately take a proactive role in addressing the social and economic conditions which limit individuals' liberty. Green argued that 'true' or 'real' freedom is a moral endeavour where an individual has the opportunity to replace the quest to satisfy his natural instincts with the, ultimately more satisfying, pursuit of human perfection.⁸ For example, a drunk might be said to be exercising their free will when they have a drink. However, true freedom would be the freedom of breaking the bondage of liquor and joining a temperance meeting.⁹ In this context, laws should be considered morally just to the extent that they secure the conditions for true freedom

5 J.S. Mill, *On Liberty* (Harmondsworth: Penguin Books, 1982 [1859]), 69. The convention of gender neutral language is a recent one. For ease of reading I have retained the original gendered phrasing when quoting historical sources.

6 Ibid., 68.

7 Uday Mehta, *The Anxiety of Freedom. Imagination and Individuality in Locke's Political Thought* (Ithaca: Cornell University Press, 1992), 2.

8 Maria Dimova-Cookson, *T.H. Green's Moral and Political Philosophy* (Houndmills: Palgrave, 2001), 109-12; Thomas Hill Green, *Lectures on the Principles of Political Obligation* (London: Longmans, Green and Co. , 1931), 16-17.

9 Ibid., 18.

and 'enable him [the individual] to realise...his idea of self-perfection'. This might involve compelling parents to educate their children because a lack of education prevents the growth of the capacity of those children to exercise their rights. The state may also be said to have a legitimate role in securing or enforcing healthy housing conditions, placing limitations on the accumulation of landed property, and protecting the rights of children in relation to family law.¹⁰

Economic liberals, also known as neoliberals, have a different conception of liberty and the role of the state. However, they too are concerned with the freedom of individuals and the extent of legitimate state intervention in citizens' lives. Friedrich Hayek, who developed the most extensive account of the idea of liberty from a neoliberal perspective, defines freedom as a lack of coercion. He defined coercion as '...control of the environment or circumstances of a person by another [such] that...he is forced to act not according to a coherent plan of his own but to serve the ends of another'. Coercion is a conscious act by a particular actor, meaning that we may be considered to be free even in situations where we have few or no choices to make about our course of action.¹¹ For instance, a rock climber who has fallen into and become trapped in a crevasse is nonetheless free as no one has consciously deprived him of his liberty. Similarly, an individual who is unable to pursue his or her interests or preferences due to poverty or a lack of experience may be incapable but is not unfree.¹²

Echoing the concept of the harm principle found in the work of Mill and many other liberals, Hayek argued that the state ought to have a monopoly on coercion and that it can only reasonably use coercion, or the threat of coercion, in circumstances where it will prevent the coercion of one individual by another.¹³ The appropriate role of government from this perspective is to assure an individual of a 'sphere of unimpeded action' or personal liberty in which he or she is protected against interference and

10 Ibid., 32-33, 209.

11 Raymond Plant, *The Neo-Liberal State* (Oxford: Oxford University Press, 2010), 64-65.

12 F.A. Hayek, *The Constitution of Liberty* (Chicago: The University of Chicago Press, 1960), 12-19; Plant, *The Neo-Liberal State*, 65-66.

13 Hayek, *The Constitution of Liberty*, 20-21.

coercion.¹⁴ Other ideas about the role of the state are related to Hayek's understanding of the market system. For Hayek, the market is both a space in which free individuals act—through buying, selling and the exchange of goods and labour—and a mechanism for spontaneously creating order in society.¹⁵ Consequently, the role of government is confined to creating the conditions in which an orderly arrangement will spontaneously establish itself. This role should include the development of abstract and non-discriminatory laws that provide individuals with some degree of certainty on which to base their pursuit of their personal goals.¹⁶

Mill, Green and Hayek each represent different strands of liberal political thought, but they share the characteristically liberal concern for securing the conditions for individual liberty and placing clear limits on political authority. It can be easy to interpret liberalism as a primarily emancipatory political doctrine because state intervention in the life of citizens, even the state monopoly on coercion outlined by Hayek, can be justified in relation to a concern with preserving and creating the conditions of liberation and individual freedom. For instance, the harm principle acts to secure the liberty of an individual that might be harmed, and deprived of liberty, as a consequence of another individual's actions. Similarly, Green's commitment to healthy housing environments limits the freedom of the greedy landlord to let his properties fall into disrepair but only because this secures the conditions—such as good health—that are necessary for the liberty of the tenant. Finally, the neoliberal state's monopoly on coercion is designed to protect the individual from non-state coercion by securing his or her ability to act unimpeded by threats of violence or extortion.

Liberal politics has resulted in a number of mechanisms for limiting and evaluating governmental intervention in citizen's lives. These include constitutional laws, human rights frameworks and processes of judicial review. To some extent, democratic elections have also served as a mechanism for safeguarding liberty. However liberals have typically had a tense relationship with democracy due to the risk that the opinion

14 Ibid., 42, 139.

15 Ibid., 160-61; Plant, *The Neo-Liberal State*, 71-73.

16 Hayek, *The Constitution of Liberty*, 21.

of the majority may pose to the individual and the freedom of minority groups. I argue below that many aspects of the Intervention were authoritarian rather than emancipatory in form, and could not be easily explained using the harm principle. First, however, I provide a brief overview of the main components and the political circumstances of the NT Intervention including its development by the Coalition Liberal-National government of John Howard in 2007 and its continuation under the Labor governments of Kevin Rudd and Julia Gillard after November 2007.

The Northern Territory Emergency Response

In April 2007, the Board of Inquiry into the Protection of Aboriginal Children from Sexual Abuse presented their report to the then Chief Minister of the Northern Territory, Clare Martin. The report was titled *Ampe Akelyernemane Meke Mekarle* or *Little Children Are Sacred*, and it urged that child sexual abuse in the Northern Territory be made an issue of urgent national significance by the NT and Australian governments.¹⁷ The response, when it came in June 2007, was from the Australian Government. John Howard, the Prime Minister at the time, described the situation in the Northern Territory as a 'national emergency' and a 'crisis' and argued that it would be necessary to 'take control of [Aboriginal] townships' in order to protect Aboriginal children from abuse.¹⁸ The initial response to this crisis involved a military intervention and a significant role for Australia's armed forces, leading one commentator to quip that Australia was the 'first member of the 'Coalition of the Willing' to invade itself'.¹⁹

The Howard Government framed its justification for the intervention around the chronic failure of the Northern Territory Government's administration of Aboriginal

17 Northern Territory Board of Inquiry into the Protection of Aboriginal Children from Sexual Abuse (NT Board of Inquiry), "Ampe Akelyernemane Meke Mekarle "Little Children Are Sacred", (Darwin: Northern Territory Government, 2007), 7.

18 Howard and Brough, "Joint Press Conference with the Hon Mal Brough."

19 Guy Rundle, "Unanswered Questions Abound in NT 'Invasion'," Crikey, <http://www.crikey.com.au/2007/06/27/unanswered-questions-abound-in-nt-invasion/>. The 'coalition of the willing' refers to those countries who supported the U.S.-led invasion of Iraq in 2003.

communities and around the dire conditions in Aboriginal communities. This encouraged the view that the discriminatory and authoritarian measures of the policy were necessary elements of a policy that could quickly deliver better safety and living conditions in Aboriginal communities in the Northern Territory. Prime Minister John Howard's joint press conference with Indigenous Affairs minister Mal Brough in June 2007 provided a public justification of the government's decision to implement the Intervention. Howard reported that he was unhappy with the response of the Northern Territory Government and that the Australian Government's decision to assume authority over the government of Aboriginal communities in the Northern Territory was justified by the level of child abuse in these communities. Collectively, Howard's comments on the need for law and order, extra policing, restrictions on pornography and alcohol and the extension of conditions on welfare payments painted a picture of Aboriginal communities as extremely dysfunctional and of Aboriginal parents as innately irresponsible. The claim that the innocence of childhood was a 'myth' in many Aboriginal communities reinforced this representation of Aboriginal communities. The rationale for the federal assumption of authority in this region was to give the federal government the power to 'do something' at a federal level without the complications of having to govern in conjunction with the Northern Territory Government and under the conditions of the Aboriginal Land Rights Act.²⁰

A package of legislation for this intervention in the Northern Territory was adopted by the Australian Parliament in August of 2007 and included the *Northern Territory National Emergency Response Act*, the *Social Security and Other Legislation Amendment (Welfare Payment Reform) Act* and the *Families, Community Services, and Indigenous Affairs and Other Legislation (Northern Territory National Emergency Response and Other Measures) Act* as well as a number of appropriation acts.²¹ These acts introduced a wide range of measures including: compulsory leasing of Aboriginal

20 Howard and Brough, "Joint Press Conference with the Hon Mal Brough."

21 Senate Legal and Constitutional Affairs Committee, "Inquiry into the Northern Territory National Emergency Response Bill 2007 & Related Bills," Parliament of Australia,

http://www.aph.gov.au/Senate/committee/legcon_ctte/completed_inquiries/2004-07/nt_emergency/index.htm.

townships to government; dismantling of the permit system for communities on Aboriginal land; restrictions to alcohol and pornography; the removal of customary law and cultural background as considerations during bail and sentencing; an increased police presence in Aboriginal communities; reforms to housing and health services; and welfare reforms that prescribed the way that Aboriginal people spent their incomes and which linked welfare payments to children's school attendance.²² These Acts can be considered to have had bipartisan support as the federal Labor party, sitting in opposition at the time, voted in favour of this package of legislation.

The electoral victory of the federal Labor party in November 2007 resulted in some adjustments to the administration of the Coalition Government's emergency intervention and the re-badging of the policy as 'Closing the Gap in the Northern Territory' and then, in 2011, as 'Stronger Futures in the Northern Territory'.²³ However, the Labor Government maintained most of the Intervention's core features. It is possible that the Labor party's initial support for the Northern Territory Intervention was at least in part an electoral decision based on unwillingness to be 'wedged' politically.²⁴ However, the Labor Party reaffirmed its commitment to a bipartisan position on the NTER in the aftermath of the election. The original justification of the intervention, as well as the relevant new legislation, was a creation of the Howard Government. However most of

22 Parliamentary Library, "Northern Territory National Emergency Response Bills 2007 - Interim Bills Digest," in *Bills Digest* (Canberra: Department of Parliamentary Services, Parliament of Australia, 2007); Melinda Hinkson, "Introduction: In the Name of the Child," in *Coercive Reconciliation. Stabilise, Normalise, Exit Aboriginal Australia*, ed. Jon Altman and Melinda Hinkson (Melbourne: Arena Publications, 2007), 1-2.

23 Australian Government, "Stronger Futures in the Northern Territory," <http://www.indigenous.gov.au/stronger-futures-in-the-northern-territory/>; Community Services and Indigenous Affairs Department of Families, "Closing the Gap in the Northern Territory," <http://www.fahcsia.gov.au/sa/indigenous/progserv/ctgnt/Pages/default.aspx>. The Stronger Futures legislation is still before parliament but the rhetoric has already imbued official documents and government websites.

24 A 'wedge' issue is one that has the potential to split a party's usual support base into two camps, thereby undermining the party's electoral success. For speculation on whether the NTI was intended as a wedge policy, see: Paul t' Hart, "The Limits of Crisis Exploitation," *Arena Journal*, no. 29/30 (2008): 166.

the administration of the intervention has been accomplished under a federal Labor Government and the Labor party's role in and support of the NTER should not be underestimated in analyses of the intervention. The Rudd-Gillard Labor Government's Indigenous affairs policy was not identical to that of the Howard Government. Elements of the NTER, such as the Howard Government's plans to abolish the permit system for access to Aboriginal land and to dismantle the Community Development Employment Projects (CDEP) for unemployed Aboriginal people were reversed.²⁵ The Labor Government also committed to recognising the UN Declaration on the Rights on Indigenous Peoples (which the Howard Government had voted against in the UN General Assembly) and a formal apology from the Australian Parliament to the Stolen Generations. However, in spite of these amendments the Labor Government has implemented much of the original NTER legislation including its income support management scheme and the compulsory acquisition of Aboriginal townships.

The Howard Government may have conceived of the Northern Territory Intervention but it has been the Rudd-Gillard Labor Government which has implemented most of its core elements. The Intervention is no longer a crisis or a national emergency but a plan for the long term development of Aboriginal communities in the Northern Territory. Government press releases and government reports have become increasingly focused on demonstrating that the NTER policy has been effective in the short term, and will make a sound basis for ongoing policy in these regions. One of the most heavily criticised aspects of the NTER—the income management scheme for welfare recipients in Northern Territory Aboriginal communities—will remain a core part of the government's NTER policy in the future. It has been extended to other disadvantaged communities and to non-Aboriginal recipients of welfare payments so that the NTER policies can be considered in line with the requirements of the Racial Discrimination

25 In 2009 the government announced significant reforms to the CDEP policy. See Community Services and Indigenous Affairs Department of Families, "Australian Government and Northern Territory Government Response to the Report of the NTER Review Board," http://www.fahcsia.gov.au/sa/indigenous/pubs/nter_reports/response_to_reportNTER/Documents/Aust_response_1882953_1.pdf.

Act.²⁶ The shift from the 'stabilization' to the 'long-term development' phase of the NTI, has therefore embedded the core features of the NTER legislation into the long-term objectives of government in Indigenous communities, and extended key governance techniques to both Aboriginal and non-Aboriginal communities across Australia.²⁷

The Intervention as a challenge to emancipatory views of liberal politics

Earlier I mentioned that the authoritarian politics of the NTI pose a problem for political analysis because they challenge emancipatory views of liberal politics. I now explain this statement further in the context of my discussion of liberal political thought and the outline of the NTI. First, I argue that the NTI has several authoritarian aspects to it. For the purposes of this dissertation, I have adopted Mitchell Dean's definition of authoritarian government as any form of rule that seeks to 'operate through obedient rather than free subjects' and which attempts to 'neutralize any opposition to authority'.²⁸ I then explain how current views of emancipatory liberalism make it difficult to analyse actually existing liberal politics, including the role that liberal politics might play in justifications for the authoritarian aspects of the Intervention.

Authoritarian government is often associated more with non-liberal regimes than with the politics of liberal democratic nations such as Australia. Consequently, the authoritarian approach of the NTI appears out of place in the Australian context and the

26 Jenny Macklin, "Strengthening the Northern Territory Emergency Response. Joint Media Release with Warren Snowdon MP, Member for Lingiari. 25 November 2009," http://www.jennymacklin.fahcsia.gov.au/mediareleases/2009/Pages/strengthening_nter_25nov2009.aspx; Jenny Macklin, "Major Welfare Reforms to Protect Children and Strengthen Families. Joint Media Release with Warren Snowdon MP, Member for Lingiari. 25 November 2009,"

http://www.jennymacklin.fahcsia.gov.au/mediareleases/2009/Pages/welfare_reforms_protect_children_25nov2009.aspx.

27 Jenny Macklin, "Compulsory Income Management to Continue as Key NTER Measure.,"

http://www.jennymacklin.fahcsia.gov.au/mediareleases/2008/Pages/nter_measure_23oct08.aspx.

28 Mitchell Dean, *Governmentality. Power and Rule in Modern Society. Second Edition* (Los Angeles: Sage, 2010), 155.

policy has attracted a lot of criticism. These critiques provide some indication of the aspects of the Intervention that we might consider authoritarian. One critique that clearly demonstrates the authoritarian character of the Intervention is the critique of the non-consultative implementation of the NTI. This critique illustrates the focus of recent Australian governments on the obedience of Aboriginal citizens to policies not of their own making, as well as the attempt to neutralise opposition by moving quickly to implement wide-ranging policies that encompass many aspects of community life including income, alcohol consumption, community governance, and land management. The issue of community consultation and informed consent is, of course, particularly important within the field of Indigenous policy. Aboriginal people, as a minority population within a majority settler population, find it hard to influence government decision-making via general electoral processes and alternate routes of political influence including Aboriginal representative bodies and thorough consultation processes with local communities have typically been proposed as methods for addressing this disadvantage. Indigenous rights to consultation and consent on policies that affect them, or the use of Indigenous owned land, have been enshrined in international law to address some of the inequalities brought about by histories of colonial dispossession and authoritarian government of Indigenous peoples.²⁹

The speed with which the NT Emergency Response legislation was introduced allowed for very little input into the policy by those who would be affected by the policy and many critics felt that the NTER involved insufficient consultation with Aboriginal people. Pat Anderson and Rex Wild, the authors of the *Little Children* report, argued that not one of their report's recommendations, which were based on 260 meetings in Aboriginal communities and 61 submissions, were incorporated into the Northern Territory Intervention.³⁰ Fred Chaney, one of the members of Reconciliation Australia's board of directors, argued in an opinion piece for *The Age* that he was 'shocked' at how

29 For example, see the United Nations' Declaration on the Rights of Indigenous Peoples. United Nations General Assembly, "United Nations Declaration on the Rights of Indigenous People," (New York: United Nations, 2007).

30 Ben Langford, "Fed Govt 'Betrays' Report Author," *Northern Territory News*, 6 August 2007.

quickly the NTER legislation was 'rushed through parliament' and concerned that the 'micro-management of Aboriginal lives' would crush 'the engagement that is essential to making progress [in Aboriginal communities]'.³¹ The Human Rights and Equal Opportunities Commission (HREOC) expressed concern that 'functional [Aboriginal] communities will feel dis-empowered by measures that distance them from control over daily decision-making responsibilities'.³² Boyd Hunter pointed out that this lack of consultation was likely to result in an unfeasible policy. Complex or 'wicked' problems, he argued, require negotiation between stakeholders as well as transparent and open public debate. The Australian Government, he argued, lacks the organisational capacity to deal directly with Aboriginal people, and the 'hastily conceived and sketchily outlined' NTER policy was, he predicted, unlikely to be successful.³³

A further discussion of the authoritarian character of the NTI can be found in Chapter Five. There I argue that some specific measures of the NTI—specifically the Income Management Regime, and the land management and community governance provisions—are also examples of authoritarian government. While the authoritarian aspects of the NTI have led some people, including Hunter, to conclude that the Intervention is illiberal, I argue that the NTI is an example of authoritarian liberal government.³⁴ In particular, the justifications for the NTI rely upon a combination of colonial discourse and neoliberal reasoning. I will return to this argument about the Intervention later in this chapter and throughout this dissertation.

Here, I want to explain why the common focus on an emancipatory conception of liberal politics is actually an obstacle to an analysis of the role liberal politics plays in the justification of the authoritarian aspects of the NTI. The main problem is that the

31 Fred Chaney, "Give Aborigines Hope," *The Age*, 15 August 2007.

32 Human Rights and Equal Opportunities Commission (HREOC), "Submission of the Human Rights and Equal Opportunities Commission (HREOC) to the Senate Legal and Constitutional Committee on the Northern Territory National Emergency Response Legislation," HREOC,

http://www.hreoc.gov.au/legal/submissions/2007/NTNER_Measures20070810.html.

33 Boyd Hunter, "Conspicuous Compassion and Wicked Problems. The Howard Government's National Emergency in Indigenous Affairs," *Agenda* 14, no. 3 (2007): 38.

34 *Ibid.*, 37.

emancipatory view of liberal politics is actually based on a normative theoretical literature and is not a description of 'actually existing liberalisms'.³⁵ An emancipatory view of liberal politics can be effectively used to document shortcomings of particular policies or political arguments. Most critiques of the Intervention fall into this category because they seek to explain how the Intervention falls short of critics' normative ideals of individual freedom, human rights or non-discrimination.³⁶ Furthermore, many critics of the Intervention focused on the colonial or neoliberal character of the Intervention, thereby emphasising the failure of the Intervention to live up to critics' social liberal normative commitments.³⁷ These sorts of criticisms can be a valuable form of critique because they highlight the problematic nature of the Intervention and challenge governments to live up to the standards expected of them. But it is difficult to develop a clear understanding of the main ideological components of a policy when one is defining the policy according to what it lacks.

Ultimately, as I explained in the introduction to this chapter, the relationships between the liberalism and the authoritarian aspects of the Intervention are, unsurprisingly, complicated ones. In comparison to the ahistorical liberalism of theory, 'actually

35 Barry Hindess, "Political Theory and 'Actually Existing Liberalism'," *Critical Review of International Social and Political Philosophy* 11, no. 3 (2008): 349.

36 For example, see: James Anaya, "The Situation of Indigenous Peoples in Australia," (New York: United Nations General Assembly, 2010), 41; Fred Chaney, "40 Years since the Referendum: Learning from the Past, Walking into the Future" (paper presented at the Vincent Lingiari Lecture, Darwin, 11 August 2007); Human Rights and Equal Opportunities Commission (HREOC), "Submission of the Human Rights and Equal Opportunities Commission (HREOC) to the Senate Legal and Constitutional Committee on the Northern Territory National Emergency Response Legislation."; George Newhouse and Daniel Ghezelbash, "Calling the Northern Territory Intervention Laws to Account: Complaint to the UN Committee on the Elimination of All Forms of Racial Discrimination," *Law Society Journal* 47, no. 9 (2009): 56; Alison Vivian and Ben Schockman, "The Northern Territory Intervention and the Fabrication of 'Special Measures'," *Australian Indigenous Law Review* 13, no. 1 (2009): 88-97. A more thorough description of critiques of the Intervention can be found in Chapter Two.

37 For example: Altman, "The Howard Government's Northern Territory Intervention: Are Neo-Paternalism and Indigenous Development Compatible?," 2; Liz Conor, "Howard's Desert Storm" *Overland*, no. 189 (2007): 13; Desmond Manderson, "Not Yet: Aboriginal People and the Deferral of the Rule of Law," *Arena Journal*, no. 29/30 (2008): 237-38, 63-64.

existing liberalisms' take place within a history of inequality, including the inequalities that stem from colonial and imperial forms of politics, and may not live up to the normative standards that liberals have set for themselves.³⁸ Furthermore, whereas liberal theorists define clear boundaries for state coercion and government intervention in the lives of citizens, the Northern Territory Intervention illustrates the adaptive, changeable and sometimes incoherent nature of these boundaries within actually existing politics. For example, it is unclear exactly how the authoritarian aspects of the Intervention fit any of three normative accounts of legitimate interventions of liberal governments in the freedom of individuals that I summarised above. On a very basic level, the Intervention might be seen as an application of the harm principle because it is justified in terms of the protection of Aboriginal children from sexual abuse and other forms of abuse. However, many of the NTER measures, particularly those relating to land ownership and community governance, went well beyond a credible program for addressing the problem of sexual abuse.³⁹

Similar arguments can be made about the fit between the NTI and social liberal and neoliberal conceptions of legitimate government interference. Some aspects of the Intervention, such as commitments to better housing and ensuring children are sent to school, seem compatible with the social liberal commitment to pro-actively creating the conditions in which individuals can pursue true freedom. However, other aspects of the Intervention, such as the Income Management Regime which quarantined a portion of all residents' social security payments for responsible expenditure on items such as food, school books and medical fees, do not correspond with the social liberal conception of the legitimate role of government. Social liberals recognise that good behaviour should ideally be voluntary rather than enforced by legislation.⁴⁰ In the case of the IMR the blanket application of the policy provided no opportunity for parents to commit voluntarily to what the government would have seen as responsible patterns of expenditure. Similarly, there are aspects of the Intervention that go beyond the normative neoliberal conception of the role of the state. The problems posed by poor

38 Hindess, "Political Theory and 'Actually Existing Liberalism'," 348-49.

39 Hinkson, "Introduction: In the Name of the Child," 3.

40 Green, *Lectures on the Principles of Political Obligation*, 208-09.

housing or education would not be considered an obstacle to liberty from the neoliberal perspective as they involve no explicit coercion of one individual by another. And the interventionist character of the NTER appears to contradict the idea that the role of government was to create a 'sphere of unimpeded action' in which the individual is protected from interference and coercion.⁴¹

My focus in this dissertation, then, is on the complicated, historically situated relationship between government and liberty, including the relationship between liberal and authoritarian politics in the NTI. This relationship is defined by the process of producing and critiquing discourses of individual liberty, ideas about how to secure this liberty, and rationales for specific strategies of government including authoritarian strategies of government. My analysis also requires a consideration of the role that inequalities, particularly those produced by the settler colonial context in which the NTI policy was developed, play in the development of this relationship. In the next section of this chapter I explain the general approach I take in this dissertation and introduce the two analytical perspectives that I draw on most frequently in my analysis.

1.2 Analytical approaches in this dissertation

In this section I provide a short overview of the approach and focus of my thesis. I begin with a discussion of the broader theoretical and epistemological orientation of this research. I then introduce the two scholarly fields which shape my analytical approach in this dissertation. First, I discuss the concept of settler colonialism which I use to better understand the role of colonial discourse in the Intervention. I then discuss the concept of liberal governmentality which provides a conceptual language for understanding the relationship between liberal and authoritarian government.

Theoretical orientation of this research

⁴¹ Hayek, *The Constitution of Liberty*, 42, 139.

In the broadest sense, this research project can be described as belonging to a qualitative research paradigm, in particular it belongs to a branch of qualitative research that rejects positivist conceptions of research. Qualitative research consists of 'a set of interpretive, material practices that make the world visible'. These practices 'change the world' by turning it into a 'series of representations'. Qualitative researchers, while employing a diverse range of theoretical frameworks, epistemologies and research methods, all seek to study empirical materials in their natural settings as part of an attempt to 'make sense of, or to interpret, phenomena in terms of the meanings people bring to them'.⁴²

In contrast to positivist approaches to social science, this dissertation is part of a tradition of research which rejects a 'stable, unchanging' conception of reality and which challenges the view that the researcher can ever be an objective, scientific observer of this social reality.⁴³ In practical terms, this means acknowledging that the analysis I provide in this dissertation is a subjective interpretation of the politics of the Northern Territory Intervention. Furthermore, it involves acknowledging that this interpretation is necessarily affected by my own subjective experiences as a white woman and descendant of British immigrants, as well as by the personal, normative, and ideological commitments that I bring to the research experience. In the field of Aboriginal Affairs policy analysis, the white, settler researcher is always prone to a form of 'Aboriginalism' in which the researcher reproduces, produces and disseminates knowledge about Aboriginal people, and research is designed with little Aboriginal input into its design, focus, methods, objectives, or outcomes.⁴⁴ My research reverses the usual focus of research in Indigenous affairs because my analytical lens is firmly focused on the discourses and justifications produced by politicians rather than on Aboriginal people. This focus on *settler* politics demonstrates that the 'Aboriginal

42 Norman K. Denzin and Yvonna S. Lincoln, "Introduction. The Discipline and Practice of Qualitative Research," in *The Landscape of Qualitative Research. Theories and Issues*, ed. Norman K. Denzin and Yvonna S. Lincoln (Thousand Oaks: Sage Publications, 2003), 4-5.

43 Ibid., 12.

44 Lester-Irabinna Rigney, "Indigenist Research and Aboriginal Australia," in *Indigenous People's Wisdoms and Power: Affirming Our Knowledges through Narrative*, ed. Nomalungelo Goduka and Julian Kunnie (London: Ashgate Publishing, 2006), 34-35.

problem'—which is the usual target of government policy—is produced as part of a meaning making exercise among elites, rather than being an objective and self-evident characteristic of Aboriginal choices and ways of life. Following on from my comments about subjective interpretations, the conclusions that I come to in this research are meant to contribute to a broader critique and interrogation of Indigenous-settler power relations, but are certainly not intended to be a final or objectively true explanation of the politics of the NTI as I do not believe this sort of objectivity is possible.

My approach in this dissertation is best described as a process of problematisation, a term which can be attributed to Michel Foucault. The term refers to the attempt to identify and trace the development of particular problematics such as 'madness' or 'sexuality'.⁴⁵ Foucault was interested in the way that people's knowledge about the world is dependent on the production of particular discourses, and an associated conception of what is true, and therefore a 'fact', and what is false. Central to his epistemology was the view that not only language, but also discourse and knowledge, is a human invention. While language is not entirely separate from the object it describes, it can also never entirely describe the object.⁴⁶ This perspective on language, discourse and knowledge creates an analytical space to describe, critique and problematise concepts. The very process of critique transforms our understanding of the world and can undermine the basis on which particular facts are based. For this reason the process of problematisation—the process of describing and understanding the discourses within which knowledge is produced and validated—can be a powerful political tool, especially when the concepts it interrogates form part of justifications for inequality or discrimination. In this dissertation I seek to problematise the conceptions of Aboriginality, liberal freedom, and good government which, I will argue, have resulted in the authoritarian aspects of the NTI being understood by Australian governments as legitimate and necessary policy measures.

I draw on work in two scholarly fields to assist me in this task, but before discussing

45 Mark G. E. Kelly, *The Political Philosophy of Michel Foucault* (New York: Routledge, 2009), 27-28.

46 *Ibid.*, 20-27.

these I wish to comment briefly on how this dissertation might be evaluated in the absence of positivist notions of validity and reliability. Non-positivist research has sometimes been labelled 'fiction' because researchers have 'no way of verifying their truth statements'.⁴⁷ If we subscribe to a view of knowledge that I discussed above, it would be more accurate to describe the conclusions of research—including scientific knowledge—as true within particular discourses or paradigms but not true within others. This is perhaps what Arthur Vidich and Stanford Lyman are getting at when they argue that we are 'free to judge the work of others and to accept it or reject it if it does not communicate something meaningful about the world...what is meaningful for one person is not necessarily meaningful for another'. These authors suggest that we might judge the worth of research according to a number of standards including whether it 'provides us with insights that help to organise our own observations' or whether it compels us to 'reexamine what we have long supposed to be true'.⁴⁸ These standards are necessarily much less formal and proscriptive than standards developed for judging the worth of positivist research. I hope that, depending on their particular paradigm of understanding, this dissertation offers readers either a new way of organising their observations about the Northern Territory Intervention or a chance to reexamine what they know about the government of Aboriginal peoples.

Key analytical perspectives: Settler colonialism and liberal governmentality

In this dissertation I draw on research in two fields of scholarship: the literature on the phenomenon of settler colonialism, and the scholarship on liberal governmentality. As I mentioned earlier, and will elaborate upon in Chapter Two, many critiques of the Intervention have argued that either colonial or neoliberal politics played an important role in the development of the NTI.⁴⁹ The settler colonial literature provides a

47 Denzin and Lincoln, "Introduction. The Discipline and Practice of Qualitative Research," 12.

48 Arthur J. Vidich and Stanford M. Lyman, "Qualitative Methods. Their History in Sociology and Anthropology," in *The Landscape of Qualitative Research. Theories and Issues*, ed. Norman K. Denzin and Yvonna S. Lincoln (Thousand Oaks: Sage Publications, 2003), 58.

49 Altman, "The Howard Government's Northern Territory Intervention: Are Neo-

framework for exploring the colonial aspects of the NTI in a systematic manner. This scholarship has so far, however, been unable to articulate the relationship between settler colonial politics and liberal government. Consequently, I draw upon the concept of liberal governmentality in order to develop an analysis of the relationship between authoritarian and neoliberal government. I briefly introduce the literatures on settler colonialism and governmentality below.

The scholarship on settler colonialism incorporates authors from several disciplines—including history, anthropology and political science—and encompasses both ideational and materialist definitions of colonialism. The ideational aspects of this literature are closest to my own epistemological leanings and I draw upon these most in my analysis. The literature on settler colonialism is united by a shared interest in the form that colonialism takes in settler states—those societies where settlers came and built new nations based their own political, social and economic traditions and institutions. Analyses of settler colonialism suggest that the institutional and economic structures of the settler colonial state are reinforced, constructed and legitimated by discourses about identity. In settler colonial context, Indigenous forms of economy, society and politics are replaced by those of a settler group and legal systems privilege settler forms of government, property ownership and land use.⁵⁰ The discursive aspects of a settler colonial politics justify the decline, elimination or assimilation of Indigenous populations.⁵¹ I employ the literature on settler colonialism to provide context to the NTI and to assist me in the development of an indepth understanding of the colonial elements of the NTI. In the later chapters of the thesis I also use the settler colonial

Paternalism and Indigenous Development Compatible?," 2; Conor, "Howard's Desert Storm ": 13; Manderson, "Not Yet," 237-38, 63-64.

⁵⁰ Philip McMichael, *Settlers and the Agrarian Question: Foundations of Capitalism in Colonial Australia* (Cambridge: Cambridge University Press, 1984), 8-9; Robert Johnson, *British Imperialism, Histories and Controversies* (Houndmills: Palgrave Macmillan, 2003), 59-63.

⁵¹ David Pearson, *The Politics of Ethnicity in Settler Societies : States of Unease* (Houndmills: Palgrave, 2001); Lorenzo Veracini, *Settler Colonialism. A Theoretical Overview* (Houndmills: Palgrave Macmillan 2010); Patrick Wolfe, *Settler Colonialism and the Transformation of Anthropology: The Politics and Poetics of an Ethnographic Event* (London: Cassell, 1999).

literature to posit that colonial discourses about Indigenous people are used to affirm and legitimate contested understandings of liberal politics. The relevant aspect of the settler colonial literature here is the idea that the 'failure' of Indigenous people in settler colonial discourse acts as a counterpoint to and affirmation of the superiority of settler society.⁵²

To describe the politics of the Northern Territory Intervention as both liberal and colonial contradicts the usual emancipatory understanding of liberalism. Earlier in this chapter I argued that we should focus on the actually existing politics of the NTI and not just on its inability to live up to various normative standards of liberal freedom, human rights or non-discrimination. The concept of governmentality was first developed by Foucault, and has subsequently been used by many scholars in the fields of political and sociological analysis and theory.⁵³ The concept of governmentality assists me in analysing the actual politics of the NTI by providing a conception of liberal politics which acknowledges the role of authoritarian government in the production of liberal conceptions of freedom and good government.⁵⁴ I use these ideas to assist me in the development of a better understanding of the justifications that the Howard and Rudd-Gillard governments gave for the discriminatory and authoritarian measures of the NTER. The governmentality literature does not focus on the issue of colonialism, but some of its authors do draw connections between the authoritarian potential of liberal government and the authoritarian government of Indigenous peoples. Barry Hindess for

52 Patrick Wolfe, "Settler Colonialism and the Elimination of the Native," *Journal of Genocide Research* 8, no. 4 (2006): 389.

53 Graham Burchell, Colin Gordon, and Peter Miller, eds., *The Foucault Effect. Studies in Governmentality with Two Lectures by and an Interview with Michel Foucault* (London: Harvester Wheatsheaf); Jacques Donzelot, "Michel Foucault's Understanding of Liberal Politics," in *Governmentality Studies in Education. Contexts of Education*, ed. Michael A. Peters, A.C. Besley, and Mark Olssen (Sense Publishers, 2009); Michel Foucault, *The Birth of Biopolitics. Lectures at the College De France 1978-1979*, ed. Michel Senellart, et al., trans. Graham Burchell (Houndmill: Palgrave Macmillan, 2008).

54 Mitchell Dean, "Liberal Government and Authoritarianism," *Economy and Society* 31, no. 1 (2002); Barry Hindess, "Liberalism: What's in a Name?," in *Global Governmentality: Governing International Spaces*, ed. W Larner and W Walters (London: Routledge, 2004).

example has observed that colonised people have usually been assumed to be incapable of self-government and that this assumption has often been the foundation of claims for the necessity of more authoritarian forms of government.⁵⁵

I develop more comprehensive descriptions of these two scholarly fields in Chapters Three and Four. In the next section I outline the each of the remaining chapters in this dissertation.

1.3 Outline of this dissertation

The NTI policy has been widely criticised for impinging on the liberties and human rights of Aboriginal citizens, and yet politicians of both the Coalition and Labor parties have asserted the necessity and the legitimacy of these policy measures. In this **introductory chapter** I have suggested that the authoritarian elements of the Northern Territory Intervention provide a good example of the limitations of analyses based on emancipatory conceptions of liberal government. Liberalism is typically understood as a political doctrine which limits state intervention and attempts to secure the economic and civil liberty of individuals. Normative theories about the appropriate scope of state intervention into the lives of individuals are useful for defining the ways in which particular policies fall short of the citizens' expectations of government. But alternate conceptual perspectives are necessary if we wish to analyse actually existing liberalisms. In this dissertation I develop a clearer understanding of the authoritarian aspects of the Intervention and, in particular, the way that official justifications for these measures are related to liberal conceptions of freedom and colonial conceptions of Aboriginality. I argue that the NTI illustrates the tendency of liberal government to use authoritarian strategies to govern those who are understood to be incapable of the proper exercise of liberty. In the case of the NTI, Aboriginal people were understood to be incapable due to, first, the production of settler colonial discourses about the failure and dysfunctional character of Aboriginal culture and, second, the neoliberal

55 Ibid., 29-31.

problematization of the Aboriginal rights policy paradigm. I provide an outline of the remaining chapters in this dissertation below.

In **Chapter Two** I provide an overview of the details and context of the Northern Territory Intervention including a detailed overview of the main criticisms of the policy. I begin by providing a brief description of the main characteristics of the policy and the time-line of political events. The NTER encompasses a wide range of issues including welfare policy, pornography, ownership and consumption of liquor, schooling and use of land within proscribed communities in the Northern Territory. It was implemented by both the Howard Coalition government in 2007 and, since December of that year, by the Rudd-Gillard Labor government. The latter parts of this chapter discuss the case for and against the introduction of the policy. First, I draw on speeches and parliamentary discussion to consider the justifications given by each government for the policy in the context of the living conditions in Indigenous townships in the Northern Territory and the will and capacity of the Northern Territory government to address the deterioration of living conditions, health and provision of government services in these communities. Second, I survey the criticisms of the NTI. While the policy has bipartisan support, it has also attracted extensive criticism from minor parties, from the Australian public sphere, from scholars and from international observers. I conclude this chapter with a discussion of two particular critiques of the Intervention—as colonial and as neoliberal—that I build on in my later analysis.

In **Chapter Three** I analyse the colonial dimension of the NT Intervention policy. Critics have previously criticised the colonial politics of the Intervention, but here I develop a more thorough understanding of the policy's colonialist discourses. I draw on the scholarship on settler colonialism to identify two prominent discourses in the political speeches and papers of members of the Coalition and Labor governments. First, a discourse of Aboriginal failure which was most strongly subscribed to by Coalition politicians, and which emphasised the dysfunctional characteristics of Aboriginal culture. This discourse implied that Aboriginal ways of life posed a risk to Aboriginal children. The second discourse was developed by Labor parliamentarians. This discourse focused on the disadvantage of Aboriginal people, and the need for a

short-term suspension of rights and liberties in order to assist Aboriginal people in the economic development of their communities. A tension existed in this discourse between, on the one hand, an in-principle commitment to human rights and, on the other hand, a concern that Aboriginal autonomy would put Aboriginal children at risk of abuse. Both of the government discourses that I identify in this chapter subscribed to a notion of colonial time which emphasised the backwardness of Aboriginal people in comparison to mainstream or settler ways of life. This backwardness was used to justify the assimilation of Aboriginal people into mainstream conceptions of economic and community development.

In **Chapter Four** I move from an analysis of the colonial dimensions of the NTI to an analysis of the liberal dimensions of the policy. In this chapter I make the case for incorporating an analysis of liberal governmentality into the attempt to understand the authoritarian aspects of the NTI policy. I summarise the development of the idea of governmentality in the later work of Foucault and in the work of other authors who employ the concept of governmentality. I argue that the literature on liberal governmentality expands and broadens our analysis of liberal politics in a way that can help us better theorise the role that authoritarian forms of government play within liberal politics in general, and within the Northern Territory Intervention in particular. Foucault argued that freedom is something which is defined not by the absence of government intervention, but by the active creation of free individuals through the influence of liberal institutions and practices. He argued that liberals understand an individual to be free to the extent that an individual has developed the capacities considered necessary for existing autonomously in liberal society. If an individual lacks these capacities, then authoritarian forms of government are often understood as legitimate strategies for helping the individual develop the necessary capacities for autonomy and freedom. In this chapter I also summarise Foucault's perspective on neoliberal governmentality as this is useful to my analysis in the next chapter.

In **Chapter Five** I draw on the concept of governmentality, as outlined in the previous chapter, to develop an analysis of the neoliberal politics of the NT Intervention. I argue that neoliberal conceptions of good government have resulted in the problematisation of

the Aboriginal rights paradigms in Aboriginal Affairs governance. Criticisms of the Intervention have often characterised the policy as neoliberal and have attributed the recent shifts in Aboriginal Affairs policy to the effects of the neoliberal free market ideology. I show that while politicians do not describe themselves as neoliberal, they nonetheless characterise the Intervention as part of a long needed shift in the Aboriginal Affairs policy paradigm. Furthermore, their problematisation of self-determination and rights-based forms of government has many similarities to the neoliberal criticism of welfare-state government which is described in the literature on neoliberal governmentality. The perception that government had failed in Aboriginal communities resulted in an assumption that the inhabitants of these communities have had no previous opportunity—that is, before the NTI—to develop the capacities necessary for liberal freedom and autonomy. This assumption, I argue, only increased the likelihood that authoritarian strategies of government would be employed in Aboriginal communities. The analysis in this chapter therefore assists me in my aim of developing a clearer understanding of the authoritarian aspects of the Intervention.

In **Chapter Six** I bring the various strands of my argument together to generate a better understanding of the relationship between settler colonial and liberal politics. I argue that the authoritarian potential of liberal government is exacerbated by settler colonial discourse. In the case of the NT Intervention, this occurs not just through the cumulative effect of discourses about Aboriginal cultural failure and previous government failure, as I describe in previous chapters. Rather, I suggest that liberal reasoning and settler colonial discourse combine in a mutually reinforcing manner. Settler colonial discourses are incorporated into liberal government as a form of 'knowledge' about Aboriginal people's incapacity to function in a modern liberal world. These settler colonial discourses are not passive remnants of an earlier colonial period, but actively constructed and reactivated as part of liberal attempts to reflexively define, first, the capacities necessary for the free liberal citizen and, second, the governmental strategies that will help individuals' develop those capacities. Neoliberal conceptions of government were strengthened and privileged by the production of a settler colonial discourses which emphasised the dichotomy between incapable Aboriginal subject and capable, autonomous neoliberal subject. The granting of greater freedom and autonomy

for Aboriginal people is seen as dependent on Aboriginal people developing the necessary capacities for neoliberal citizenship. Yet it is difficult, in the context of current liberal and settler colonial discourse, for Aboriginal people to position themselves as capable liberal subjects.

Chapter Seven concludes this thesis by evaluating the contribution of this dissertation to the development of a better understanding of the conditions in which liberal political actors consider authoritarian policies to be necessary and justified. In this chapter I differentiate between those aspects of my analysis which support earlier emancipatory critiques of the Intervention as colonial and neoliberal and those which contradict them by focusing on the authoritarian potential of liberal government. I conclude this chapter with a discussion of some of the implications of my analysis. This includes a discussion of the extent to which the arguments in this dissertation might be applicable to other settler colonial and liberal contexts.

Chapter Two: The Northern Territory Intervention

The purpose of this chapter is to outline those elements of the Intervention, and the public discourse surrounding the policy's development, which are relevant to this dissertation. The NTI forms a case study through which I explore the problem of authoritarian policy in liberal democratic contexts. In Chapter One I characterised the Northern Territory Intervention as authoritarian in character and outlined some reasons for conceptualising the policy in this manner. In this Chapter I discuss the policy in some depth in order to emphasise the controversial aspects of the policy. A detailed consideration of the development and administration of the NTI demonstrates that there was a considerable level of agreement between the Coalition and Labor federal governments on matters relating to the Intervention. However, much of the public commentary and scholarly analysis of the Intervention was highly critical of the Intervention.

The first two sections of this chapter offer a chronological account of the development and administration of the NTI. I focus first upon the initial announcement of the 'emergency' intervention in the Aboriginal communities of the Northern Territory and on the development of the Northern Territory Emergency Response (NTER) package of legislation. The second section describes the reviews, alterations and reform of the NTI under the Labor Government after its election in November 2007. I relate the details of the policy in considerable detail to demonstrate that while the Labor Government made a number of changes to the policy the core – and most contentious and authoritarian – elements of the policy remained fairly constant. In these sections of the chapter I rely chiefly upon primary sources including key government reports, policy documents, speeches and newspaper articles to develop a coherent account of the development of the NTI policy from its inception in 2007 to its incorporation in the nationwide *Closing the Gap* policy in 2009.

The latter sections of this chapter demonstrate the controversial nature of the Intervention by providing a summary of justifications for the Intervention, critiques of

the Intervention and the main explanations. I dedicate a section of this chapter to summarising government justifications for the Intervention as these provide essential context for my discussion of official discourses of the Intervention in Chapter Three. I draw on speeches and parliamentary debates to compare the justifications given by the Coalition and Labor governments for developing and then supporting the NTI. Section 2.4, in contrast, identifies the major objections to the Intervention by synthesising public commentary and academic scholarship on the NTI. Proponents of the NTI explained the policy, and its quick implementation, as a regrettable but necessary approach to an intractable and urgent problem. Critics of the Intervention, however, condemned the government for dishonesty and for the non-democratic and discriminatory character of the NTI policy.

In the final section of this chapter I discuss two types of explanations for the Intervention. The first of these is an ideological explanation in which both proponents and critics of the policy understand the NTI as a shift in the policy paradigm of Indigenous Affairs. The second of these explanations describe the Intervention as a colonial policy and compares it to the assimilationist and authoritarian goals of policy earlier periods of Australian history. These explanations provide two perspectives through which we can attempt to understand the Intervention. The later chapters of this thesis engage with both explanations – that is, with ideas about the colonial and the neoliberal character of the Intervention – in turn but with the greater purpose of contributing to knowledge about authoritarian policy in liberal societies. I argue that both of these explanations are useful ones but that they are incomplete.

2.1 Coalition government policy and the origins of the NTI

In June 2007 the federal Coalition Government initiated a policy program which aimed to transform Aboriginal communities in the Northern Territory. The 'emergency response plan' was characterised by the Prime Minister as 'radical, comprehensive and highly interventionist'. It represented, according to Prime Minister Howard, a 'sweeping

assumption of power and a necessary assumption of responsibility'.⁵⁶ In this section I describe the development of the Intervention during the last months of the Howard Coalition Government and a summary of its main provisions. I emphasise the rushed and apparently haphazard development of the NTI policy in its initial incarnation and describe the most politically controversial features of the NTI legislation. The next section of this chapter continues my overview of the Intervention policy. In the second section I outline the implementation of the Intervention – or, in its bureaucratic nomenclature, the *Northern Territory Emergency Response (NTER)* – under the supervision of the Labor Government of Prime Ministers Kevin Rudd and Julia Gillard.

The Northern Territory Emergency Response encompassed a large variety of issues including welfare policy, access to pornography, land ownership and use, consumption and possession of liquor, the schooling and health of children and the tidiness of Aboriginal towns. The wide ranging policy response was arguably designed to encompass most aspects of daily life in Aboriginal townships and communities. This panoply of policy measures was developed with great speed and very little consultation as part of a tumultuous emergency response to the problem of child sexual abuse in Aboriginal communities. The incident that ignited the Northern Territory Emergency was a report written for the Northern Territory Government and presented to the Chief Minister of the Northern Territory in April 2007. This report, developed by the Board of Inquiry into the Protection of Aboriginal Children from Sexual Abuse was titled *Ampe Akelyernemane Meke Mekarle* or *Little Children Are Sacred*. It urged that child sexual abuse in the Northern Territory should be made an issue of urgent national significance by the NT and Australian governments⁵⁷. In June 2007 the Australian Government announced, in response to this report, that Aboriginal communities in the Northern Territory were facing a 'crisis' and that the situation in the Northern Territory was a 'national emergency'. Whereas the *Little Children* report had stated that any government

56 John Howard, "John Howard's Address to the Sydney Institute," *Australians for Native Title and Reconciliation (ANTAR)*, <http://www.antar.org.au/node/86>.

57 NT Board of Inquiry Northern Territory Board of Inquiry into the Protection of Aboriginal Children from Sexual Abuse (NT Board of Inquiry), "Ampe Akelyernemane Meke Mekarle "Little Children Are Sacred", " 7.

action would require extensive consultation with the people affected, Prime Minister John Howard argued that it would be necessary to 'take control of [Aboriginal] townships' in order to protect Aboriginal children from abuse.⁵⁸

The announcement of the emergency intervention caught many people involved in Indigenous Affairs policy by surprise. For example, Noel Pearson, a North Queensland Aboriginal leader with strong political ties to the Australian Government, admitted that he first heard about the Intervention only fifteen minutes before the government's announcement.⁵⁹ While the issues raised by the Report were hardly new or unknown, there had been no sign prior to the June announcement that the government would be pursuing any major reforms in the field of Aboriginal Affairs. Furthermore, the intervention was highly unusual for two reasons. First, for its assertion of authority over a policy area that typically fell into the jurisdiction of the Northern Territory Government. The Australian Government admitted that it had not consulted with the Northern Territory Government before its announcement of the Intervention. Moreover, one of the chief justifications for the Intervention, other than the dire conditions in Aboriginal communities, was Prime Minister Howard's unhappiness with the response of the Northern Territory Government to problems in Northern Territory communities.⁶⁰ Second, the policy was unusual in that it characterised a problem of long standing social policy concern as a national emergency. Indeed, the Prime Minister compared the situation in the Northern Territory with major natural disasters such as that of Hurricane Katrina in the United States of America. 'We have our Katrina, here and now,' he argued in his speech to the Sydney Institute in late June 2007.⁶¹

The idea that the Intervention was an emergency meant that the legislation for the NTER was developed quickly and pushed through parliament in almost record time. The impending federal election increased the urgency of the government on this issue.

58 Howard and Brough, "Joint Press Conference with the Hon Mal Brough."

59 Noel Pearson, "Politics Aside, an End to the Tears Is Our Priority," *The Australian*, 23 June 2007.

60 Howard and Brough, "Joint Press Conference with the Hon Mal Brough."

61 Howard, "Address to the Sydney Institute."

The NTER Acts authorised the expenditure needed for the emergency response and made important changes to welfare, land rights and other areas of legislation which dealt with the administration of Aboriginal people's lives. The package of legislation – including a number of appropriation acts, the *Northern Territory National Emergency Response Act*, the *Social Security and Other Legislation Amendment (Welfare Payment Reform) Act* and the *Families, Community Services, and Indigenous Affairs and Other Legislation (Northern Territory National Emergency Response and Other Measures) Act* – was approved by the House of Representatives in a single sitting day on the seventh of August 2007.⁶² The consideration of these bills in the Senate took slightly longer and involved a single day consideration of the legislation by the Senate Standing Committee on Legal and Constitutional Affairs. The bills were approved by the Senate on the 16 August only nine days after first being read in the lower house. The framing of the situation in Northern Territory communities as an 'emergency' was clearly an effective strategy. Labor party parliamentarians such as Shadow Indigenous Affairs Minister Jenny Macklin expressed some concerns about the NTER legislation but the Labor party was convinced of the important and urgent nature of the Intervention and voted in favour of the legislation.⁶³ I explore four main themes of this legislation – namely changes to welfare arrangements, to community management, to land rights and law and order measures – in the remainder of this section.

The Northern Territory Intervention was framed as a matter of considerable urgency and as an important shift in Aboriginal Affairs policy. Nonetheless, there were important continuities between the NTER and the earlier policies of the federal Coalition Government. For example, the establishment of five year leases and the reform of the permit system for access to Aboriginal land were in accordance with the earlier policies of the Coalition Government. As early as 1998 the Howard Government had commissioned a review of the Aboriginal Land Rights Act. The author of that report, John Reeves, had concluded that the Land Rights Act had been unable to deliver

62 Senate Legal and Constitutional Affairs Committee, "Inquiry into the Northern Territory National Emergency Response Bill 2007 & Related Bills."

63 Parliament of Australia, "Parliamentary Debates. House of Representatives Official Hansard. No. 11 2007. Tuesday, 7 August," (Canberra2007), 26.

economic development to Aboriginal communities and should be the subject of significant (and controversial) reforms.⁶⁴ As part of a long term agenda to dismantle land rights, the Australian Government amended the Land Rights Act in 2006 to allow for voluntary 99 year leases of Aboriginal land to the Australian or Northern Territory governments and initiated a review into the permit system.⁶⁵ The legislative package associated with the Intervention was the culmination, in some ways, of the longer term policy agenda of the Howard Government.

The Emergency Response encompassed a wide range of policy measures and laid the foundation for considerable changes to the lives of Aboriginal people living in the Northern Territory. These measures included the compulsory acquisition of Aboriginal townships by the government through five year leases; the dismantling of the permit system for townships on Aboriginal land; restrictions to alcohol and pornography; the removal of customary law and cultural background as considerations during bail and sentencing; an increased police presence in Aboriginal communities; reforms to housing and health services; and welfare reforms that prescribed the way that Aboriginal people spent their incomes and which linked welfare payments to children's school attendance. The costs associated with the Intervention—including \$587 million in the initial legislative package alone—demonstrate that this was a significant policy development in Australian politics.⁶⁶ Howard's Coalition Government presided, however, over only the first three months of the Intervention's administration. In December 2007 the Labor party formed government under Prime Minister Kevin Rudd. The next section of this chapter describes the implementation of the NTI policies by the federal Labor

64 Aboriginal and Torres Strait Islander Commission (ATSIC), "Building on Land Rights for the Next Generation : A Guide to the Report of the Review of the Aboriginal Land Rights (Northern Territory) Act 1976," (Canberra: Australian Government Publishing Service, 1999), 23-24.

65 Jon Altman, "The 'National Emergency' and Land Rights Reform: Separating Fact from Fiction. An Assessment of the Proposed Amendments to the Aboriginal Land Rights (Northern Territory) Act 1976," (Canberra: Centre for Aboriginal Economic Policy Research (CAEPR), 2007), 5-6; Office for Indigenous Policy Coordination, "Access to Aboriginal Land under the Northern Territory Aboriginal Land Rights Act - Time for Change? Discussion Paper," <http://nla.gov.au/nla.arc-64388>.

66 Parliament of Australia, "Parliamentary Debates, Hansard 7 August 2007," 23.

Government of Prime Minister Rudd and, following the leadership change in 2010, Prime Minister Julia Gillard.

2.2 Labor government reforms and the implementation of the NTI

The formation of a federal Labor Government in late 2007 led to much speculation about the fate of the Northern Territory Intervention. Prior to the election of the Labor Government, some political commentators had hypothesised that the Labor party was supporting the NTER legislation primarily for strategic reasons. At the time, the federal election was looming and disagreement over Indigenous Affairs policy—particularly as it related to the emotionally charged issue of child sexual abuse—could have damaged the Labor party's prospects for electoral success.⁶⁷ The newly elected Labor Government quickly demonstrated that its support for the NTER was genuine and that the policy would be continued under Labor Government management. The task-force set up by the Coalition Government to implement the NTER continued to operate after the federal election and key aspects of the Intervention, such as the income management regime, were rolled out across Aboriginal communities in the later months of 2007.⁶⁸ In this section I provide an overview of the Labor Government's adjustments to the NT Intervention, and describe their administration of the NTER legislation. The original strategies of the NTER legislation had, for the most part, been fully supported by the ALP while in opposition. The Labor Government made some minor adjustments to the policy and later incorporated the Intervention into its national 'Closing the Gap' policy framework. While the government has been more consultative and conciliatory in its approach to the NTER than the previous Coalition Government, many of the original measures of the NTER continue to form the basis of the Labor Government's policy for

67 Larissa Behrendt, "The Emergency We Had to Have," in *Coercive Reconciliation. Stabilise, Normalise, Exit Aboriginal Australia*, ed. Jon Altman and Melinda Hinkson (North Carlton: Arena Publications, 2007), 19.

68 For example, see Housing Department of Families, Community Services and Indigenous Affairs, "Building Stronger Indigenous Communities. 10 December 2007," http://www.jennymacklin.fahcsia.gov.au/mediareleases/2007/Pages/indigenous_communities_10dec07.aspx.

Indigenous Affairs in the Northern Territory.

The parliamentary debate over the NTER legislation left little doubt that Labor was positioning itself, in the lead up to the election, as a government that would not only maintain the Intervention but would actually implement the policy more effectively. Labor party MP Jenny Macklin, the Shadow Minister for Indigenous Affairs, summarised both the Labor party's support for the Intervention and the reforms the Labor party could deliver once installed in government. The measures supported by the Labor party included the Coalition Government's plan to ban internet pornography and alcohol—the 'rivers of grog'—from Aboriginal communities, the acquisition of five year leases over Aboriginal townships, and the development of the income management regime for recipients of income support.⁶⁹ A Labor Government would improve the NT Intervention, Macklin pledged, by adjusting the permit system to protect Aboriginal children from grog runners and paedophiles while allowing greater access for public service providers and journalists. In addition, a Labor Government would commit to greater investment in housing, community infrastructure and economic development, reinstate the Racial Discrimination Act (RDA) of 1975 which was suspended by the Coalition Government for the purposes of the NTER legislation and would commit itself to a 12 month review of progress towards the Intervention's goals.⁷⁰

The administration of the NTI policy during the first months of Labor Government generally resembled the Coalition Government's original plan. The income management regime, which has been described as the NTER's 'most widely recognised measure', had been applied to 13,300 individuals by June 2008. This encompassed the residents of 53 prescribed communities on Aboriginal land and 46 town camps in major urban centres.⁷¹ Other important measures of the NTER were also implemented by the new Labor Government. In February 2008 an additional 38 Aboriginal townships became subject to

69 Parliament of Australia, "Parliamentary Debates, Hansard 7 August 2007," 68-71.

70 Ibid., 69-72.

71 Peter Yu, Marcia Ella Duncan, and Bill Gray, "Northern Territory Emergency Response. Report of the NTER Review Board," (Canberra: Attorney-General's Department, 2008), 20.

the five year leases program. This meant that a total of 64 communities came to be managed under this NTER measure with the leases for all of these communities due to expire in 2012.⁷² These communities were managed in accordance with the provisions outlined in the NTER legislation which, as discussed earlier in this chapter, included the appointment of Government Business Managers (GBMs) to manage government funded social and building programs and the prohibition of alcohol and pornography. An increased police presence was also developed in Aboriginal communities with an additional 51 police officers deployed between the announcement of the NTI and mid-2008.⁷³

The Labor party had mixed success when it came to adjusting the NTER in line with its pre-election commitments. For example, the ALP had expressed concern about the affect of the Howard Government's legislated changes to the permit system. These changes came into effect in February 2008 and allowed for public access to roads crossing Aboriginal land. In August 2008 the Labor Government attempted to alter the permit system to limit general public access but the legislation was defeated in the Senate and was not enacted.⁷⁴ Another of the Labor party's commitments, to remove the explicit suspension of the Racial Discrimination Act in the NTER legislation, became a long running problem for the Labor Government. I'll discuss this issue in more detail below. Some of Labor's pre-election commitments were, however, successfully incorporated into policy. These included the reinstatement of the Community Development Employment Projects (CDEP) program for unemployed Aboriginal people after its abolition by the previous government, and the establishment of an

72 Community Services and Indigenous Affairs Department of Families, "Five Year Leases on Aboriginal Land,"

http://www.fahcsia.gov.au/sa/indigenous/progserv/ntresponse/about_response/housing_1_and_reform/Pages/five_year_leased_aboriginal_land.aspx.

73 Yu, Duncan, and Gray, "Northern Territory Emergency Response. Report of the NTER Review Board," 25.

74 Community Services and Indigenous Affairs Department of Families, "Permit System "

http://www.fahcsia.gov.au/sa/indigenous/progserv/ntresponse/about_response/housing_1_and_reform/Pages/permit_system.aspx.

independent review of the first twelve months of the Northern Territory Intervention.⁷⁵

The NTER review report was published in October 2008. This report made three overarching recommendations and dozens of more specific recommendations for the continuing implementation of the NTER. The review panel drew their conclusions from a range of sources including 200 public submissions to the review and discussions with government officials and Aboriginal people from 56 communities. The review concluded that some of the NTER measures, including those designed to reduce alcohol related violence, to increase the supply and quality of housing, to improve education and increase employment opportunities, were widely supported and uncontroversial. However, the compulsory nature of measures such as the income management regime, in conjunction with the sense that the policy held Aboriginal people solely responsible for the problems within their communities, meant that many Aboriginal people felt that the NTER was unjust. In this context the 'positive potential' of the NTER measures and been 'dampened and delayed by the manner in which they were imposed'.⁷⁶ In this context the Review made three overarching recommendations. They recommended that high levels of Aboriginal disadvantage should continue to be seen as 'a matter of urgent national significance', that the federal and NT governments engage in genuine consultation and partnership with Aboriginal people and that the NTER be reformed to adhere to Australia's human rights obligations and to conform to the RDA.⁷⁷

The government's response to the NTER review outlined the future of the NTER policy under a Labor government. A government media release in late October 2008 provided an interim response to the review. In this press release the government accepted the three main recommendations of the Review. It also committed the government to a continuation and strengthening of the NTER in order to 'protect women and children, reduce alcohol fuelled violence, promote personal responsibility and rebuild community

75 Department of Families, "Australian Government and Northern Territory Government Response to the Report of the NTER Review Board."; Yu, Duncan, and Gray, "Northern Territory Emergency Response. Report of the NTER Review Board."

76 Ibid., 9-10.

77 Ibid., 12.

norms'. The current stabilisation phase of the NTER would continue for a further twelve months, to the end of 2009, before transitioning to a 'long-term, development phase'. The government claimed that it had worked hard to 'reset' their relationship with Aboriginal people to one based on genuine consultation and partnership.⁷⁸ The complete government response to the NTER review was published in May 2009 and was presented as a joint response from the federal and NT governments. Both governments would increase funding for the NTER with the Australian Government committing to an expenditure of \$807.4 million dollars over the following three years.⁷⁹ Expenditure was allocated to continue and expand programs for each of the seven NTER measures including programs in the areas of welfare reform, employment and training, law and order, health, education and housing.⁸⁰

By late 2009 the shift from initial stabilisation phase to what the government has described as the long-term development phase had been completed.⁸¹ The policy had been re-badged as 'Closing the Gap in the Northern Territory' and has referred to as such in many government reports, including bi-monthly monitoring reports.⁸² The renaming of the policy was part of the development of a 2009 Council of Australian Governments (COAG) agreement between the Australian and Northern Territory governments provided for the continuation of the NTER measures until the review of the NTER in 2011-12.⁸³ The piecemeal, rushed policy initiated by the Howard Government in 2007 had been transformed into a integrated policy for long-term development in the

78 Macklin, "Compulsory Income Management to Continue as Key NTER Measure.."

79 Department of Families, "Australian Government and Northern Territory Government Response to the Report of the NTER Review Board."

80 Ibid., 3-10.

81 Macklin, "Compulsory Income Management to Continue as Key NTER Measure.."

82 Housing Department of Families, Community Services and Indigenous Affairs, "Closing the Gap in the Northern Territory. January 2009 to June 2009 Whole of Government Monitoring Report," (Canberra: Australian Government, 2009).

83 Council of Australian Governments (COAG), "Closing the Gap in the Northern Territory National Partnership Agreement," (Canberra 2009), 4. The Closing the Gap policy was originally established at COAG in March 2008 as part of a common federal and state government commitment to achieving health equality between Indigenous and non-Indigenous Australians within 25 years. See: Australian Indigenous Health InfoNet, "What Is Closing the Gap?," <http://www.healthinfonet.ecu.edu.au/closing-the-gap/key-facts/what-is-closing-the-gap>.

Northern Territory. These adjustments to the NTER led then Shadow Minister of Indigenous Affairs Tony Abbott to claim, in September 2009, that the Labor Government had abandoned the Intervention.⁸⁴ Minister Macklin rebutted this claim and argued that the integration of the Intervention's administration into the federal bureaucracy was part of shifting the Intervention into its sustainable development phase.⁸⁵

This claim appeared to be borne out by the release of a government policy for this long-term strategy in November 2009 after six months of consultation with Aboriginal people in prescribed communities.⁸⁶ This policy retained all major elements of the original NTER but with some scope for adjustments on a case by case basis. Significantly, the policy provides the government's first thorough response to the NTER Review's recommendation to reinstate the Racial Discrimination Act. The government acknowledged that the NTER would never achieve 'robust long-term outcomes' if its measures continued to rely on the suspension of the RDA.⁸⁷ The government committed itself to legislation that would remove the suspension of the RDA in December 2010. This would give the government time to redesign those NTER measures which might be seen as discriminatory and to ensure that these measures could be classified as 'special measures' under the terms of the RDA. Under the RDA discrimination is allowed as a 'special measure' in circumstances where that measure will benefit members of a

84 Natasha Robinson, "Intervention 'Abandoned', with No Leader. 17 September 2009," *The Australian*, <http://www.theaustralian.com.au/news/intervention-abandoned-with-no-leader/story-e6frg6po-1225775449695>.

85 Ibid.

86 Housing Department of Families, Community Services and Indigenous Affairs, "Policy Statement: Landmark Reform to the Welfare System, Reinstatement of the Racial Discrimination Act, and Strengthening of the Northern Territory Emergency Response " (Canberra2009). For information on the consultation prior to this policy see the discussion paper and consultation report: Housing Department of Families, Community Services and Indigenous Affairs, "Future Directions for the Northern Territory Emergency Response - Discussion Paper " (Canberra2009); Housing Department of Families, Community Services and Indigenous Affairs, "Report on the Northern Territory Emergency Response Redesign Consultations " (Canberra2009).

87 Department of Families, "Policy Statement: Landmark Reform to the Welfare System, Reinstatement of the Racial Discrimination Act, and Strengthening of the Northern Territory Emergency Response ", 4.

particular race and is necessary in order to achieve the equal enjoyment of human rights. Many of the original features of the NTER, including alcohol and pornography prohibitions, the five year leases and the income management regime are described as special measures in the 2009 policy.⁸⁸ The income management regime, as the subject of sustained critique, would be adjusted so that it applied to disengaged youth, long-term welfare payment recipients, people assessed as vulnerable by social workers and people referred by child protection authorities. The extension of this regime outside of the prescribed communities of the NTER measures would remove the racially discriminatory nature of that measure.⁸⁹

The current administration of the NTER is based on this 2009 policy, though this policy may soon be replaced by yet another iteration of the Northern Territory Intervention. As I mentioned, the original five year leases on Aboriginal communities are due to expire in 2012. In June and August of 2011 the Labor Government ran a new consultation process in Aboriginal communities in the Northern Territory as part of the development of a new framework which has been called 'Stronger Futures in the Northern Territory'. In November 2011 three new bills were introduced to the Australian Parliament to establish the *Stronger Futures* framework. If these bills become law then many of the key measures of the NTI will be retained and some measures extended to affect more Aboriginal people. For instance, income management, government licensing and oversight of community stores, and current alcohol management plans will all remain in place or be extended as part of the framework. The compulsory leases of Aboriginal township will not be renewed but measures in the new legislation provide the Australian Government with the power to modify Northern Territory laws to overcome impediments to infrastructure development in Aboriginal town camps. The government has committed itself to promoting economic development and private home ownership in town camps and would presumably use the new powers for this purpose. The *Stronger Futures* framework has a sunset clause, meaning it will expire in ten years time, and is scheduled to be reviewed seven years into its implementation.⁹⁰ These

88 Ibid., 10-16.

89 Ibid., 6-10.

90 Australian Government, "Stronger Futures in the Northern Territory."; Australian

reforms will, therefore, likely have long term ramifications for Australian welfare policy, including the entrenchment of welfare quarantining as a strategy for regulating the behaviour and spending of both Aboriginal and non-Aboriginal recipients of social security.

In summary, many of the essential features of the original NTER legislation remain as core features of a long term development stage of the NTER. The policy as a whole has been incorporated into a nation wide *Closing the Gap* policy and will, in all probability, soon move into a new incarnation as the Stronger *Futures* policy framework. It still, however, retains many of its basic form and focus. The Labor party had flagged the suspension of the RDA as an area of concern prior to its election. The government's three year delay in reinstating the RDA suggests that the discriminatory measures of the NTI were understood by the government to be both justified and necessary to the overall strategy of the NTER. The next sections of this chapter contrast the justifications and reasons for the Intervention as given by the Coalition and Labor governments with community and scholarly criticism of the policy.

2.3 Justifications for and approval of the NTI

This dissertation focuses on the understanding how the authoritarian aspects of the Northern Territory Intervention came to be understood as necessary by the politicians of both the Coalition and Labor parties. In this overview of the justifications provided by members of each of these parties, I show that the original justifications for the NTI, made by the Coalition Government, and the later justifications for the policy by the Labor government were very similar. I argue that the justifications for the Intervention

Human Rights Commission, "Submission to the Senate Community Affairs Legislation Committee in the Inquiry into the Stronger Futures in the Northern Territory Bill 2011 and Two Related Bills," (Sydney2012); Jenny Macklin, "Stronger Futures in the Northern Territory Bill 2011 - Second Reading Speech," http://www.jennymacklin.fahcsia.gov.au/speeches/2011/Pages/jm_s_strongerfutures_23_november2011.aspx; Australian Government, "Stronger Futures in the Northern Territory Policy Statement November 2011," (Canberra2011).

can be sorted into two broad types. The first type of justification is based on the development of a critique of Aboriginal individuals, communities and culture. This includes expressions of concern about the welfare of Aboriginal children, condemnations of social conditions in Aboriginal communities and comments about the dysfunctional nature of Aboriginal culture. The second type of justification is based on a critique of past government which is understood as having failed Aboriginal people and contributed to their problems. This includes a critique of the Northern Territory Government's failure to respond to the *Little Children Are Sacred* report as well as a broader critique of former Indigenous Affairs policy paradigms. Below I outline, first, the justifications for the NTI and, second, some of the support for the Government position in the broader community.

I will begin with the first type of justification for the Intervention, the justification based on the problematisation of Aboriginal communities. This has several elements including, first, the concern for the safety of Aboriginal children. Child welfare was the primary and most frequently mentioned justification for the Intervention, particularly during its initial development by the Howard Coalition Government. Speeches by Prime Minister Howard and Indigenous Affairs Minister Mal Brough, during the early months of the Intervention, invariably mentioned these problems. For example a press release from Minister Brough's office on the 21st of June 2007 specifically linked the 'broad ranging measures' of the Intervention to the issue of child protection. The release stated that 'All action at a national level is designed to ensure the protection of Aboriginal children from harm'.⁹¹ Similarly, Prime Minister Howard gave an address to the Sydney Institute on the 15th of June condemning the violence, abuse and neglect in many remote Aboriginal communities in the Northern Territory and arguing that '...without urgent action to restore social order the nightmare will go on.'⁹²

91 Mal Brough, "Media Release. National Emergency Response to Protect Aboriginal Children in the NT. 21 June 2007," Department of Families, Community Services and Indigenous Affairs, http://www.formerministers.fahcsia.gov.au/malbrough/mediareleases/2007/Pages/emergency_21june07.aspx.

92 Howard, "Address to the Sydney Institute."

The second element of this justification was a critique of the generally dire social conditions of the communities in which Aboriginal children lived. This theme was prevalent not only in the speeches of Coalition parliamentarians—including Liberal backbenchers Barry Wakelin and Alex Somlyay—but also in the contributions of Labor members of parliament. Labor party members also referred to child safety and, indeed, made this issue the sole criterion on which it based its decision to support the policy.⁹³ Senator Chris Evans, the leader of the Labor party in the Senate, outlined this approach in his contribution to the parliamentary debate. He explained that Labor had '...applied a simple test to the proposal put forward by the government: will it improve the safety and security of our children in a practical way? We have come to the conclusion that it will, and we will support it'.⁹⁴ The protection of Aboriginal children was, therefore, the primary reason given by both the Coalition and Labor parties for their support of the NTER bills.

Finally, this justification often took the form of statements in parliament, and elsewhere, about the dysfunctional character of Aboriginal communities and culture. Minister Brough's description of Aboriginal communities as 'failed societies' that needed to be 'stabilised and normalised' demonstrated a view of Aboriginal communities as abnormal and fundamentally different from other Australian communities.⁹⁵ It also implied that Aboriginal parents were uniquely irresponsible and in need of the more highly interventionist and authoritarian aspects of the NT Intervention including income management. Prime Minister Howard spoke of the 'level of extreme social breakdown' in Aboriginal communities and argued that the state of affairs in these communities demanded a 'highly prescriptive' approach.⁹⁶ In 2009 Prime Minister Rudd echoed this claim when he cited spoke of the 'failures' of Aboriginal individuals and communities and cited the need to stabilise the Northern Territory's most troubled communities as the chief reason for maintaining the NTI.⁹⁷ The theme of Aboriginal community dysfunction

93 Parliament of Australia, "Parliamentary Debates, Hansard 7 August 2007," 75, 88.

94 Parliament of Australia, "Parliamentary Debates. Senate Official Hansard. No. 8, 2007. Wednesday, 8 August 2007," (Canberra2007), 37.

95 Parliament of Australia, "Parliamentary Debates, Hansard 7 August 2007," 7.

96 Howard, "Address to the Sydney Institute."

97 Kevin Rudd, "Media Release. Closing the Gap Report. 26 February 2009,"

was therefore a prominent aspect of both the Coalition and Labor governments' justification for the NTI. I look at this justification for the Northern Territory Intervention in further detail in Chapter Three when I develop an analysis of settler colonial discourse in the NTI.

I turn now to the second type of justification, namely, those which developed from a critique of former approaches to government. This type of justification involves, first, a critique of the activities—or lack of activity—by the Northern Territory Government in response to the *Little Children Are Sacred* report. This justification partly arose out of the need to develop a case for commonwealth, as opposed to territory, intervention in Northern Territory communities. Some aspects of the Intervention such as community governance, licensing of community stores, policing and regulation of alcohol and pornography have typically been understood to be the responsibility of state and territory governments. Prime Minister Howard acknowledged that the Australian Government was taking on extended responsibilities when he stated that the Intervention '...does push aside the role of the [Northern] Territory to some degree' and argued that the protection of Aboriginal children should take precedence over 'constitutional niceties'.⁹⁸ Howard justified the expansion of the role of the Australian Government by pointing to the failures of the Northern Territory government. He pronounced himself 'unhappy' with the response of the NT Government to the *Little Children are Sacred* report and claimed that the NT Government didn't regard the problems outlined in the report as a crisis or emergency.⁹⁹ The inactivity of the NT Government therefore joined the problem of child welfare as a justification for a nationally coordinated NT Intervention.

The second element of this justification is a critique of past policy approaches. A common theme of discussions about the NTI was that a new policy paradigm was needed to replace unsuccessful Indigenous Affairs policy approaches. According to Minister Brough '...we have tried – all sides of government, all ministers have tried for

<http://pmrudd.archive.dpmc.gov.au/node/5287>.

98 Howard and Brough, "Joint Press Conference with the Hon Mal Brough."

99 Ibid.

many years – to do something about it [the problems in the NT] in the traditional forms and normal ways that we attack these problems and it just has not worked'.¹⁰⁰ Elsewhere, Minister Brough had argued that the '[m]illions, billions of dollars' spend on night patrols, safe house and healing circles in Aboriginal communities had not been able to guarantee the safety, security and respect that must underpin a society.¹⁰¹ This critical assessment of past policy approaches was central to the Coalition Government's justification for the NTI. It employed the idea that a self-determination or Indigenous rights approach to policy was inherently flawed and incompatible with effective policies for child safety.

This critique of past policy was useful for the Coalition Government because it made it possible to imply that any opposition to the NTI policy came from supporters of an earlier, failed policy regime. Calls for further consultation with Aboriginal people, for the reinstatement of the permit system, or the reinstatement of the RDA, could be dismissed as irrelevant objections. This attitude is demonstrated by the parliamentary debate where several politicians favoured immediate action over further rounds of consultation. Liberal senator Eric Abetz, for example, argued that the standard orders of the Senate allowed for rushing legislation through in times of crisis and that this was necessary because of the urgent needs of women and children. 'When you see women with multiple fractures time and time again, you do not say to them, 'Let's consult about these issues.' The time for action has come'.¹⁰² Some politicians saw the direct and interventionist approach of the NTER as offering a prospect for making real changes in Aboriginal communities where more consultative strategies had failed.

The Intervention was described as a powerful and authoritative approach which had the potential to make a difference where earlier approaches to government had failed:

100 Parliament of Australia, "Parliamentary Debates, Hansard 7 August 2007," 25.

101 Mal Brough, "Speech to the National Press Club. Commonwealth's Intervention into Aboriginal Communities in the Northern Territory. 15 August 2007," http://www.formerministers.fahcsia.gov.au/malbrough/speeches/Pages/speech_nter_15aug07.aspx.

102 Parliament of Australia, "Parliamentary Debates. Senate Official Hansard. No. 8, 2007. Wednesday, 8 August 2007," 12.

[I]t's time for us to take the power and the authority...and use the opportunity as we can... We can talk about land rights, we can talk about permit systems or we can actually deal with the difficult issues of children being raped, babies with gonorrhoea, children having their absolute hearts ripped out by people who are supposed to be people of authority, and we can say, no more.

The Coalition Government was, therefore, able to emphasise the value and promise of the NTI as a strategy for addressing long term problems by criticising past policy.

By the time that the Labor Government came into office, the criticisms of both the Northern Territory Government and of prior policy regimes became less necessary. The Coalition Government's condemnation of the Northern Territory Government's response to the *Little Children Are Sacred* report featured much less prominently as a justification during Labor government. The precedent for a highly interventionist, national approach to child abuse and community dysfunction in Aboriginal communities had, after all, already been set by the previous government. Overall, the Labor Government's justifications for the NTER were quite similar to the original justifications of the Coalition Government. Labor Ministers were, as I mentioned above, inclined to focus on the safety and security of Aboriginal children as the chief justification for the continuation of the Intervention. The federal Labor Government, in the context of the increased authority of federal government over Indigenous Affairs administration in the Northern Territory, chose to engage more frequently with the Northern Territory Government with that government positioned as a partner of the Labor Government in the *COAG Closing the Gap in the Northern Territory* policy.

In summary, the Coalition and Labor governments employed a number of justifications for the Northern Territory Intervention. The most important and prominent of these justifications focused on the urgency of the situation in Northern Territory communities and emphasised the dangers that many Aboriginal people, but particularly women and children, faced on a daily basis. The dire situation in Aboriginal communities was used to justify both the scale of the Intervention and the quick pace at which it was developed and pushed through parliament. Other justifications included the failures of the

Northern Territory Government to address the problems outlined in the *Little Children are Sacred* report and the likelihood that the NTI would finally give governments the power and authority to make real change after a policy history of failure and misdirected political effort.

Before outlining the main criticisms of the Intervention, I would like to acknowledge that the justifications for the NTI, while widely criticised, were not entirely without support in the broader public sphere. The inherent news-worthiness of the emergency response assured the Government of good media coverage. While the Australian media generally reported favourable and critical perspectives on the Intervention with equal gusto, some journalists were unabashedly in favour of the policy. For example, conservative columnist Miranda Devine characterised the Intervention as a welcome triumph over the 'utopian socialist fantasies of the 1970s'.¹⁰³ A number of prominent Aboriginal people were also supportive of the policy. The ideas of Noel Pearson, an outspoken lawyer and activist for welfare reform in Aboriginal communities, were described as the inspiration for the NTI.¹⁰⁴ Former president of the Australian Labor Party Warren Mundine encouraged critics of the NTI to 'stop nitpicking' and take advantage of the opportunity to make a real breakthrough on the issue of abuse.¹⁰⁵ Outside of the major political parties, however, criticisms of the policy quickly outnumbered declarations of support.

2.4 An overview of the main criticisms of the NTI

The major political parties used the conditions highlighted in the *Little Children Are Sacred* report to justify a quick and highly interventionist emergency response.

However, the Intervention encountered and continues to encounter significant

103 Miranda Divine, "Pearson Sparked a Revolution That Emboldened Pm to Act," *The Sun-Herald*, 24 June 2007.

104 Doug Parrington, "Paternal Power of Two Alliance Faces Back-to-Future Test of Resolve. Saving the Sacred Children," *The Gold Coast Bulletin*, 23 June 2007.

105 Warren Mundine, "I Hate Howard, but This Time He's Right," *Herald-Sun*, 29 June 2007.

opposition from the Greens – a minor party in federal parliament – from many political commentators outside of parliament and from international observers. Critics have questioned the timing of the Emergency Intervention, condemned its non-democratic character and poor design and accused the Coalition and Labor Governments of racial discrimination. These criticisms draw on notions of human rights and individual autonomy as prerequisites for good liberal democratic government and emphasise the necessity of Indigenous people's participation in the development of Indigenous Affairs policy. It was these views which some politicians, as outlined above, had sought to discredit when they argued that traditional social policy methods and processes of consultation had failed. In this section I provide an overview of the criticisms of the NTER. Some criticisms, such as the cynicism about government intentions were levelled more at the Coalition Government than at the Labor Government. The other criticisms of the NTER were aimed at both the Coalition and Labor governments. These included claims about the undemocratic nature of the NTER policy, the assertion that the policy was discriminatory and violated Aboriginal people's rights, and claims that the policy was poorly designed. I will discuss each of these critique, as they relate to the administration of the Coalition and Labor governments, below.

The dishonesty of the Coalition Government

The first of these critiques, which questioned the integrity, honesty and true intentions of the government's response to the *Little Children* report, was addressed mainly to the Coalition Government and was a prominent feature of early critiques of the NTI. The poor health and living conditions of many remote Aboriginal people was well known by governments and policymakers and had been the subject of multiple reports before the publication of the *Little Children* report in 2007. Many commentators, including West Australian Premier Alan Carpenter, felt that the government's sudden and zealous interest in the welfare of Aboriginal children was an election year stunt.¹⁰⁶ According to *The Australian* newspaper, opinion polls showed that only 25% of Australians thought

106 Phillip Coorey, "This Is Our Katrina Crisis, Says Howard," *The Sydney Morning Herald*, 26 June 2007.

Prime Minister Howard was motivated by genuine concern for Aboriginal children and 58% of voters thought the reforms were a 'vote-grabbing move'.¹⁰⁷

The government's motivations were also questioned in other ways. Patrick Dodson, a former chairman of the Council for Aboriginal Reconciliation, accused the Coalition Government of using the plight of Aboriginal children as an excuse to further a 'radical Indigenous policy agenda'. He argued that the important goal of protecting Indigenous children was undermined by the government's 'heavy-handed authoritarian intervention'. According to Dodson the government was motivated by an ideological commitment to free market economics. The real objective of the Intervention was to dismantle land rights, overturn Aboriginal rights to self-determination and assimilate Aboriginal people by turning their communities into mainstream towns.¹⁰⁸

Undemocratic process

The second major critique of the Intervention focused on the claim that the policy was undemocratic. There are two aspects to this argument including a criticism of the speed with which the NTER bills were passed by parliament and the lack of government consultation with Aboriginal people and the Aboriginal policy sector more broadly. Both elements of this argument were put forward by the minor parties during the Senate debate of the NTER legislation. Senator Andrew Bartlett of the Australian Democrats described the Intervention as an important opportunity but one which might be squandered. He urged the Coalition Government to give parliament extra time to properly scrutinise the more than 500 pages of NTER legislation, to engage in proper debate and to listen to Aboriginal people's perspective on the policy. He argued that the government ran the risk of confusing the 'need to do something' with the 'need to do anything' and argued that an ill-considered policy might do more harm than good.¹⁰⁹

107 Patricia Karvelas, "Right to Sue over Loss of Land Title," *The Australian*, 3 July 2007.

108 Patrick Dodson, "An Entire Culture Is at Stake," *The Age*, 14 July 2007.

109 Parliament of Australia, "Parliamentary Debates. Senate Official Hansard. No. 8, 2007. Wednesday, 8 August 2007," 3-5.

Senator Bob Brown of the Australian Greens condemned the Coalition Government's decision 'ram it [the NTER legislation] through the Senate' describing this parliamentary process as disgraceful, dishonourable and a 'sham'. The process, he argued, excluded Australians from their right to feed into the parliamentary process. Senator Brown also criticised the Labor opposition for doing nothing to ensure a good parliamentary process.¹¹⁰

Outside of parliament, many stakeholders were concerned that the experiences and perspectives of Aboriginal people were being ignored by government. Tangentyere Council—an Aboriginal controlled service organisation in Alice Springs, Northern Territory—demonstrated this concern in their press releases on the issues. For example, their media release in June 2007 indicated the Council's willingness to work with government and expressed concern that the first recommendation of the *Little Children* report, which explicitly urges the Australian and NT governments to consult with Aboriginal people in the design of initiatives for Aboriginal communities, was being ignored. Executive Director William Tillmouth made a case for the value of consultation with communities; 'If you take all control away from people, and you also eliminate all opportunities for them to take responsibility for their own lives, then you will create the worst welfare state yet'.¹¹¹ An open letter to Minister Mal Brough from 150 Aboriginal and community sector organisations made a similar point. The letter called on the Australian Government to consult with Aboriginal communities, the NT Government and service providers. It argued that 'some of the [NTI] measures will weaken communities and families by taking from them the ability to make basic decisions about their lives'.¹¹² The extent of public concern for this issue is indicated in the report of the one day Senate Committee enquiry into the NTER legislation. The Committee report states that 'many submissions' to the Committee were critical of both the haste with which the NTER legislation was introduced into Parliament and the lack of

110 Ibid., 2.

111 Tangentyere Council, "Work with Us, Not against Us," http://www.tangentyere.org.au/publications/#press_releases.

112 Human Rights and Equal Opportunities Commission (HREOC), "Social Justice Report 2007," (Sydney: HREOC, 2008), 222-23.

consultation. This included submissions from the Human Rights and Equal Opportunities Commission (HREOC), Oxfam Australia, Australians for Native Title and Reconciliation (ANTAR) and Catholic Social Services Australia.¹¹³

The Labor Government has also been criticised for a non-consultative approach to the development and implementation of NTI policy. The Labor Government has consistently claimed that they were committed to genuine consultation on this matter. Consultations were held, for example, as part of the development of the October 2008 review of the NTER by a panel of government appointed experts, in June and August of 2009 as part of the development of the *Closing the Gap* policy and in June and August of 2011 as part of the development of the Stronger Futures policy.¹¹⁴ It has, however, been unable to convince the community sector and many Aboriginal people that the government is amenable to debate on any significant aspect of the policy. For example, the NTER review in 2008 reported that a common sentiment among Aboriginal people was that the fast paced implementation of the Intervention had left no room for effective planning and meaningful engagement between government and Aboriginal people.¹¹⁵

More recently, several publications both academic and activist have condemned the government's consultative processes. One of these, the *Will They Be Heard?* report, characterised the government's consultation process as 'an attempt to gain support from Aboriginal people for the preservation of particular features of the intervention that the government thinks are good for them [Aboriginal people]'.¹¹⁶ According to the report, the consultations had a number of 'technical defects' including a lack of independence, the provision of misleading or wrong information to participants and the omission of

113 Senate Legal and Constitutional Affairs Committee, "Inquiry into the Northern Territory National Emergency Response Bill 2007 & Related Bills."

114 Australian Government, "Northern Territory Emergency Response Evaluation Report," (Canberra 2011); Department of Families, "Future Directions for the Northern Territory Emergency Response - Discussion Paper "; Yu, Duncan, and Gray, "Northern Territory Emergency Response. Report of the NTER Review Board."

115 Ibid., 47.

116 Alastair Nicholson et al., "Will They Be Heard? A Response to the NTER Consultations June to August 2009," (Sydney: Research Unit, Jumbunna Indigenous House of Learning, University of Technology Sydney, 2009), 4.

important aspects of the Intervention such as the changes to sentencing laws from the consultation agenda. The consultations also lacked transparency with summaries of community consultations and personal interviews unavailable even for Aboriginal people who participated in the consultations.¹¹⁷ An edited collection of Aboriginal people's views on the Intervention makes a similar criticism of the government's consultations and says that Aboriginal views 'have not been heard nor respected'.¹¹⁸ An independent report criticised the government's most recent round of community consultations, arguing that it did not meet the consultation requirements required by international law, and therefore should not be considered to constitute Aboriginal consent to the *Stronger Futures* framework.¹¹⁹

Discrimination against Aboriginal people

The remaining criticisms relate to the content of the policy rather than to issues of process or political motivation. The third main critique of the Intervention is that the policy was discriminatory and therefore violated the rights of Aboriginal people. The Director of Reconciliation Australia Fred Chaney, for instance, was among those who expressed concern for the discriminatory character of the NTI. 'We know what need to be done to make children safe' he argued, 'and we know it doesn't involve racial discrimination'.¹²⁰ Critics of the Intervention typically rejected the claim that the NTER Acts of 2007 constituted special measures and called for a reinstatement of the Racial Discrimination Act (RDA) so that this claim could be judicially assessed. Special measures are forms of preferential treatment which assist minority racial groups to exercise their human rights.¹²¹ According to the conventions of international law special

117 Ibid., 6-8.

118 Concerned Australians, *This Is What We Said: Australian Aboriginal People Give Their Views on the Northern Territory Intervention* (East Melbourne 2010), 8.

119 Alastair Nicholson et al., "Listening but Not Hearing. A Response to the NTER Stronger Futures Consultations June to August 2011," (Sydney: Jumbunna Indigenous House of Learning, University of Technology Sydney, 2012).

120 Chaney, "40 Years since the Referendum: Learning from the Past, Walking into the Future".

121 Human Rights and Equal Opportunities Commission (HREOC), "Social Justice Report 2007," 239.

measures the scope of measures must be proportionate to the achievement of legitimate and specific objectives, must be culturally appropriate and must be designed through consultation with the group that the measures are designed to assist.¹²² According to Vivian and Schokman several key elements of the Intervention including income quarantining, land acquisition and community governance measures, the extended breadth of the Minister's powers and the reforms to sentencing laws all fail to satisfy these criteria for special measures.¹²³ They concluded that '[a]s a package of measures, the Intervention fails when considered against the criteria by which government action can be characterised as a special measure' and described the Intervention as 'unjustifiable racism'.¹²⁴

If the NTI policies were not 'special measures' then their racially discriminatory nature constituted a breach of Australia's human rights obligations. In 2009 a group of Aboriginal people made a formal complaint about the racially discriminatory nature of the Intervention to the United Nations.¹²⁵ A comprehensive analysis of the NTI in relation to Australia's human rights obligations was presented to the United Nations General Assembly in early 2010. This report, by James Anaya the Special Rapporteur on the human rights and fundamental freedoms of Indigenous people, was based on his interviews with a wide range of government and non-governmental organisations and individuals during a two week visit to Australia in August 2009. Anaya's opinion was that the provisions of the NTER were 'incompatible with Australia's human rights obligations' and were designed in a way which 'limits the capacity of Indigenous individuals and communities to control or participate in decisions affecting their own lives, property and cultural development'. For these reasons Anaya concluded that the NTER 'discriminates on the basis of race' and raises 'serious human rights concerns'.¹²⁶ He mentioned that a number of the United Nations' treaty monitoring bodies had also

122 Vivian and Schokman, "The Northern Territory Intervention and the Fabrication of 'Special Measures'," 83-84.

123 Ibid., 88-97.

124 Ibid., 97.

125 Newhouse and Ghezelbash, "Calling the Northern Territory Intervention Laws to Account," 56.

126 Anaya, "The Situation of Indigenous Peoples in Australia," 41.

expressed concern over the NTER including the Human Rights Committee, the Committee on Economic, Social, and Cultural Rights and the Committee on the Elimination of Racial Discrimination.¹²⁷ The report, therefore, confirmed the rights of Indigenous people to control and participate in the development of policy for their communities. The development of future government policy would, from this perspective, need to be a genuinely consultative process before the Australian Government could satisfy its human rights obligations and fully justify its description of the long term development plan in the NT as 'special measures' for the benefit of Aboriginal people.

Poor policy design

The final critique of the policy focused on policy design. Remarkably, none of the recommendations of the *Little Children Are Sacred* report were adopted as part of the Intervention, even as government ministers referred to the report as a impetus for policy reform. The hasty development of the Intervention led many people, including Democrats Senator Andrew Bartlett and Greens Senator Rachel Siewert, to express concerns about the likely effectiveness of the policy.¹²⁸ Significantly, many scholarly analyses critiqued the Intervention's policy design.¹²⁹ Paul t'Hart for example highlights the practical policy problems that can result from rushed and top down policy processes. He draws upon comparative research on political crises to warn that 'the bigger a crisis-induced policy reform and the more it is imposed from the top, the more problem ridden

127 Ibid., 44.

128 Parliament of Australia, "Parliamentary Debates. Senate Official Hansard. No. 8, 2007. Wednesday, 8 August 2007," 5.

129 See: Altman, "The Howard Government's Northern Territory Intervention: Are Neo-Paternalism and Indigenous Development Compatible?"; Sally V. Hunter, "Child Maltreatment in Remote Aboriginal Communities and the Northern Territory Emergency Response: A Complex Issue," *Australian Social Work* 61, no. 4 (2008); Maggie Brady, "Alcohol Regulation and the Emergency Intervention: Not Exactly Best Practice," *Dialogue* 26, no. 3 (2007); Hunter, "Conspicuous Compassion and Wicked Problems. The Howard Government's National Emergency in Indigenous Affairs."; Paul t' Hart, "Crisis Exploitation: Reflections on the 'National Emergency' in Australia's Northern Territory," *Dialogue* 26, no. 3 (2007).

its implementation and the more likely its eventual futility or jeopardy'.¹³⁰ Boyd Hunter reminds us that the plan for the Australian Government to deliver development directly to Aboriginal individuals is unlikely to be feasible because the government lacks the organisational capacity to deal directly with Aboriginal people.¹³¹ In this context, Hunter concludes that the '...hastily conceived and sketchily outlined' policy of the emergency intervention is clearly unlikely to be successful.¹³²

Other scholars provided analyses of particular elements of the NTI policy. For example, Maggie Brady contrasts the alcohol regulation measures in the NTER with research on policy best practice. Brady argues that the NTER policy on alcohol failed to incorporate any of the World Health Organisation's six policies for best practice in alcohol management and none of the relevant recommendations of the *Little Children* report.¹³³ The implication of Brady's article is that the alcohol management plans of the NTER are unlikely to be successful. Scholarly critiques of the NTI policy design therefore highlighted and possibly reinforced concerns about the Intervention's outcomes.

The Northern Territory Intervention has, then, encountered sustained criticism from the minor parties within parliament, from Aboriginal and community sector organisations, from academia and from international bodies such as the United Nations. Of course, not all commentary and analysis of the NTI was negative. Some commentators, as discussed above, saw the Intervention as an opportunity to direct much needed government resources to remote Aboriginal communities. Arguably, however, the majority of responses to the NTI were either cautiously welcoming or forthrightly critical of the policy. Critics of the Intervention questioned the motives of the Coalition Government's initiation of the NTI in an election year, expressed disapproval for the undemocratic and non-consultative nature of the policy's development and administration, condemned the NTER legislation for failing to meet human rights standards and speculated on the

130 Ibid., 55.

131 Hunter, "Conspicuous Compassion and Wicked Problems. The Howard Government's National Emergency in Indigenous Affairs," 43; *ibid.*

132 Ibid., 38.

133 Brady, "Alcohol Regulation and the Emergency Intervention: Not Exactly Best Practice."

viability and likely effectiveness of the policy. A proper evaluation of the fairness of these criticisms is beyond the scope of this thesis.

2.5 Two explanations for the NTI

In this final part of the chapter I move from critiques of the Northern Territory Intervention to an overview of the two familiar explanations for the policy. The first of these explanations is that the NTI policies were indicative of an ideological shift in Australian politics toward a more overtly neoliberal approach. This explanation was developed by critics of the NTI and the description of the policy as 'neoliberal' was clearly pejorative. The history of the Australian Government and Indigenous Affairs policy provides some evidence to support this interpretation of the NTI. The second explanation, that the NTI is motivated by widely held colonial attitudes and political practices, may be able to better explain the bipartisan commitment to the NTI measures. I examine both colonial and liberal—including neoliberal—explanations for the NTI throughout this thesis so in this section I provide only a brief introduction to each of these explanations.

Attempts to identify the underlying causes of the Intervention were generally motivated by disapproval of at least some elements of the Intervention. There was no need for supporters of the policy to develop explanations to account for the origins or motivations of the policy as they understood the policy as a common sense approach to a self-evident problem. In contrast, critics of the policy interpreted the intervention as an example of policy practice falling short of Australia's human rights obligations and liberal democratic practices. All attempts to explain the Intervention—including this dissertation and other scholarly contributions—form part of the broader political discussion about the acceptable limits of liberal democratic governance or, in other words, the types of State activity which will be recognised as legitimate within broader public discourse. The two common explanations of the Intervention each have political implications. The claim that the Intervention is part of a neoliberal project, for example, is a rallying call to those individuals who identify with a social liberal political

sensibility. No self-respecting social liberal, this explanation implies, would support a neoliberal shift in the policy paradigm as it would betray social liberal understandings of social justice. Similarly, the claim that the Intervention is colonial is typically, but not exclusively, made by Aboriginal people to signal to other Aboriginal people and their supporters that the NTI is a policy which is disempowering to Aboriginal people and needs to be resisted.

I begin by discussing those explanations of the Intervention which emphasise the policy's ideological origins. These explanations of the NTER policy are related to early criticisms of the policy which suggested that the emergency response was an excuse for implementing a radical political agenda. Anthropologist Jon Altman offers the strongest example of this type of explanation for the NTI. He argues that the moral imperative of saving Aboriginal children has led many politicians to blindly accept the Intervention but that this moral imperative hides an unstated and untested set of ideological motivations far removed from the concerns of child welfare. Altman characterises the NTER as a continuation of Prime Minister John Howard's ideological views on Indigenous Affairs and as part of a long term project to dismantle those features of the 'Indigenous sector'—such as ATSIC, native title, reconciliation, a rights agenda, land rights and so on—that he inherited when the Coalition came to government in 1996. The true purpose of the Intervention, from Altman's perspective, is to reform Indigenous Affairs policy by shifting it away from a commitment to Aboriginal 'self determination' and towards a neoliberal policy paradigm.¹³⁴ Other scholars and commentators on the NTI including Odette Mazel, Guy Rundle and John Sanderson also describe the NTI as neoliberal.¹³⁵ From this perspective, the classification of the situation in the NT as an

134 Altman, "The Howard Government's Northern Territory Intervention: Are Neo-Paternalism and Indigenous Development Compatible?," 2. See also Jon Altman, "In the Name of the Market?," in *Coercive Reconciliation. Stabilise, Normalise, Exit Aboriginal Australia*, ed. Jon Altman and Melinda Hinkson (North Carlton: Arena Publications, 2007).

135 Odette Mazel, "Development in the 'First World': Alleviating Indigenous Disadvantage in Australia - the Dilemma of Difference," *Griffith Law Review* 18, no. 2 (2009): 489; Guy Rundle, "Military Humanitarianism in Australia's North," in *Coercive Reconciliation. Stabilise, Normalise, Exit Aboriginal Australia*, ed. Jon Altman and Melinda Hinkson (North Carlton: Arena Publications, 2007); John Sanderson,

emergency was part of the government's strategy to rid themselves of old policies and 'sow the seeds' for new ones.¹³⁶

The descriptions of the NTI as neoliberal built on arguments about the broadly neoliberal political agenda of the Coalition Government in the years prior to the NTI. Neoliberalism can be defined as the ideology of an elite 'new right' or conservative social movement. This movement has, according to political economist Damien Cahill, sought to shift the tone of Australian political debate away from the Keynesian model of a welfare state and towards a utopian model of capitalism where individuals realise their liberty through their engagement with the market.¹³⁷ Sociologist Ian Anderson identifies an important shift in Indigenous Affairs policy under the Coalition Government and attributes this discursive shift to the combined influence of conservative ideas, populist politics and the 'growing hegemony of a neoliberal intellectual agenda in policy making'.¹³⁸ The policy approach of the Coalition Government was characterised, Anderson argued, by antipathy toward native title, self-determination and other features of a rights-based policy agenda. It sought to bring legislation, policy and the institutional framework in line with the government's broader neoliberal agenda by emphasising the principle of mutual obligation as a replacement for the principle of self-determination.¹³⁹ Key changes to Indigenous Affairs policy under the Coalition Government included the abolition of the Aboriginal and Torres Strait Islander Commission (ATSIC), a democratic body which was responsible for policy development and delivery to Aboriginal people, and the development of Shared

"Reconciliation and the Failure of Neo-Liberal Globalisation," in *Coercive Reconciliation. Stabilise, Normalise, Exit Aboriginal Australia*, ed. Jon Altman and Melinda Hinkson (North Carlton: Arena Publications, 2007).

136 Ian Anderson, "Indigenous Australians and Health Rights," *Journal of Law and Medicine* 15(2008). t' Hart, "Crisis Exploitation: Reflections on the 'National Emergency' in Australia's Northern Territory," 52.

137 Damien Cahill, "The Radical Neo-Liberal Movement and Its Impact Upon Australian Politics" (paper presented at the Australasian Political Studies Association Conference, University of Adelaide, 29 September - 1 October 2004), 2-3; Damien Cahill, "The Contours of Neoliberal Hegemony in Australia," *Rethinking Marxism* 19, no. 2 (2007): 228.

138 Anderson, "Indigenous Australians and Health Rights," 761.

139 Ibid., 766.

Responsibility Agreements (SRAs) where the provision of government services was dependent upon Aboriginal communities agreeing to a set of behavioural changes.¹⁴⁰

The rights-based agenda, from a neoliberal perspective, was closely aligned with the principles of social welfare and citizenship rights which neoliberals sought to discredit. Gary Johns' analysis of the NTI exemplifies the neoliberal critique of the principle of self-determination. Johns describes the policy of self-determination as an 'impossible dream' which had uncritically sought to preserve cultures which are maladapted to modern society.¹⁴¹ He suggests integration into the 'modern economy' as an alternative policy response: 'In the post- self-determination era new paths to integration need to be mapped and the minimum obligations for receipt of the benefits of society need to be stated'.¹⁴² This, Johns argued, would require recognising that collectively owned Aboriginal land can be a 'curse' which alienates Aboriginal individuals from opportunities to engage in the mainstream economy. Johns criticises what he calls the 'welfare model' of past government policy and urges governments to create incentives and disincentives to change individuals' behaviour and encourage individuals to move from welfare dependence to the relative autonomy of being employed in the 'real economy'.¹⁴³ These ideas played a prominent role in the parliamentary debate on the NTER legislation. Minister Brough's second reading speech, for example, linked the social problems in Aboriginal communities to the policy of 'passive welfare' and condemned the CDEP program and Aboriginal land tenure arrangements. Brough argued that the development of 'viable economies', 'real jobs' and opportunities for individual home and property ownership in Aboriginal communities would help address these social problems.¹⁴⁴ This suggests that the NTI may have formed part of a long term neoliberal political agenda for the reform of Indigenous Affairs policy.

This ideological explanation for the NTI—which attributes the policy to a broader shift

140 Ibid., 766-67.

141 Gary Johns, "The Northern Territory Intervention in Aboriginal Affairs: Wicked Problem or Wicked Policy?," *Agenda* 15, no. 2 (2008): 67-68.

142 Ibid., 68, 74.

143 Ibid., 68, 72,78.

144 Parliament of Australia, "Parliamentary Debates, Hansard 7 August 2007," 11.

in Australian politics toward neoliberal government and policy—is a potentially useful one as it seems to explain the wide ranging nature of the NTER reforms under the Coalition Government. Several aspects of the policy, including reforms to the permit system and changes to income support and the dismantling of the CDEP, appeared to be unrelated to the stated goal of securing child safety in Aboriginal communities. These elements of the policy can be explained if the NTI is understood as part of a radical shift from principles of self-determination to principles of mutual obligation. Furthermore, this interpretation helps explain the emergency rhetoric of the Intervention. Paul t'Hart has argued that framing the Intervention as an emergency assisted the Coalition Government to disrupt usual understandings of governance and to frame political problems in new ways.¹⁴⁵ The principles of self-determination and community consultation had been a central policy position in Indigenous Affairs policy since the mid-1970s.¹⁴⁶ Framing the Intervention as an emergency may have given the Coalition Government the ability to form a new policy paradigm based on neoliberal understandings of the problems experienced in Aboriginal communities. It is worth noting, however, that claims about the ideological nature of the Intervention generally focus on the period of Coalition Government. The majority of the administration of the NTI policy was overseen by the federal Labor Government. If ideology is a reasonable explanation for the NTI then the bipartisan support for the Intervention suggests that a new neoliberal political consensus has emerged in the field of Aboriginal Affairs policy.

A second explanation for the NTI sees the policy as an example of colonial relations between government and Aboriginal people. Proponents of this explanation include Marion Scrymgour, an Aboriginal woman and member of the Northern Territory's Legislative Assembly. In a speech in October 2007 Scrymgour outlined the parallels between the Northern Territory Intervention and the 'first Intervention', namely, the initial colonisation of the Northern Territory's Aboriginal people in the first decades of

145 t' Hart, "Crisis Exploitation: Reflections on the 'National Emergency' in Australia's Northern Territory," 52-53.

146 Mazel, "Development in the 'First World': Alleviating Indigenous Disadvantage in Australia - the Dilemma of Difference," 484.

the twentieth century.¹⁴⁷ The more recent Intervention, according to Scrymgour, was 'a leap back to...the days of assimilation, control and coercion' and showed either a lack of imagination or a 'lack of capacity to abandon past thinking about colonialism'.¹⁴⁸ The particularly problematic elements of the Intervention, in her opinion, included the wasteful use of government resources, the compulsory acquisition of Aboriginal land, the removal of the permit system, the control of Aboriginal organisations and assets and the arbitrary control of individual Aboriginal incomes.¹⁴⁹ This analysis of the NTI engages with many of the critiques of the policy and associates problems such as a lack of consultation with Aboriginal people with the broader history of dis-empowerment, control and colonial administration of Australia's Aboriginal people.

Several scholars have sought to understand the NTI by making comparisons between the NTI and periods in Australia's colonial history. First, Liz Conor explains the link between historical representations or descriptions of Aboriginal people and justifications for government policy. The current rhetoric of childhood 'innocence', she argues, is not that dissimilar to European Australia's historic concern with rescuing the children of a 'dying race'. The 'stolen generations' policy of the early and middle parts of the twentieth century was concerned with 'saving' Aboriginal children from Aboriginal ways of life by removing them from their families. This policy is now widely condemned as misguided, assimilationist and destructive of Aboriginal culture. With the advent of the Northern Territory Emergency children are once again the subject of state administration. While Aboriginal adults are seen as a lost cause, Aboriginal children embody policy makers' hopes for a future in which Aboriginal people adopt white ways of living.¹⁵⁰ Conor understands the language of the emergency as part of a broader assimilationist objective. She argues that the problem now, as it was then, is not only the methods by which Aboriginal children are protected but the unexamined assumption that white ways of living, white laws, white language and white relations to property are

147 Marion Scrymgour, "Whose National Emergency? Caboolture and Kirribili? Or Milikapiti and Mutitjulu? Dr Charles Perkins AO Annual Memorial Oration and Prize," Koori Centre, University of Sydney, <http://ses.library.usyd.edu.au/handle/2123/1985>.

148 Ibid., 23.

149 Ibid., 15, 23.

150 Conor, "Howard's Desert Storm ": 13.

the only viable way to live.¹⁵¹

Desmond Manderson and Odette Mazel have also engaged with colonialism as an important concept and context for understanding the NTI. Desmond Manderson identifies important similarities between the governance of Aboriginal people in the late eighteenth century and today. The expectation throughout Australia's history of colonial governance is that the rule of law should apply equally to Aboriginal and settler populations. According to Manderson this commitment to the rule of law can, somewhat paradoxically, justify the oppression of those individuals who fail to live up to its criteria. The failure of Aboriginal people to live up to the legal and social ideals of Australian society were used, he argues, to justify the suspension of law and order during the Northern Territory Intervention as evidenced by the suspension of the Racial Discrimination Act.¹⁵² Mazel develops a post-colonial analysis of the Intervention. Aboriginal people have typically been understood as 'different' and 'other' to the non-Aboriginal population and have therefore been subjected to exclusionary and oppressive policies. She argues that the discourse of Australian Indigenous Affairs policy offers only assimilation or separation as possible strategies for alleviating poverty and reducing oppression. Mazel's overview of the last few decades of Australian Indigenous Affairs policy suggests that the Coalition Government's dissatisfaction with the principle of self-determination resulted in the reform of policy with a renewed focus on the integration or assimilation of Aboriginal people in 'mainstream' society.¹⁵³ In other words, where separation is deemed a failure, assimilation is seen as the only viable strategy for managing the relationship between Aboriginal people and the State.

In summary, two main explanations have been put forward by public commentators and scholars in an attempt to contextualise and better understand the origins and causes of the NTI policy. One of these explanations understood the NTI as representative of an ideological shift in Australian politics towards neoliberal principles of government. This

151 Ibid., 15.

152 Manderson, "Not Yet," 237-38, 63-64.

153 Mazel, "Development in the 'First World': Alleviating Indigenous Disadvantage in Australia - the Dilemma of Difference," 475-76, 84-85.

would involve a shift away from principles of self-determination and community consultation in Aboriginal Affairs policy and toward a principle of integration in Australia's mainstream economy. The second explanation understands this growing emphasis on integration as part of a broader history of colonial and assimilationist governance. Proponents of this explanation drew parallels between earlier periods of government administration in the Northern Territory and the current Intervention.

2.6 Conclusion

Both the Coalition and Labor governments showed considerable dedication to the development and implementation of the NTER legislation. By mid-2008 the policy directly affected 45,500 Aboriginal people and the prescribed areas administered under the NTER Acts encompassed 600,000 square kilometres.¹⁵⁴ This chapter has provided an overview of the development and implementation of the NTI with a particular emphasis on the political debates surrounding the NTI. The Northern Territory Intervention had bipartisan support but it was also highly controversial and attracted considerable criticism from within parliament, the Australian public sphere, and from scholars and from some international observers.

The case study of the NTI provides the opportunity to extend our understanding of the processes by which authoritarian government is justified in liberal societies. The bipartisan support of the policy suggests that the policy was widely understood, among politicians at least, as a legitimate or at least a necessary approach to the problems of child abuse and violence in Aboriginal communities. The critiques of the Intervention from the broader community sector and from academia suggest that the NTI represented a significant departure from widely held conceptions of good government. Proponents of the policy understood the quick and unilateral policy process as a necessary response to an urgent problem. Critics, however, denounced the policy for its non-democratic and discriminatory character. The ideological explanation of the Intervention, as discussed

154 Yu, Duncan, and Gray, "Northern Territory Emergency Response. Report of the NTER Review Board," 9.

above, would interpret this conflict as a disagreement between the collectivist commitment to self-determination and a neoliberal commitment to economic integration and individualism. A colonial interpretation of the Intervention would identify the focus on integration as a form of assimilation that is destructive of Aboriginal culture and leads to the disempowerment of Aboriginal people.

In the next chapter I evaluate the colonial explanation for the Intervention and consider whether the Indigeneity of the subjects of the NTER policy was a factor in the bipartisan development and acceptance of justifications for the NTI. I draw on the scholarly literature on postcolonialism and settler colonial to argue that that the political debates and justifications of the NTER demonstrate colonial forms of reasoning. Scholarly analyses of the colonial character of the NTI have, however, been unable to articulate how colonial understandings of the policy 'problem' in Aboriginal Affairs interacts with liberal democratic ways of understanding good government. I develop an evaluation of the ideological explanation of the Intervention in later chapters of this dissertation.

Chapter Three: Colonial Governance and the Northern Territory Intervention

The Northern Territory Emergency Response is the most dramatic and interventionist policy in Australia's recent history of relations with Aboriginal people. It is also, arguably, representative of a broader shift in the Australian Indigenous Affairs policy paradigm. The NTI was not the first sign of this shift. The NTI policy was radical but broadly consistent with the long term political attitudes of the Coalition Government since their electoral victory in 1996. Integration of Aboriginal people in Australian society was, for example, a core tenet of the Coalition Government's 'practical reconciliation' policy which rejected the idea of distinctive Aboriginal rights in favour of a 'practical' policy agenda where reconciliation was defined as equal opportunity for Indigenous Australians and measured in terms of improved health education and standards of living for Indigenous people.¹⁵⁵ The NTI's focus on integration and bringing Aboriginal communities up to the norms and standards of non-Aboriginal suburbs and communities can be characterised as a continuation of the ideological commitment behind practical reconciliation. The support of the Labor opposition for the NTI in 2007 completed the shift in the policy paradigm from one focused on the ideal of Aboriginal self-determination to one focused on the integration of Aboriginal services and people into mainstream processes of governance.

The public debate over the Northern Territory Intervention was implicitly and often explicitly shaped by an awareness that the policy applied almost exclusively to Aboriginal people and within the context of a history of destructive, coercive and colonial government. In Chapter Two I summarised the arguments of several authors who had characterised the Intervention as a regressive move away from a policy of Aboriginal self-determination and toward the ideology and policies of an earlier, more

155 Peter H. Russell, "Corroboree 2000 - a Nation Defining Event. A Comparative Perspective," *ARENA Journal*, no. 15 (2000): 29; John Borrows, "Practical Reconciliation, Practical Re-Colonisation?," in *Land, Rights, Laws: Issues of Native Title Issues* (Canberra: Native Title Research Unit, Australian Institute of Aboriginal and Torres Strait Islander Studies, 2004), 2-3.

colonialist period of Australian government. Criticisms of the top down, non-consultative nature of the NTI, and claims of racial discrimination, can be interpreted as oblique criticisms of the policy shift toward integration. This chapter contributes to these criticisms by developing an account of the colonial ideas involved in the justification of the NTI and relating the colonial aspects of the NTI to the settler colonial context of Australian policy making. This chapter is the first of several chapters in this dissertation which seek to identify and analyse the political circumstances and ideas used to justify, authorise and legitimate the NTI. The analysis developed in this chapter becomes evidence for my argument in later chapters about the way that liberal and colonial ideas have been used to reinforce one another in the development of justifications for governmental intervention.

This chapter draws on the concept of settler colonialism to develop a more thorough understanding of the colonial character of the Northern Territory Intervention. An awareness of the settler colonial literature provides us with a framework for considering the motivations for producing and reproducing colonial narratives within a contemporary context. The first section of the chapter focuses on introducing the concept of settler colonialism. The middle sections of the chapter develop an analysis of the representation of Aboriginal people in the NTI policy debate. In particular I focus on representations or descriptions of Aboriginal people and Aboriginal culture and analyse the frequent referrals, in debates about the NTI, to the dysfunction of Aboriginal communities and cultures. The final section of the chapter argues that, in spite of their differences, both governments perpetuate a settler colonial politics in their support for the Northern Territory Intervention. Colonial ideas about the dysfunction of Aboriginal culture, I argue, contribute to arguments about the dysfunction of Aboriginal communities and the necessity of developing viable liberal economies and social systems within these communities. Throughout the chapter I address the language and approach of the Coalition and Labor governments separately as there are some important differences between the two approaches. Also, the two governments illustrate different aspects of the flexible, adaptive and contemporary development and reproduction of settler colonial ideas and goals.

3.1 The concept of settler colonialism

Many criticisms of the Northern Territory Intervention have identified important similarities between past colonial practices and ideas and the current Intervention policy. This section introduces the concept of settler colonialism which I use as a framework for this chapter. The scholarship on settler colonialism acknowledges the distinctiveness of colonial politics in settler situations. In particular, it highlights the difficulty of decolonisation in settler situations, the continued use and adaptation of colonial ideology and the consistent privileging of settler culture in the legal systems and other political institutions of settler states. In this section I provide a brief overview of settler colonialism in the Australian context. I begin by considering the distinction between the settler colonial situation and other forms of colonialism. I then contrast historical examples of Australian settler colonial ideology with their contemporary counterparts to demonstrate that settler colonial ideas are highly adaptable and continue to influence the relationship between Indigenous Australians and Australian governments. Later in this chapter I use this understanding of the settler colonial mindset to produce a more detailed account of the role of colonial ideas governments' justifications for the NTI policy and to locate the NTI policy in the context of Australian colonial power relations.

The situation that many contemporary scholars refer to as 'settler colonialism' has its origins in the imperial activities of European nations in the eighteenth and nineteenth centuries. Many scholars in recent years have sought to analyse and compare settler colonial societies and to better understand how settler colonialism is different to other forms of colonial politics.¹⁵⁶ Patrick Wolfe, for example, differentiates between franchise or dependent colonies and settler colonies. In the franchise colony the coloniser is a minority and dependent on the local population for a labour supply. Settler colonies, however, are premised on the displacement and elimination of local Indigenous populations and replacement with settler societies and political systems.

156 For a summary of this scholarship see the introductory chapter of: Veracini, *Settler Colonialism. A Theoretical Overview*.

Colonisers in the settler colony bring in their own indentured or enslaved labour.¹⁵⁷

Caroline Elkins and Susan Pederson make a similar argument. They argue that in settler colonies it is settlers rather than imperial administrators who have historically had the most significant impact on the character of legal structures and political regimes. Imperial expansion, they argue, occurs for the purposes of military or trade advantage. Settler colonialism, in contrast, involves the seizure of land, the taking over of local governance and the presence of a settler population whose purpose is to make a permanent home while enjoying high living standards and political privileges. The objective of settler colonists, argue Elkins and Pederson, is not to govern Indigenous people but to develop a community without them.¹⁵⁸ The common theme in the work of scholars of settler colonialism is that settler colonialism is about the replacement of Indigenous peoples and the creation of a new political order.

Many authors have recognised that there are important differences between the experiences of colonialism in now independent, or 'postcolonial', states such as India, Pakistan or Vietnam and the practices of colonialism in settler societies such as Australia, New Zealand, the United States and Canada. Most of the world was decolonised during the twentieth century; as Edward Said described it, 'An immense wave of anti-colonial and ultimately anti-imperial activity, thought, and revision has overtaken the massive edifice of Western empire...stunningly, by and large the entire world was decolonised after World War Two'.¹⁵⁹ Settler societies are generally impervious to formal decolonisation because national independence, in the settler context, usually refers to the independence of settlers rather than the independence of the Indigenous people they sought to replace.¹⁶⁰ One of the core features of settler colonialism is that the coloniser 'comes to stay' and establishes 'fragmentary satellites' of

157 Wolfe, *Settler Colonialism and the Transformation of Anthropology*, 1-2, 163.

158 Caroline Elkins and Susan Pedersen, "Settler Colonialism: A Concept and Its Uses," in *Settler Colonialism in the Twentieth Century: Projects, Practices, Legacies*, ed. Caroline Elkins and Susan Pedersen (New York: Routledge, 2005), 2, 17-18.

159 Edward W. Said, *Culture and Imperialism*, First ed. (New York ; London: Vintage Books, 1994), 235, 39.

160 Patrick Wolfe, "Logics of Elimination: Colonial Policies on Indigenous Peoples in Australia and the United States," *University of Nebraska Human Rights and Human Diversity Initiative Monograph Series* 2, no. 2 (2000): 2-3.

their cultures which later assert national independence from the mother country.¹⁶¹

While some settler projects were failures—for example, the Japanese settlement of Korea and Taiwan was brought to an end by Japan's defeat in the Second World War—settler colonialism continues to exert a considerable influence in several societies.

Australia is one such society. Many of the features which distinguish settler colonies from other forms of colony are present in Australia's history and current politics. Of course, we can not speak officially of 'Australia' until the federation of the British colonies of New South Wales, Queensland, Victoria, South Australia, Tasmania and Western Australia into a single nation in 1901. Each of these colonies has their own history of settler-Indigenous relations. The removal of Aboriginal people through warfare, disease and forced relocations are nonetheless a common aspect of these colonies' histories.¹⁶² Land grants and the availability of convict labour in the earlier parts of the nineteenth century encouraged further British emigration and settlement.¹⁶³ The clear pattern of displacement of Aboriginal people and the exploration, settlement and cultivation of land by white British settlers suggests that the British colonies in Australia were settler colonial in form from an early stage in their history. The federation of these colonies into the new 'nation' of the Commonwealth of Australia, and the increasing identification of citizens with Australian rather than British national identities in the twentieth century, realised the settler ambition of independence from the mother country.

161 Ibid., 2.

162 For example, see: A. Dirk Moses, "Genocide and Settler Society in Australian History," in *Genocide and Settler Society : Frontier Violence and Stolen Indigenous Children in Australian History*, ed. A. Dirk Moses, War and Genocide (New York: Berghahn Books, 2004); Barry Morris, "Frontier Colonialism as a Culture of Terror," in *Power, Knowledge and Aborigines*, ed. Bain Attwood and John Arnold (Bundoora: La Trobe University Press and National Centre for Australian Studies, Monash University, 1992); Robert Foster, "Coexistence and Colonization on Pastoral Leaseholds in South Australia, 1851-99," in *Despotic Dominion: Property Rights in British Settler Societies*, ed. John McLaren, A. R. Buck, and Nancy E. Wright, Law and Society Series (Vancouver, B.C.) (Vancouver: UBC Press, 2005); Henry Reynolds, *Frontier: Aborigines, Settlers and Land* (Sydney: Allen & Unwin, 1987).

163 John Gascoigne, *The Enlightenment and the Origins of European Australia* (Cambridge, U.K.: Cambridge University Press, 2002), 61-66.

Settler colonial ideologies clearly played a role in justifying the removal of Aboriginal people from land, legitimating settler claims to land and privileging settler cultural norms in the political and legal institutions of the new nation-state. According to David Pearson, settler groups commonly develop foundational myths which see history as starting at the time of conquest or mass settlement. These myths support the claim of settler groups for nationhood by relegating Aboriginal peoples to the prehistory of the settler nation-state.¹⁶⁴ The most powerful of these myths in the Australian situation was the idea of *terra nullius* which has been described as the 'central legitimising idea for Australian colonisation'.¹⁶⁵ *Terra nullius* was the idea that the land belonged to no one before it was settled by the British. While early settlers had to acknowledge, of course, that Aboriginal groups existed they were able to maintain the fiction of *terra nullius* by making assumptions about the nature of Aboriginal people's relationships to land. Settlers claimed that Aboriginal people were merely wandering across the land and did not have a properly developed sense of land ownership. From this perspective settlers not only had a right to settle on the land but were in fact the original owners of that land. This sense of original ownership and connection to the land formed part of an emergent Australian nationalism in the second part of the nineteenth century; 'It was the settlers who had fought and tamed the land, and fused their nation with it. The Aboriginal attachment was deemed transient or 'light'. The land had not been worked over, therefore it had not been possessed, until Europeans began to make it 'productive'.¹⁶⁶ The narrative of *terra nullius* therefore relied on a representation of Aboriginal people as underdeveloped and primitive.

This depiction of primitive Aboriginality figured prominently in the ideology of the 'frontier' and, later, in the policies of *carceration* which sought to restrict Aboriginal people's movements and placed Aboriginal people under the protection of government

164 Pearson, *The Politics of Ethnicity in Settler Societies : States of Unease*, 11.

165 Anthony Moran, "As Australia Decolonizes: Indigenizing Settler Nationalism and the Challenges of Settler/Indigenous Relations," *Ethnic and Racial Studies* 25, no. 6 (2002): 1021.

166 Ibid., 1021; *ibid.*

agents, mission authorities or employers.¹⁶⁷ Evolutionary theories of the late nineteenth century were recast to offer scientific validation of the commonly held belief that Aboriginal people were a 'doomed race'. Aboriginal people were seen to represent an earlier stage in human evolution, and their encounter with white settlers was, in developmental terms, a confrontation with a 'far-distant future'. The eventual extinction of Aboriginal people was seen to be the inevitable, though perhaps regrettable, outcome of the encounter between primitive and advanced races.¹⁶⁸ Aboriginal people were an out of place (and out of time) remnant of humanity's long distant evolutionary past. According to this reasoning, Aboriginal people had no role to play in the making of the modern world or of a progressive new Australian nation.

Australia's colonialist history is a politically controversial subject with conservatives in recent years deploring what they see as a 'black armband' view of Australian history.¹⁶⁹ By this they mean that progressive commentators have emphasised the less savoury aspects of Australia's history, such as the deplorable treatment of Aboriginal people, and ignored or downplayed the nation-building successes of Australia's settler and migrant populations. In this context, the claim that Australia's *present politics* is characterised by a settler colonial mindset is a controversial claim. Nonetheless, a consideration of the continued use of settler colonialist ideologies in contemporary contexts is useful to an analysis of the Northern Territory Intervention so I am going to draw upon these ideas here. The scholarship on settler colonialism highlights the continued relevance and adaptability of settler colonial ideologies in spite of recent political developments toward decolonisation and post-racial understandings of human difference. Among the developments that have challenged settler colonial forms of political reasoning are: the steady movement towards decolonisation around the world since the middle parts of the

167 Notably, Wolfe's scholarship differs from many other descriptions of 'periods' in Australian Indigenous Affairs governance. Typically, authors have understood the period of assimilation as being superseded by a period of Indigenous rights and self-determination policies in the 1980s and 1990s, etc. See, for example: Mazel, "Development in the 'First World': Alleviating Indigenous Disadvantage in Australia - the Dilemma of Difference."

168 Wolfe, *Settler Colonialism and the Transformation of Anthropology*, 173, 75.

169 Mick Dodson, "Indigenous Australians," in *The Howard Years*, ed. Robert Manne (Melbourne: Black Inc. Agenda, 2004), 119-20.

twentieth century; the influence of political movements internationally around the issue of civil rights for racial minority groups; and the political movements in Australia for race equality and the acknowledgement of Aboriginal land rights and self-determination. The domestic and international situation in the 21st century is substantially different from that of the nineteenth and early twentieth century and present day colonialist ideology and practice has adapted to address or discredit Aboriginal resistance and the anti-colonial political movements.

The adaptability of settler colonial discourse is demonstrated by the modernisation of earlier discourses about Aboriginal primitivism. The racialised scientific paradigm which underpinned nineteenth century conceptions of Aboriginal people as a 'doomed race' has been discredited but present day conceptions of Aboriginality continue to emphasise the 'backward' nature of Aboriginal ways of life. Kevin Bruyneel has observed that modern colonial rule involves the enforcement of *temporal* boundaries which usually form an implicit part of broader economic, cultural and political narratives. These narratives employ a concept of 'colonial time' which differentiates between an 'advancing' people (i.e. settler society) and a 'static' Indigenous people. The conceptual dualism of this settler colonial discourse creates a binary between progressive and backward people which can be used to impose colonial rule on Indigenous people and to deny Indigenous people their sovereignty. The colonising society sees the colonised as 'temporally constrained...primitive or traditional...and therefore incapable of modern agency and independence'.¹⁷⁰ In contrast, the settler society sees itself as 'progressive, not backward...Their place in political time involves a progressive movement toward ever more civil and rational forms of governance'.¹⁷¹ The apparently progressive character of the settler society, in combination with the perceived static or backwards nature of Aboriginal society, is used to 'legitimate the colonial rule of the liberal democratic settler-state' and to privilege settler conceptions of social and economic development at the expense of Aboriginal self-determination.¹⁷²

170 Kevin Bruyneel, *The Third Space of Sovereignty: The Postcolonial Politics of U.S.-Indigenous Relations* (Minneapolis: University of Minnesota Press, 2007), 2.

171 Ibid., 8.

172 Ibid., 8.

Bruyneel's analysis focuses on the colonial politics of the United States, another settler colonial society, but the concept of 'colonial time' is clearly applicable to the Australian situation as well. For instance, Wolfe's analysis of Australian land rights legislation demonstrates the development of a conception of 'authentic' Aboriginality which draws on a notion of colonial time. To provide some background, the claim of rights to ancestral lands have been 'front and centre' in the political agenda of Aboriginal Australians and are seen by Aboriginal people as an essential prerequisite to self-determination. In the late 1960s Aboriginal Australians started to use the coloniser's legal system to make a claim for ownership and rights to land.¹⁷³ The first mainstream acknowledgement that *terra nullius* was a legal fiction occurred in 1975 when the Australian parliament accepted a motion that Aborigines and Torres Strait Islanders 'were in possession of this entire nation prior to 1788'.¹⁷⁴ The *Aboriginal Land Rights (Northern Territory) Act* of 1976 was the first to provide a legal instrument through which Aboriginal people could claim a traditional connection with land and was followed by the *Native Title Act* of 1993 and the *Native Title Amendment Act* of 1998.¹⁷⁵ These legislative schemes, in addition to state level schemes, have resulted in approximately sixteen per cent of the Australian continent coming under Aboriginal ownership.¹⁷⁶

While this Aboriginal ownership of land represents a substantial gain for Aboriginal people, Wolfe's analysis demonstrates that the Australian land rights legislation is also a tool for serving the settler colonial goal of extinguishing Aboriginal ownership of land. To qualify for native title Aboriginal people need to prove a 'traditional connection' with the claimed land.¹⁷⁷ While the land rights legislation dismantles the fiction of *terra nullius* it also extinguishes, in the view of the settler legal system, the land rights of any

173 Peter H. Russell, *Recognizing Aboriginal Title : The Mabo Case and Indigenous Resistance to English-Settler Colonialism* (Toronto: University of Toronto Press, 2005), 155-56.

174 Ibid., 170.

175 Ibid., 169-70, 287, 330.

176 Ibid., 368.

177 Wolfe, *Settler Colonialism and the Transformation of Anthropology*, 202-03.

claimants who are unable to prove an ongoing connection with their traditional lands. Wolfe claims that the principal function of the Native Title Acts is the extinguishment of native title. There is little difference, he argues, between 'a *terra nullius* that is flagrantly untenable and a native title that people are held to have had but lost'.¹⁷⁸ Wolfe argues that the qualifications for native title derive from a long held notion of *authentic* Aboriginality which, in the past, had been determined by an individual's racial make-up but which is now a predominantly cultural classification.¹⁷⁹

Here we can identify the connection between the extinguishing role of Australian land rights policy and Bruyneel's concept of colonial time. From the settler colonial perspective the authentic Aboriginal, with an authentic connection to the land and a set of authentically *static* traditional cultural practices, is a minority population within the Aboriginal population. The very experience of colonialism – with its legacy of dispossession from land, culture and family ties – is sufficient to disqualify most Aboriginal people from an authentic or genuine claim to Aboriginality or, indeed, a legitimate claim to native title. Most Aboriginal people, from this perspective, are already assimilated (or at least *almost* assimilated) and could never regain an authentic Aboriginal identity. Even if they could regain their Aboriginal identity this would (in accordance with a notion of colonial time) be seen as a step backward in their social and cultural development.

This brief discussion of Australian land rights legislation demonstrates the modern character of settler colonial politics and the ability of settler colonial ideas to respond to the political resistance of Aboriginal Australians and to adapt to meet new political and policy circumstances. To clarify, my point in this section has been to outline the dynamic character of the relationship between a settler colonial political tradition and an Aboriginal tradition of resistance to colonisation. While scholars of settler colonialism highlight the ongoing presence of a settler colonial politics of elimination of Aboriginality and the assimilation of Aboriginal people they do not suggest (in a

178 Ibid., 203.

179 Ibid., 190.

teleological sense) that the elimination of the native is the inevitable consequence of the institutional or ideological make-up of settler societies. The relationship between settler and Indigenous people is, rather, a fundamentally political one. It is an unequal power relationship where ideology, including the exploitation of already present tensions within the liberal democratic state, has become Aboriginal peoples' main political tool.¹⁸⁰ Non-Indigenous Australians are not always aware of this power imbalance or, indeed, the privilege of their own position. They have often found Aboriginal claims for substantive (rather than merely formal) equality very challenging and have had difficulty developing a place within their conception of Australian citizenship and political rights for Aboriginal land rights, self-determination or sovereignty.¹⁸¹

3.2 Colonial representations of Aboriginal people by the Coalition Government

Ideas about the nature of Aboriginal people are often problematic and have often played an important role in the justification of settler colonial forms of government and nationhood. The next two sections of this chapter draw on primary sources—such as the parliamentary debate on the NTER legislation—and secondary studies and commentary on the Intervention to examine and analyse the use of colonial ideas in justifications for the NTI. While the justifications of the Coalition and ALP governments for the Intervention were very similar (see the discussion in Chapter Two), there are some interesting differences between the political parties in relation to the way that Aboriginal people are described and the descriptions of policy success. Because of these differences, and the relevance of these differences to understanding the significance of the NTI in Australian Indigenous Affairs policy history, I develop separate analyses for each of these political parties. This section addresses the rhetoric of the Coalition

180 Bruyneel, *The Third Space of Sovereignty*, 13.

181 Substantive equality requires 'measuring equality by results and impacts rather than the formal application of the same rules'. It acknowledges that holding 'equal rights' under the law may not be sufficient to secure the human rights of members of minority groups. See: Larissa Behrendt, *Achieving Social Justice. Indigenous Rights and Australia's Future* (Sydney: The Federation Press, 2003), 82.

Government in 2007. I argue that Coalition politicians often employed ideas about the peril of Aboriginal children, the failure of Aboriginal culture and the inability of Aboriginal people to adapt to the modern world. This view, at least in part, explains the antipathy of many Coalition politicians to the paradigm of self-determination and the faith they had in the Intervention as a necessary stage in the integration—or, rather, the assimilation—of Aboriginal people. In the next section I examine the language of Labor party politicians. I conclude that Labor politicians drew less overtly on colonial ideas but nonetheless subscribed to assimilationist objectives in their approach to Indigenous Affairs policy.

In Chapter Two I summarised the main justifications for the NTI. These included the welfare of children, the inability of the Northern Territory Government to adequately respond to the *Little Children* report and the failure of past government policies to address the problems in Aboriginal communities. The protection of Aboriginal children was, as I have mentioned, the foremost justification for the Intervention. However, the apparently benign discourse of child welfare became a problematic one in the context of colonial ideas about the dysfunction of Aboriginal communities and Aboriginal culture. The goal of protecting children from abuse is not, in itself, a problematic concept. Even critics of the Intervention emphasised their commitment to child safety. Alex Brown and Ngiare Brown, for instance, wrote that 'Children lie at the core of Aboriginal existence and of our survival. Furthermore, there are none among us who would not welcome any *just* measures to protect our children'.¹⁸² The concern of critics of the Intervention was that the common goal of child safety was being interpreted by the Coalition Government in ways which pathologised Aboriginal culture and communities. The Intervention was described as an 'approach that frames all Aboriginal communities as dysfunctional, all Aboriginal people as abusers, and all Aboriginal children as abused'.¹⁸³ In other words, the goal of child welfare becomes problematic when it is accompanied by and reinforces the assumption that Aboriginal children are at risk *because* they are Aboriginal children.

182 Alex Brown and Ngiare Brown, "The Northern Territory Intervention: Voices from the Centre of the Fringe," *The Medical Journal of Australia* 187, no. 11/12 (2007): 621.

183 *Ibid.*, 622.

This sort of assumption appeared to inform Prime Minister Howard's initial announcement of the policy. Howard commented that 'We are dealing with children of the tenderest age who've been exposed to the most terrible abuse from the time of their birth virtually and any semblance of maintaining the innocence of children is a myth in so many of these communities'.¹⁸⁴ While Howard acknowledged that there may be 'some other areas of Australia where Australians who aren't Indigenous are just as neglectful of their children' he argued that 'the grosser examples [of neglect and child abuse] and the more concentrated examples of this problem are to be found in Aboriginal communities'.¹⁸⁵ The peril of Aboriginal children and the dire social conditions of the Aboriginal communities in which these children were living were two common and interrelated themes in the Coalition Government's justifications for the NTI. These ideas were mentioned frequently in the parliamentary debate on the NTER. For example, Liberal backbencher Barry Wakelin argued that '...the safety of children is any government's top priority... We do this [the NTER legislation] in the interests of the children and in the interests of the communities in which these children live'.¹⁸⁶ Liberal MP Alex Somlyay also justified the NTER policies in terms of social conditions in Aboriginal communities. He declared that the NTI would 'provide the framework to ensure that there is a future for Aboriginal children... These children are living with the consequences of the breakdown of communities from the abuse of alcohol and the commonality of the abuse of pornography'.¹⁸⁷

Coalition politicians routinely described Aboriginal communities in terms of their dysfunctional character. The second reading speech for the NTER bills argued that the purpose of the NTI was to 'break the back of the violence and dysfunction in Aboriginal communities in the Northern Territory'.¹⁸⁸ Minister Brough's comment that Aboriginal communities in the Northern Territory needed to be 'stabilised and normalised'

184 Howard and Brough, "Joint Press Conference with the Hon Mal Brough."

185 Ibid.

186 Parliament of Australia, "Parliamentary Debates, Hansard 7 August 2007," 75.

187 Ibid., 88.

188 Ibid., 22.

demonstrated the perception of Aboriginal communities as abnormal and fundamentally different from other Australian communities.¹⁸⁹ With rhetoric similar to that which justifies intervention in failed states, Brough likened the situation in Aboriginal communities to that of a 'failed society' where 'normal community standards and parenting behaviour [had] broken down'.¹⁹⁰ Backbencher Dave Tollner, a MP from the Northern Territory seat of Solomon, declared in the parliamentary debate that 'The reality is that it is difficult to find a functional Aboriginal community anywhere...Sexual assault, domestic violence and other violence, antisocial behaviour and drunkenness are all too common today in many communities'.¹⁹¹ The description of Aboriginal communities as failures was used to justify the interventionist character of the NTI and the exclusion of Aboriginal people from the policy process. Prime Minister Howard, for example, argued that 'the level of extreme social breakdown in some communities demands a highly prescriptive approach'.¹⁹² Characterising Aboriginal communities as dysfunctional reinforced the perception that it was their Aboriginality that put children at risk. It positioned whole communities – which included, of course, many families whose children had never had any contact with the child welfare system and individuals without children – as a deviation from the usual social norms.

Furthermore, some elements of the Intervention implied that Aboriginal culture itself was responsible for the failure and dysfunction of Aboriginal communities. Brown and Brown have linked the language of Aboriginal deficit in the public discussion of the NTI to the idea—common in news media reporting of these issues—that the social dysfunction of Aboriginal communities is largely a consequence of Aboriginal people's primitive and barbaric cultures.¹⁹³ Several aspects of the NTI policy imply that Aboriginal culture is the root cause of the problems in Aboriginal communities. For instance, the powers of the Australian Crime Commission (ACC), which usually only investigates serious and organised crime, were expanded to investigate 'serious violence

189 Ibid., 7.

190 Ibid., 2, 10.

191 Ibid., 97.

192 Howard, "Address to the Sydney Institute."

193 Brown and Brown, "Voices from the Centre of the Fringe," 621.

or child abuse...committed by or against, or involving, an Indigenous person'. This change, according to Desmond Manderson, places Indigenous violence in an 'entirely different category from the very same offences committed by any other person in Australia'. It suggests that 'there is either something inherently Indigenous about child abuse; or something inherently organised about it; or something peculiarly threatening about Indigenous violence of any kind'.¹⁹⁴

Other examples include the income management regime and restrictions on pornography and alcohol. Manderson argues that the quarantining of welfare recipients' incomes in prescribed areas assumes that 'all Indigenous parents who are welfare recipients are feckless spenders'.¹⁹⁵ Aboriginal people, he argues, are understood to have 'some kind of in-built incapacity or weakness' and this is used to justify laws, such as those restricting pornography and alcohol, which would not be tolerated if they had been applied to any other community in Australia.¹⁹⁶ The extent to which the Coalition Government felt that Aboriginal culture was a problem is reflected in their changes to sentencing and bailing laws as part of the NTER legislation. These changes prevented people charged with a crime from raising customary law or practice as a reason for justifying or lessening the seriousness of an offence. Manderson has pointed out that this law clearly targets Indigenous groups. It also contradicts the long held principle of individualised sentencing which permits a judge to consider the context of a crime and the motivations of an offender in order to develop appropriate forms of punishment or rehabilitation.¹⁹⁷ The changes to sentencing laws implied that Aboriginal culture either encouraged or was frequently used as an excuse for violent behaviour towards women and children.

In many ways, the discourse of Aboriginal cultural and community failure and the rhetoric of childhood innocence echoed, as Liz Conor has observed, the early twentieth

194 Manderson, "Not Yet," 244-45.

195 Ibid., 248.

196 Ibid., 241.

197 Ibid., 245-47.

century concern for rescuing the children of the presumably dying Aboriginal race.¹⁹⁸ Liberal party backbencher Barry Haase expressed his concern for the current generation of Aboriginal children: 'I accept and respect the fact that Indigenous law is a very demanding process but it is overdone...If one destroys the future of one's race in the name of promotion of the culture, isn't that an enigma? ...You might be denying an opportunity for your children, for your future generations'.¹⁹⁹ This sort of attitude is evidence for Conor's claim that the goal of governments is for Aboriginal children to learn white ways of living. While Indigenous adults are seen as a lost cause, Indigenous children embody policy makers' hopes for a future in which Aboriginal people adopt white ways of living.²⁰⁰ Conor argues that Howard's language of 'integration' is just a new word for assimilation; 'The task of the Aboriginal child...is to mature towards white ways of living, achieving lawful civility in part through separating themselves from black ways of living'.²⁰¹

Aboriginal culture and communities were viewed by Coalition Government politicians as failures and the failure and limitations of Aboriginal culture became part of the Coalition Government's justification for the Northern Territory Intervention. The June 2007 government announcement of the NTI, for example, declares 'normalisation' as one of its main stages of involvement in Aboriginal communities and there are references in the parliamentary debates to 'normal community standards' and 'normal suburbs'.²⁰² In relation to the town camps outside metropolitan areas such as Alice Springs, Minister Brough stated that 'It is Australian government policy that these camps should be treated as normal suburbs. They should have the same infrastructure and level of services that all other Australians expect. Second best is no longer good enough'.²⁰³ Tollner lists a number of services that Aboriginal people should have access to put don't including 'real property rights – to buy a home, to own a piece of land, to

198 Conor, "Howard's Desert Storm ": 13.

199 Parliament of Australia, "Parliamentary Debates, Hansard 7 August 2007," 83.

200 Conor, "Howard's Desert Storm ": 13.

201 Ibid., 14.

202 Parliament of Australia, "Parliamentary Debates, Hansard 7 August 2007," 2, 14, 74; Howard and Brough, "Joint Press Conference with the Hon Mal Brough."

203 Parliament of Australia, "Parliamentary Debates, Hansard 7 August 2007," 14.

start businesses' and a 'market garden, a greengrocer, a hairdresser, a restaurant, a clothing shop, a shoe shop, a bakery or a butcher shop'. The Coalition Government was committed to equality but typically understood this equality in terms of sameness, that is, as part of a process of bringing Aboriginal people up to a mainstream standard and way of living.

In summary, the Coalition Government's justification for the Intervention relied on a description of Aboriginal communities as dysfunctional and unsafe places for children and implied that Aboriginal culture was a contributing factor to the sexual abuse of children. The approach of the Coalition Government was problematic not because they professed an interest in the welfare of children or even because they discussed the social problems experienced by Aboriginal communities but because they did this in ways which employed old colonialist stereotypes about the violence and general backwardness of Aboriginal cultures and communities.

3.3 The Labor Government and the tension between human rights and community development

The analysis of the Coalition Government's approach to the NTI illustrated the important role of colonialist ideas about the failure of Aboriginal culture and the dysfunction of Aboriginal communities in developing justifications for highly interventionist policy. An analysis of the Labor Government's approach, in contrast, demonstrates that colonialist governance does not always rely on an explicitly negative conception of Aboriginal culture and can be accompanied by a sincere commitment to human rights. Some critics have pointed to Labor politicians' statements about a commitment to human rights as a form of hypocrisy. However, I suggest that it would be better to understand this commitment as a source of tension in Labor political discourse since the commitment to rights—including Aboriginal people's rights to autonomy and self-determination—is positioned by Labor parliamentarians as incompatible with a commitment to the safety of Aboriginal children.

In spite of the policy similarities between the Coalition and Labor governments, the Labor Government sought to differentiate its approach from that of the Coalition Government and to develop a more principled position on the NTI. As discussed in the previous chapter, the Labor party's contributions to the initial parliamentary debate on the NTER legislation, for instance, frequently involved criticism of the Coalition Government's decision to suspend the Racial Discrimination Act as well as concern about the changes to the CDEP and permit system and concern for the non-consultative development of the NTI policy. Once in government, the Labor party professed a commitment to 'resetting' the relationship with Indigenous people.²⁰⁴ This commitment acknowledged that the NTI had damaged this relationship and involved a commitment to greater consultation with Aboriginal people in the future and a commitment to reinstate the *Racial Discrimination Act* as part of the NTER legislation.²⁰⁵

The political language of the Labor Government was different from that of the Coalition Government in two chief ways. First, it drew on a language of human rights which had been absent from the Coalition Government's rhetoric. In addition to the pledge to reinstate the RDA, the Labor Government made other symbolic pledges of its commitment to human rights in its government of Australia's Aboriginal people. For example, in April 2009 the government affirmed the statements made in the United Nations Declaration on the Rights of Indigenous Peoples. In September 2007, Australia had voted against the adoption of the Declaration by the United Nations' General Assembly with the Coalition Government's ambassador Robert Hill explaining that the Declaration's commitment to Aboriginal self-determination impaired the 'territorial and political integrity of a State' and wasn't necessary where Aboriginal people possessed the civil and political rights inherent to a 'system of democratic, representative Government'.²⁰⁶ By affirming the UN Declaration the Labor Government was distancing

204 For example, see: Macklin, "Compulsory Income Management to Continue as Key NTER Measure.."

205 Ibid.

206 Australian Permanent Mission to the United Nations, "Declaration on the Rights of Indigenous Peoples, General Assembly, 13 September 2007. Explanation of Vote by the Hon. Robert Hill Ambassador and Permanent Representative of Australia to the United Nations," <http://www.australiaun.org/unny/GA%5f070913.html>.

itself from this position and agreeing to abide by the articles of the Declaration. These articles included the statement that Indigenous people should have full enjoyment of human rights, including the right to exercise these as a collective, and that Indigenous people have a right not to be subjected to 'forced assimilation or destruction of their culture'. The Labor Government's statement affirmed that Indigenous people 'should be free to live their lives free from prejudice and harmful discrimination', recognised the 'right of Indigenous Australians to practise, revitalise and sustain their cultural, religious and spiritual traditions and customs' and argued that the government and Aboriginal people would be 'partners' in the *Closing the Gap* policy of which the NTI became a part.²⁰⁷

This human rights language was also present in the discussion of policy for the future direction of the Northern Territory Intervention. The Labor Government frequently acknowledged the importance of Aboriginal participation and the necessity of consulting with Aboriginal people in the further development of the policy and also recognised that the policy could not be successful if it continued to be discriminatory. In their joint November 2009 media release, for example, Minister Macklin and Warren Snowden, MP, outlined the government's long term plan for strengthening the Northern Territory Emergency Response. They argued that,

...the Australian government will continue to take firm action to close the gap in the NT...To achieve this, we will continue to work in partnership with Indigenous Australians recognising that they are essential to develop effective solutions and drive change on the ground. Moving the NTER to a sustainable development phase can not be achieved while the suspension of the *Racial Discrimination Act 1975* (RDA) continues.²⁰⁸

The necessity of consultation with Aboriginal people was also acknowledged by Prime Minister Rudd who spoke of the necessity of 'extensive consultations' with Aboriginal people as part of future policy development and who announced that a new Aboriginal

207 Jenny Macklin, "Statement on the United Nations Declaration on the Rights of Indigenous Peoples, 3rd April 2009," http://www.un.org/esa/socdev/unpfii/documents/Australia_official_statement_endorsement_UNDRIP.pdf.

208 Macklin, "Strengthening the Northern Territory Emergency Response."

representative body would be formed.²⁰⁹

The second way in which the approach of the Labor Government differed from that of the Coalition Government was in its lesser focus on the failure of Aboriginal culture and communities. The failure of Aboriginal communities and cultures was a consistent theme in the political discourse of the Coalition Government but these ideas are much less prevalent in Labor Government speeches and documents. Where such rhetoric was employed it was often balanced to some degree by more positive statements about the value of Aboriginal culture to contemporary Australia. For example Prime Minister Rudd refers in one speech to the 'manifest failures on the part of individuals and communities' and to the 'dysfunctional culture of violence and neglect that blights some communities' but in the same speech praises 'the depth and breadth of Aboriginal creativity and culture' and commits to the objective of building a 'bridge of respect between Indigenous and other Australians'.²¹⁰ Minister Macklin was habitually restrained in her language. Where speaking of the problems in Aboriginal communities she referred to Aboriginal 'disadvantage' and described the issues facing Aboriginal communities in the Northern Territory as 'challenging and confronting'.²¹¹ Typically she focused, however, upon the goals of government policy including the 'future viability and sustainability of remote communities' and the fostering of 'greater personal and community responsibility' through an emphasis on 'community development and engagement'. While this discussion of personal responsibility, for example, might be seen to imply that Aboriginal people routinely *ignored* their responsibilities the overall tone of Labor Government speeches was, nonetheless, considerably less censorious than that of the Coalition Government.

The language of the Labor Government was therefore appreciably different from that of the Coalition Government. However, as several commentators on the NTI have noted the Labor Government's language and policy often appeared contradictory. Altman, for instance, argued that while the Labor party adopted a more 'benign tone' than the

209 Rudd, "Closing the Gap Report."

210 Ibid.

211 Macklin, "Compulsory Income Management to Continue as Key NTER Measure."

previous government—and here he is referring to the shift from an *Emergency Response* to the *Closing the Gap in the Northern Territory* policy—the government's rhetoric had 'not been matched by action on the ground'.²¹² As I outlined in Chapter Two, the Labor Government actually maintained and strengthened the Coalition Government's original vision for the Intervention as outlined in Prime Minister Howard's 2007 press conference. For example, the Labor Government's long-term strategy for the NTER embedded the Intervention in the nation wide *Closing the Gap* strategy for Indigenous Affairs and maintained most of the central components of the original emergency policy including federal government leases over Aboriginal townships, ministerial oversight of community governance and use of community resources, and the income management regime.²¹³ These are the NTI measures that have been subject to the most criticism from a human rights perspective for impairing Aboriginal people's enjoyment of collective self-determination; individual autonomy; privacy; land tenure and property; and cultural integrity.²¹⁴

In these circumstances, several critics have suggested that the change in political rhetoric was either disingenuous or without real value. George Newhouse and Daniel Ghezelbash, for instance, described the Labor Government's position as a 'public relations exercise' and speculated that the United Nations committee, to which an appeal had been made, would be unlikely to see the NTER as a 'genuine attempt to substantively improve the wellbeing of the affected communities'.²¹⁵ Mary O'Dowd argued that the Rudd Government had 'continued to replicate...the injustices of the past' and that they therefore 'retract their own attempts at justice'.²¹⁶ These analyses question

212 Jon Altman, "Budget Status Quo Will Just Widen the Gaps," Crikey, <http://www.crikey.com.au/2009/05/14/budget-status-quo-will-just-widen-the-gaps/>.

213 Department of Families, "Policy Statement: Landmark Reform to the Welfare System, Reinstatement of the Racial Discrimination Act, and Strengthening of the Northern Territory Emergency Response".

214 See for example: Anaya, "The Situation of Indigenous Peoples in Australia," 45-49.

215 Newhouse and Ghezelbash, "Calling the Northern Territory Intervention Laws to Account," 59.

216 Mary O'Dowd, "Place, Identity and Nationhood: The Northern Territory Intervention as the Final Act of a Dying Nation," *Continuum: Journal of Media & Cultural Studies* 23, no. 6 (2009): 812.

the sincerity of Labor politicians' commitment to human rights and to the welfare of Aboriginal people. However, it is more accurate to characterise the situation as one in which Labor parliamentarians' narrowly defined concept of community development led them to adopt many of the NTER policy measures as a method for accomplishing long-term Aboriginal welfare and meeting the government's human rights commitments. I discuss this political mindset in the remainder of this section.

Important components of this political mindset include a very particular notion of community development and an absolute confidence in the government's right to define development goals for Aboriginal communities. Earlier in this chapter I argued that the Coalition government was committed to a conception of equality as 'sameness' and involved a process of bringing Aboriginal people up to a mainstream standard and way of living. The Labor government's descriptions of its goals for NTI policy demonstrate a narrow conception of community development. This is illustrated in the following statement from Minister Macklin in 2009:

Our benchmark will be to progressively deliver in communities or townships the facilities and services you would expect in an Australian town of the same size. The same infrastructure and services that support and sustain healthy social norms so people can reach their potential and businesses can thrive. So children grown up safe and healthy and go to school; where they have the best role model possible – a parent who goes to work each day. So children see their parents taking responsibility for the family's economic security and planning and providing for the future. As well as financial independence, a job gives purpose and meaning to people's lives.²¹⁷

While many Aboriginal people have expressed a desire for improved services and facilities and the development of better economic opportunities this type of statement suggests that the future of Aboriginal Australia is in all important respects identical to that of non-Aboriginal Australians.

The government's certainty about its chosen path of development for Aboriginal

217 Jenny Macklin, "Speech. Importance of Delivering Remote Indigenous Housing in an Efficient and Affordable Way - Delivering Indigenous Housing. 15 September 2009," http://www.jennymacklin.fahcsia.gov.au/speeches/2009/Pages/speech_indig_19aug09.a.spx.

communities produced an awkward tension between the government's commitment to resetting its relationship with Aboriginal people and its pledge to improve the welfare and safety of Aboriginal children. By understanding development in such narrow terms, and by encompassing the measures of the NTI into this definition of policy progress, the government has created a situation where there appears to be a potential trade off between Aboriginal political involvement and policy success. It is a 'potential' trade off because there is always the possibility that Aboriginal people, if consulted, might decide to subscribe to the government's conception of development. Indeed, attempts to encourage Aboriginal people to support the government policy are common under the Labor Government as illustrated by Prime Minister Julia Gillard's 'call for changes in behaviour' which urges Aboriginal people to support the Closing the Gap policy and to 'take care of your children; to take a job when you find one; to create a safe environment; to send your kids to school, pay your rent, save up for a home; to respect good social norms and to respect the law; and to reach out to other Australians'.²¹⁸ The most noticeable thing about Gillard's statement, apart from the fact that it clearly subscribes to the notion of development which I outlined above, is that it directly addresses Aboriginal people. This contrasts with much of the discourse of the Coalition Government which only spoke *about* Aboriginal people rather than *to* them.

Having said this, the Labor Government has shown much less interest in hearing *from* Aboriginal people. While the Labor Government did initiate the development of a new national body for Aboriginal representation its record as regards consultations on the NTI policy was very poor. Consultation occurred but the terms of that consultation were strictly defined by government. One government press release summarised the government's position as they initiated the consultation process:

The Government is strongly committed to compulsory income management as a tool to reduce alcohol-related violence, protect children, guard against humbugging and promote personal responsibility...We will be developing the most robust system possible to protect women and children. We will not adopt a policy which compromises the

218 Patricia Karvelas, "'Gap Won't Close If You Don't Act': Julia Gillard," *The Australian*, <http://www.theaustralian.com.au/national-affairs/gap-wont-close-if-you-dont-act-julia-gillard/story-fn59niix-1226003313411>.

benefits and protections for vulnerable people in communities secured through the current income management arrangements. The Government will consult with Indigenous communities in the development of this framework.²¹⁹

The government was therefore committed to consultation but only on limited terms, and key aspects of its strategy for Aboriginal development were kept off the consultation agenda.

I would characterise the Labor parliamentarians' mixed feelings about consultation as the clearest example of a broader tension, in Labor party thought, between a commitment to improve child welfare, on the one hand, and a commitment to the human rights of Aboriginal people on the other. These mixed feelings are demonstrated in a speech by the Prime Minister Kevin Rudd in February of 2009. In this speech Rudd emphasises his commitment to consultation but then qualifies his statement by arguing that this commitment would not prevent the government from '...moving quickly, when necessary, to protect vulnerable people'.²²⁰ It is possible that Rudd was suggesting that a government can both consult and move quickly on important policy issues. However, I suggest that the statement is actually indicative of a view of consultation as a luxury rather than a necessary tool for policy development. I suspect that this qualified support for consultation has helped the Labor Government to dismiss many of the concerns expressed by communities and other actors in Indigenous Affairs policy. This new tension between Aboriginal rights, including consultation over changes in government policy, and effective government is indicative of a broader shift in Indigenous Affairs rhetoric, and I discuss this shift further in Chapter Five.

To conclude, overall there were a number of differences between the political discourse of the Coalition and Labor governments. The political rhetoric of the Labor Government was much more attuned to a discourse of human rights and political consultation than that of the Coalition Government. The Coalition Government had drawn upon a highly

219 Macklin, "Compulsory Income Management to Continue as Key NTER Measure.."Humbugging is the practice of demanding money from friends and family members and often involves violence or other forms of intimidation.

220 Rudd, "Closing the Gap Report."

derogatory discourse about Aboriginal community and cultural failure to justify the introduction of the highly interventionist Northern Territory Intervention. In contrast, the Labor party professed itself committed to the resetting the government's relationship with Aboriginal people, to consulting with Aboriginal people about the future direction of the NTI and respecting human rights by reinstating the Racial Discrimination Act. However the Labor Government maintained many of the original features of the NTI including those features which contradicted their claimed commitment to human rights. Some commentators on the NTI see this as evidence that the Labor Government's commitment to human rights was disingenuous. Here I have offered an alternative explanation. This suggests that the Labor Government's narrow conception of development – as the progression of Aboriginal communities from non-viable societies to viable market-based societies – led to the development of a belief among Labor parliamentarians that a trade off may exist between their commitment to human rights and their commitment to Aboriginal development and welfare. The Labor Government therefore perceived itself as supporting the human rights and welfare of Aboriginal people while it perpetuated both the discriminatory elements of the Intervention and the Coalition Government's exclusion of Aboriginal people from the processes of government.

3.4 The NTI and the perpetuation of the settler colonial project

In the early part of this chapter I made the case that present day settler colonial politics respond to the political resistance of Aboriginal people and involve the adaptation of earlier colonialist discourses to respond to contemporary political contexts and ongoing Aboriginal challenges to settler privilege. In this final section of the chapter I relate my analysis of the political language surrounding the NTI to the concept of settler colonialism. I argue that both the Coalition and Labor governments developed and justified the NTI policies in a way which perpetuated a settler colonial relationship between Aboriginal people and Australian governments. Earlier in this chapter I established that Australia has a history of settler colonial politics and ideology and demonstrated that the settler colonial mindset had continued to operate even in the

context of Australia's land rights legislation. In this section, I explain the settler colonial aspects of the Northern Territory Intervention in two ways. First, I argue that recent governmental discourses have subscribed to a notion of colonial time which emphasises the incompatibility of Aboriginal ways of life with community development or progress. Second, I argue that this colonialist discourse was used to justify the assimilationist aims of the NTI. By seeking to make Aboriginal communities identical to non-Aboriginal communities both governments perpetuated the settler colonial project.

My analysis has focused upon recent governments' conception of Aboriginal culture and community life and the role that these understandings played in official justifications for the NTI. While there were differences between the political rhetoric of the Coalition and Labor governments, both governments subscribed to a conception of Aboriginal culture which understood Aboriginal ways of life as incompatible with a modern political and economic society. The Coalition Government frequently described Aboriginal communities as dysfunctional and as unsafe places for children. The NTI policy was conceptualised, by Coalition politicians, as part of a project of 'integration' which would reform 'failed' Aboriginal communities and develop functional communities. The Labor Government drew on a language of human rights recognition and therefore focused less explicitly on the notion of Aboriginal cultural or community failure. Nonetheless the Labor Government adopted a narrow definition of community development which sought to transform Aboriginal communities in the direction of more market-based forms of social organisation. As I will argue below, both governments developed a conception of the NTI where the success of the policy was dependent upon Aboriginal people adopting settler ways of life.

The colonial aspects of the Northern Territory Intervention are most prominently displayed in the language of Aboriginal deficit and dysfunction which characterised political discussion of the NTI. This language was especially evident among members of the Coalition Government in the initial months of the policy and did not go unnoticed by critics of the Intervention. In Chapter Two I summarised the work of several authors who suggested that the NTI represented a 'leap backwards' to the assimilationist politics

of Australia's colonialist past.²²¹ In this chapter I have drawn on arguments by Brown and Brown and Conor about the rhetoric of Aboriginal dysfunction and childhood innocence in my analysis of the language of the Coalition Government.²²² My own analysis demonstrated that the political debate on the NTI often characterised the problems facing Aboriginal communities in terms of a deeper dysfunction at the community level and attributed this dysfunction, at least in part, to the problematic nature of Aboriginal culture.

Recent political discourse has subscribed to a notion of colonial time as evidenced by politicians' attempts to differentiate between the traditionalism of Aboriginal culture and the advantages of mainstream conceptions of economic society and development. As Bruyneel points out, modern colonial rule is accomplished by creating a binary between Aboriginal and non-Aboriginal people which positions Aboriginal people as static or backward and settler society as advancing toward more rational forms of liberal democratic governance.²²³ The idea that Aboriginal culture is static—what we sometimes call an essentialised conception of culture—is evident in Prime Minister Howard's claim that a '[H]obbesian nightmare of violence, abuse and neglect' was unfolding in many Aboriginal homes in the Northern Territory.²²⁴ The Prime Minister was clearly referring to Thomas Hobbes famous line about life being 'solitary, poor, brutish and short'.²²⁵ In one sense the Prime Minister was describing the actual conditions in homes where children have been neglected or abused. However, he was probably also suggesting that today's Aboriginal children are growing up in the equivalent of Thomas Hobbes's concept of a State of Nature. This state of nature is, of course, a 'history-less' or pre-historical condition and this metaphor, if taken to its logical conclusion, suggests that Aboriginal ways of life exist outside of history and that Aboriginal people would benefit from the law and order that the State can provide. This is in keeping with the broader trend to understand Aboriginal culture in static and

221 Scrymgour, "Whose National Emergency?."

222 Brown and Brown, "Voices from the Centre of the Fringe," 621; Conor, "Howard's Desert Storm ": 13-14.

223 Bruyneel, *The Third Space of Sovereignty*, 8.

224 Howard, "Address to the Sydney Institute."

225 Thomas Hobbes, *Leviathan* (Charleston: Forgotten Books, 2008 [1651]), 86.

immutable terms rather than as an expression of human adaptability and innovation.

Earlier in this chapter I explained the role that a conception of Aboriginal people as underdeveloped and primitive played in justifying the idea of *terra nullius* and legitimating Australian colonisation. Late nineteenth century discourses posited that Aboriginal people represented an earlier stage in human evolution, that the colonial encounter took place between a primitive and an advanced race and that Aboriginal people were a 'doomed race' who had no place in a modern world. The emphasis on Aboriginal violence, uncontrolled and criminal behaviour, victim-hood and social breakdown during debates on the NTI echoed these earlier settler colonial discourses. In keeping with recent adaptations of settler colonial discourse, the debates surrounding the NTI focused on Aboriginal culture, socialisation and behaviour rather than innate racial differences. As I demonstrated above, politicians professed openly disparaging views about Aboriginal culture and community life. This conception of Aboriginal communities as dysfunctional—what we might call a discourse of Aboriginal failure—can be understood to play a similar role in the justification of the interventionist aspects of the NTI policy as the discourse of Aboriginal primitivism played in the legitimisation of the idea of *terra nullius*. These representations of Aboriginal people reinforce and strengthen claims of settler sovereignty over Aboriginal people and land and maintain the impression of settler superiority.

The discourse of Aboriginal failure and dysfunction leads to settler forms of social and economic organisation being uncritically accepted as the most appropriate and effective path to development. Critics of the Northern Territory Intervention have emphasised the assimilationist character of the Intervention. Brown and Brown, for example, argue that the qualities that Aboriginal people have to offer Australia, including 'strength in diversity, wisdom, connectedness, humility and survival against the greatest odds', are unrecognised and disdained in recent political discussions; 'The current policy approach rests on a false underlying assumption that all Australians must share the same values and aspirations'.²²⁶ The NTI was certainly based on this sort of assumption. As I outlined

226 Brown and Brown, "Voices from the Centre of the Fringe," 622.

earlier in the chapter the Coalition Government expressed its aims for the NTI in terms of bringing Aboriginal people up to a 'mainstream' standard of living. Their vision of a functional Aboriginal community drew on the settler understanding of private property rights and entrepreneurial endeavour and exemplifies Brown and Brown's claim that government policy assumes all Australians should share the same aspirations. It also involved a complete faith, on the part of government politicians, that so called mainstream values and forms of social organisation could be transplanted wholesale into Aboriginal communities.

The Labor Government, by adopting the main elements of the NTER legislation, was either unable or unwilling to reform the settler colonial aims of the Intervention. My comparison of the political rhetoric of the Labor and Coalition governments demonstrates that the Labor Government was more likely to draw on a human rights discourse than the Coalition Government. Additionally, the expression of ideas about the failure of Aboriginal individuals, communities and culture was more muted in the contributions of Labor politicians. However, in other ways the discourse of the Labor Government resembled that of the Coalition Government. For instance, when Minister Macklin speaks of Aboriginal parents being 'the best role model possible' for their children she is clearly referring to the role they should play as participants in a mainstream economy and labour market.²²⁷ Like the Coalition Government, the Labor Government drew on a narrow notion of development where the future viability of Aboriginal communities was seen as dependent on communities assimilating to the norms of the settler society. As I explained above, the Labor Government's commitment to a narrow conception of development resulted in it contradicting its own stated commitment to the human rights of Aboriginal Australians.

The Labor Government's approach engages with a notion of colonial time by privileging settler ways of living over Aboriginal ones. By evaluating Aboriginal communities against the 'benchmark' of mainstream towns the Labor Government drew implicitly on the notion that settler ways of life represented the pinnacle of human civilisation. The

227 Macklin, " Importance of Delivering Remote Indigenous Housing."

problem with this linear notion of community development is that it offers a narrow and prescriptive pathway to Aboriginal development which requires Aboriginal people to live 'off country' and participate fully in the 'mainstream economy'.²²⁸ Jon Altman argues that Aboriginal people are presented with an 'apparent choice' between 'living in kin-based or market-based societies'.²²⁹ In other words, colonialist discourse, with its dichotomous approach to colonial time, defines Aboriginal society as kin-based, static and maladapted to modern life, and offers the market-based society of the settler population as an appropriate replacement or substitute for Aboriginal culture and identity. The choice offered to Aboriginal people is, of course, only an apparent choice because many remote Aboriginal communities are heavily reliant on government services and have little recourse if government should decide their communities are 'unviable'.²³⁰

Both the Coalition and Labor governments, then, adopted a colonialist discourse which subscribed to a notion of colonial time and justified the assimilation of Aboriginal people in the name of development. In one sense, the NTI might be understood as the latest example of settler colonial resistance to decolonisation. An earlier example of this sort of settler colonial activism is the extinguishment of land rights under the Native Title Acts. Land rights formed part of a rebuttal of *terra nullius* and, indirectly, the assumptions about Aboriginal primitiveness which accompanied the concept of *terra nullius*. The extinguishment of native title for ineligible claims under the Native Title Acts therefore embodied the tension between decolonisation and settler colonial ideology in the Australian situation. In the case of the NTI, this tension manifests as a set of competing narratives of development and progress. The position of the Coalition government was a reaction against the idea of Aboriginal self-determination or self-government which had gained in-principle support from earlier Labor and Coalition Australian governments. The Labor Government, with its simultaneous commitment to human rights and to the racially discriminatory policy of the NTI, exemplifies the

228 J.C. Altman, "Submission to the Northern Territory Emergency Response Review " *Centre for Aboriginal Economic Policy Research Topical Issue*, no. 10 (2008): v.

229 *Ibid.*, v.

230 *Ibid.*, v.

difficulties of post-colonialism in a settler context in a different way. Labor's liberal universalism resulted in a tension between, on the one hand, its commitment to human rights, democratic policy making and non-discrimination and, on the other hand, its faith that a liberal form of citizenship, social system and economy is the only way of being modern.

3.5 Conclusions

Australia has a history of settler colonial politics and attempts at decolonisation have routinely been met with measures which reinforce the power and authority of the settler state. This has created a situation where there is an ongoing tension within Australian policy between normative commitments to decolonisation, racial equality or citizenship rights and attempts to preserve the nationhood of the settler society and the legitimacy of the settler state. The relative imperviousness of settler colonialism to decolonisation is brought about by the willingness of political actors to consistently rework policy and political discourse. The effect of this revision of political discourse is to legitimate colonial forms of governance, reinforce settler privilege, and to maintain settler cultural values as the basis of norms within the nation's political institutions and political processes. Settler colonies were founded on the displacement and replacement of Indigenous populations and modern settler colonialism continues the project of replacement or extinguishment by seeking to assimilate Aboriginal people into settler society. The scholarship on settler colonialism posits that the settler colonial project still holds an appeal and continues to exercise a strong influence on discourse.²³¹ My analysis of the NTI in this chapter demonstrates the strength of that influence.

My analysis of the approaches and language of the Coalition and Labor governments demonstrates that colonialist conceptions of Aboriginal culture and community played a prominent role in justifications for the NTI. Earlier ideas about the primitiveness and backwardness of the Aboriginal race are reinvented in modern examples of settler

231 Lorenzo Veracini, *Israel and Settler Society* (London: Pluto Press, 2006), 84.

colonial ideology to refer to the problems of Aboriginal culture and to suggest that Aboriginal ways of life are incompatible with the present day economy and society. In the debates on the NTI the Coalition Government emphasised the dysfunctional characteristics of Aboriginal communities and portrayed Aboriginal communities as unsafe places for children. The danger to Aboriginal children was not just the danger of physical or emotional abuse but the broader danger of being brought up as Aboriginal children and therefore inheriting a culture which was seen, by the government, as maladapted to the modern world. While the Coalition Government developed a discourse of Aboriginal failure the Labor Government was more circumspect in their descriptions of Aboriginal culture and typically framed their justifications for the Intervention in terms of their commitment to human rights and Aboriginal development. However both the Labor and Coalition governments, in their support for the NTI, ultimately oversaw an assimilationist policy which was widely recognised for its failure to observe human rights standards. In keeping with a settler colonial mindset, both governments positioned the norms of the settler society as the benchmark against which to evaluate Aboriginal communities. Both sought to enforce a transformation of Aboriginal communities in the Northern Territory through the interventionist and highly prescriptive measures of the NTER legislation.

Chapter Four: A Liberal Governmentality

In the introduction to this dissertation, I suggested that an analysis of the NTI would assist us in the development of a better understanding of authoritarian liberal politics. So far, I have demonstrated that there can be a relationship between the production of knowledge about Aboriginal culture and the justification or acceptance of authoritarian policy techniques for governing Indigenous peoples. In the remaining chapters, I extend our understanding of the authoritarian character of the NTI by arguing that the NTI is as much a product of liberal political ideas as it is a product of a settler colonial mentality. At first glance, this may be a controversial statement. Liberalism is typically perceived to be a doctrine of individual emancipation, and liberal political institutions and constitutions often focus on restraining the powers and scope of State activity in order to maintain a space for personal liberty. It is therefore difficult, from this perspective, to understand the role that liberal ideas may have played in the development of the highly interventionist policies of the NTI. This chapter, however, makes the case for incorporating an analysis of liberal politics into our understanding of the Intervention's authoritarian role for government. The full evidence in support of my argument about the interrelationship between liberal and settler colonial politics in the case of the NTI is developed in Chapters Five and Six.

This chapter has three parts. In the first section I make the case for broadening the analysis of the NTI beyond the settler colonial understanding developed in Chapter Three. I review the idea that liberal politics has historically been associated with justifications for imperialism and demonstrate that, while it is not the main focus of the scholarship on settler colonialism, a good case can nonetheless be made for the compatibility of settler colonial and liberal democratic forms of politics. In the second section of this chapter, I introduce the concept of governmentality, which I employ to develop an understanding of the authoritarian elements of liberal politics. Michel Foucault's conception of liberal governmentality conceives of liberal freedom as something that is actively produced by government and civil and economic society. The last section of this chapter considers how the insights of the scholarship on governmentality can help me to define the focus of my analysis in the remaining

chapters. According to scholars of governmentality, the production of free liberal citizens involves a combination of facilitative and coercive forms of government. This, of course, has special relevance for Indigenous citizens because governments are likely to view Indigenous people as insufficiently prepared for the rights and obligations of liberal citizenship. I suggest a better understanding of the liberal aspects of the NTI – and its relationship to authoritarian and colonial government – can be developed if we analyse its role in the production of the conditions of liberal social and economic life in remote NT Indigenous communities.

4.1 The connection between settler colonial and liberal politics

This section argues that a settler colonial and liberal democratic politics are broadly compatible but posits that the settler colonial scholarship – including my own analysis of the NTI in Chapter Three – provides an insufficient conceptual framework for investigating this relationship. I begin with a brief summary of my own analysis from a settler colonial perspective. I then discuss some of the reasons why it is useful to investigate the role of liberal politics in the development and justification of the interventionist politics of the NTI. Political philosophers often focus on the role of liberal politics as a guarantor of personal liberty but recent scholarship on both settler colonialism and the history of liberal thought suggests that there may be a close relationship between liberal and colonial ideas. In this context, it is reasonable and necessary to broaden the analysis of the NTI in this dissertation to consider the role of liberal politics in the NTI and the relationship between contemporary liberal norms and the settler colonial mentality.

Up to this point in the dissertation, my analysis has employed the scholarship on settler colonialism to highlight the centrality of a settler colonial mentality to Australian politics and to the official discourses surrounding the NTI policy. Utilising the concept of colonial time, I have sought to demonstrate that ideas about the backwardness of Aboriginal cultural life formed part of the justification and mindset of both the Coalition and Labor governments. This mentality manifested in different political discourses

including the Coalition Government's discourse of Aboriginal cultural failure and the Labor Government's discourse of development. It also played a role in the justification of the suspension of Australia's human rights commitments and of anti-discrimination legislation in regards to the NTI policy. Overall, these discourses supported a political environment in which politicians allowed themselves to interpret authoritarian, or at least highly prescriptive, policy as an ethical and necessary choice. This analysis is, however, able to provide only a partial explanation for the authoritarian character of the Intervention. A settler colonial analytical framework does not lend itself to an investigation of what relationship – if any – there may be between this settler colonial mentality and the liberal norms of Australian political society.

Liberalism is typically understood as a political doctrine that privileges the liberty of the individual and seeks to limit the role of the State in individuals' lives. From this perspective, it would be natural to interpret the NTI as an illiberal policy that is out of step with the liberal democratic values of contemporary Australian society.²³² There is some evidence that supports this interpretation of the Intervention. Since at least the time of J.S. Mill liberals have valued individual liberty for its potential benefits to both the wellbeing of individuals and the progress of society in general and condemned excessive government that unnecessarily restricts this liberty.²³³ Some contemporary multiculturalist theorists have extended ideas about the protection of the liberty of individuals against the incursions of the State by defining rights for cultural minorities within a liberal State. William Kymlicka, for instance, argues that culture provides a vital resource for individual choices and for the development of individual autonomy. A liberal politics, from this perspective, would protect Indigenous and other minority cultural groups from the nation-building aspirations of the State by, for example, developing participative forms of democracy and power-sharing arrangements.²³⁴ As I described in Chapter Two, the NTI involved a high degree of government intervention in Aboriginal individual's daily activities and community governance and was

232 For example, Boyd Hunter, "Revisiting the Role of Rhetoric in Economics," *Centre for Aboriginal Economic Policy Research Topical Issue*, no. 7 (2008): 3.

233 Mill, *On Liberty*, 28-32, 68, 120.

234 Will Kymlicka, "Culturally Responsive Policies," (Background Paper for Human Development Report: United Nations Development Program, 2004), 9-11.

developed without consultation with affected communities. This highly centralised approach clearly involved a significant imposition on Aboriginal citizens' liberty and autonomy.

While many liberal commentators on the NTI found the policy unpalatable this does not mean the policy was an illiberal one. Scholars of liberal thought have drawn attention to the historical connection between liberal forms of politics and – depending on the particular critic's political orientation – imperialism, colonialism, or class oppression. As Uday Singh Mehta points out, while we rightfully associate liberalism with an agenda of securing human dignity and individual liberty, the liberal doctrine has also been intimately connected – in both theory and in practice – with ideological projects that legitimated and authorised imperial government.²³⁵ J.S. Mill's utilitarian defence of imperialism exemplifies the complicated interrelationship between liberal ideas and imperialism. Mill defended imperialism, including the settlement of British colonies, on the basis that these colonies would become civilised, prosperous political communities and bring civilisation to 'backward' people.²³⁶ Since the development of liberal ideas in the nineteenth century, liberals have numbered among the most prominent defenders of imperialism but have also been sharply critical of imperial politics.²³⁷ It is entirely feasible, given the history of liberal imperialism and colonialism, that the NTI is based on a combination of liberal and settler colonial ideas.

The scholarship on the history of settler colonialism occasionally provides a brief commentary on the interrelationship between liberal and specifically *settler* colonial political imperatives. Wolfe, for instance, considers the role of the 'liberal-bourgeois

235 Uday Singh Mehta, *Liberalism and Empire. A Study of Nineteenth-Century British Liberal Thought* (Chicago: University of Chicago Press, 1999), 2-5.

236 Some scholars do, however, argue that he became increasingly disillusioned with imperialism later in his life as he became more aware of the atrocities of colonial violence. See Duncan Bell, "John Stuart Mill on Colonies," *Political Theory* 38, no. 1 (2010); Katherine Smits, "John Stuart Mill on the Antipodes: Settler Violence against Indigenous Peoples and the Legitimacy of Colonial Rule," *Australian Journal of Politics & History* 54, no. 1 (2008); Sankar Muthu, *Enlightenment against Empire* (Princeton: Princeton University Press 2003), 279.

237 Jennifer Pitts, *A Turn to Empire. The Rise of Imperial Liberalism in Britain and France* (Princeton: Princeton University Press, 2005), 4.

ideology' within colonising discourses of land and property ownership. The eighteenth century saw a discursive struggle between the aristocratic concept of hereditary land estates and radical liberal ideas about individual enterprise and the efficient utilisation of land. The concept of Terra *nullify* – based on 'liberal-bourgeois' conceptions of property and land use – was part of a land policy or regime which sought to dispossess Indigenous people of their land and assimilate Indigenous people into European settler society.²³⁸ Wolfe's analysis suggests that there is a relationship between liberalism and settler colonialism just as other scholarship has highlighted the relationship between liberal politics and imperialism more generally.

However, the scholarship on settler colonialism generally provides little guidance on how to characterise the possible connection between liberal and settler colonial politics. A useful exception to this is Bruyneel's history of settler colonial politics in the United States. Bruyneel suggests that the American political system is neither singularly liberal democratic or colonial but, rather, that the American settler state is comprised of both of these political systems.²³⁹ The main dilemma for scholars of U.S.-Indigenous politics is that Indigenous tribes are 'neither fully foreign nor seamlessly assimilated' in American society. Indigenous individuals are denied the full rights of American citizenship and Indigenous peoples are collectively denied the sovereign rights associated with independent nationhood. In other words, the constitutional position of Indigenous people is one of both ongoing exclusion and partial inclusion within the liberal democratic State.²⁴⁰ Crucially, Bruyneel argues that liberal democratic and colonial impulses can actually be compatible because both impulses are born of attempts to impose the American political system on Indigenous peoples and to legitimate the American political system.²⁴¹ The idea that liberal and colonial politics can be compatible impulses within contemporary liberal democratic politics is an important one because it provides a starting point for investigating the possible interrelatedness of

238 Wolfe, "Logics of Elimination: Colonial Policies on Indigenous Peoples in Australia and the United States," 12-14.

239 Bruyneel, *The Third Space of Sovereignty*, 5.

240 Ibid., 5-6.

241 Ibid., 6.

liberal and settler colonial politics in other contexts including the Australian one.

If, as Bruyneel has argued, liberal democratic and settler colonial politics are compatible, then our understanding of settler colonial politics can be extended by an analysis of the liberal aspects of the NTI. The settler colonial scholarship, as I have mentioned, rarely engages with the influence of liberal forms of politics within settler societies. I therefore draw upon the insights of another field of scholarship – governmentality studies – for my investigation of the liberal aspects of NTI governance. In the next section of this chapter I provide a brief summary of Foucault's concept of governmentality. In the last section of this chapter I outline the ideas of scholars such as Mitchell Dean and Barry Hindess who have used and adapted Foucault's ideas about liberal governmentality to investigate the apparent contradictions between the authoritarian and libertarian strands of liberal politics. I employ these ideas to develop an analytical approach for understanding the contribution of liberal politics to the authoritarian components of the NTI policy.

4.2 Governmentality and the production of liberal politics

The literature on settler colonialism, and the scholarship on the history of liberal thought, demonstrates that liberalism is not an innocent ideology because it has been intimately involved with the development of colonial ideas and forms of governance. Liberal ideas have sometimes helped to justify rather than, as we might expect, critique colonial forms of government. My analysis in Chapters Five and Six contributes to a better understanding of the role of liberal ideas in the NTI specifically, and the ways in which liberal forms of politics may reinforce a settler colonial mentality. This section provides a brief overview of Foucault's conception of liberal politics. Foucault's notion of liberal governmentality can help us develop an understanding of liberalism that can reconcile the apparent contradiction between liberalism as a doctrine of emancipation and liberalism as a politics of imperialism and coercion. This section also serves as an introduction to governmentality as a broad analytical framework that I draw on frequently in the remaining chapters of this dissertation.

Foucault's research on liberal politics and his development of the concept of governmentality emerged out of his broader research interest in the production of human subjects. Foucault's early work argued that there is no universal human subject and demonstrated that the modern conception of the subject is very different to that of the medieval or early modern period. In his book *Discipline and Punish*, for instance, Foucault argued that the modern period saw the development of new forms of knowledge and disciplinary forms of power that not only regulated individuals' behaviour but also produced the individual by defining the individual as a knowable and observable object of power.²⁴² In the mid 1970s Foucault began to extend his work on the production of the subject and developed an interest in how the subject is placed in power relations. Disciplinary power formed one aspect of this analysis. In his lectures at the College de France in the late 1970s Foucault identified another type of power which he called 'government'.

Foucault defined governmentality as a form of power that has 'population as its target, political economy as its major form of knowledge, and apparatuses of security as its essential technical instrument'.²⁴³ According to Foucault, the administrative state of the fifteenth and sixteenth centuries became gradually 'governmentalized' during the eighteenth century.²⁴⁴ Governmentality has become the pre-eminent form of power in the West but it exists alongside the earlier forms of power such as sovereignty and discipline.²⁴⁵ The institutions of discipline – such as schools, the military and churches – were adapted and deployed as part of new 'arts of government' that sought to 'conduct...the conduct of men'.²⁴⁶ This governmental rationality not only sought to

242 See part 3, chapter two in Michel Foucault, *Discipline and Punish*, trans. Alan Sheridan (London: Allen Lane, 1977).

243 Foucault, *The Birth of Biopolitics. Lectures at the College De France 1978-1979*, 108.

244 Ibid., 109.

245 Michel Foucault, *Security, Territory, Population. Lectures at the College De France 1977-1978*, ed. Michel Senellart, et al., trans. Graham Burchell (Houndmill: Palgrave Macmillan, 2007), 107-08.

246 Foucault, *The Birth of Biopolitics. Lectures at the College De France 1978-1979*, 186.

conduct the conduct of mad people, patients, delinquents, and children but to manage a 'whole social body' and the economy.²⁴⁷ It involved the development of new institutions, analysis and techniques for governing, as well as new forms of scientific knowledge about the governed population.²⁴⁸ However, Foucault argues that this was not always a cohesive or linear process. The new governmentality took many specific forms and different forms of governmentality sometimes limited, annulled, or reinforced one another. Similarly, while some forms of governmentality developed within 'political' institutions – indeed, power relations became increasingly centralised around a set of State institutions – there were other forms and expressions of governmentality that were rooted in the 'whole network of the social'.²⁴⁹

The characteristic feature of Foucault's governmentality is that government is considered an activity – namely, a process for rationally reflecting on and rationalising governmental practices – rather than an institution or set of institutions.²⁵⁰ He conceives of liberalism as a form of governmentality, by which he means that liberalism is one way of reasoning about and justifying government. Liberalism, Foucault argues, is the principle that there must be a limitation on government. Liberalism is also a set of specific methods for limiting government practices; these methods include constitutions, parliaments, opinion, a free press, commissions, and enquiries.²⁵¹ This definition of liberalism, as a way of reasoning about government rather than as a doctrine or political ideology, has important implications for our understanding of the place of arguments about individual freedom in liberal thought and for our understanding of the role that authoritarian and coercive forms of government play in liberal politics. I demonstrate the intimate relationship between the emancipatory and coercive elements of liberal politics below by developing a brief summary of Foucault's

247 Ibid., 186.

248 Ibid., 108.

249 Michel Foucault, "The Subject and Power," in *Power: Essential Works of Michel Foucault, 1954-1984*, ed. James D. Foubion (New York: New Press, 2000), 345.

250 Graham Burchell, "Liberal Government and Techniques of the Self," in *Foucault and Political Reason*, ed. Andrew Barry, Thomas Osborne, and Nikolas Rose (Chicago: University of Chicago Press, 1996), 21.

251 Foucault, *The Birth of Biopolitics. Lectures at the College De France 1978-1979*, 20-21.

observations about political economy, the centrality of freedom to early liberal understandings of the market, and the production of liberal subjects.

According to Foucault, liberal forms of governmentality emerged out of a new philosophy of political economy that sought to understand the 'natural' state of the market. Political economy argued that it was possible to observe, though perhaps not fully understand, the natural or spontaneous workings of the market and to observe the effect of governmental practice on individuals' behaviour in the market. This had two implications. On the one hand, it appeared logical to govern according to knowledge of the essential nature of the objects of government as this could make government more effective. For instance, one could employ an understanding of how individuals' health or circumstances would typically affect their economic interactions and behaviour to govern the whole population in ways that would systematically increase wealth and prosperity. On the other hand, it is possible to be mistaken in our knowledge of governed objects, in which case attempts to govern may fail. The idea that the intervention in the market may impair the 'spontaneous mechanisms' of market supply and demand is one example of this. Political economy became the first form of the new liberal, or 'self-limiting', form of governmental reasoning because it sought to understand the appropriate scope of governmental activity and to limit government where necessary.²⁵²

Earlier in this chapter, I mentioned the typical definition of liberalism as a political doctrine with a particular interest in the liberty of the individual. Foucault acknowledges that freedom is an important element of liberal governmentality but argues that government is limited, in a liberal regime, by the evidence about the 'spontaneous nature of things' that I discussed above rather than by the freedom of individuals. For instance, philosophers such as Adam Smith were more concerned with the intrinsic mechanisms of economic processes, and the ways in which government should respect those processes, than with ideas about the basic rights or freedoms of individuals.²⁵³ Some

252 Ibid., 16-17, 29-31.

253 Ibid., 61-62.

specific forms of freedom were necessary components of the new liberal governmentality. These liberal freedoms included freedom of the market; freedom to buy and sell; the free exercise of property rights; freedom of discussion; freedom of expression; and so on. These forms of freedom were necessary to liberal government because they helped to maintain and support the natural economic processes of the market.

Foucault argues that freedom has to be manufactured through various technologies of government and is not just a 'ready-made region which has to be respected'.²⁵⁴ Liberal government says to the individual 'I am going to see to it that you are free to be free'.²⁵⁵ Earlier forms of power relations – such as disciplinary power and pastoral power – have been adapted to the task of producing the conditions of liberal freedom. For example, contemporary educational systems are designed to shape the behaviour of students and employees in ways that encourage individuals to develop self-disciplinary techniques and gradually become independent learners. Pastoral power – a form of individualising power that first developed in the Church to lead people to their salvation – is now employed within State agencies as well as within welfare societies, hospitals, and families to manage individual's health and wellbeing.²⁵⁶ Welfare policies and other governmental mechanisms have been developed to produce new forms of freedom such as the freedom to work, freedom of consumption and political freedom.²⁵⁷ Good government, from a liberal perspective, is government that manages the conditions of liberal freedom and produces or fosters these conditions among the population.²⁵⁸

254 Ibid., 65. This conception of liberty differs markedly from a common conception of liberty as a field of government non-intervention and restraint. An example of this latter conception of liberty can be found in Isaiah Berlin's description of negative liberty: Isaiah Berlin, "Two Concepts of Liberty," in *Four Essays on Liberty* (Oxford Oxford University Press, 1969), 127-31.

255 Foucault, *The Birth of Biopolitics. Lectures at the College De France 1978-1979*, 63.

256 Foucault, "The Subject and Power," 334-35.

257 Foucault, *The Birth of Biopolitics. Lectures at the College De France 1978-1979*, 67-68.

258 Ibid., 63.

Freedom may be central to liberal governmentality but the goal of producing freedom can result in the adoption of coercive and authoritarian technologies of government. Foucault suggests that liberalism has a 'productive / destructive' relationship with freedom. The very act of producing freedom entails the establishment of an 'incredible range of governmental interventions to guarantee production of the freedom needed in order to govern'. This means that liberal government is as much about 'limitations, controls, forms of coercion, and obligations relying on threats' as it is about freedom.²⁵⁹ The security of the free market requires regulation that both empowers employees and limits their freedoms. Labour market regulations encompass issues as diverse as the safety of workers, the protection of bargaining rights, the supply and education of a competent workforce, and the political disarmament of workers to prevent them unduly exerting pressure on the cost of labour for economic enterprises.²⁶⁰ Liberal governmentality is not necessarily any more or less authoritarian than earlier regimes of power; we have no universal standard of freedom that we can use to measure this.²⁶¹ Foucault's important observation was that authoritarian government is possible within liberal politics and in the pursuit of the aims of liberal governmentality.

In summary, Foucault demonstrates that liberal governmentality employs a range of governmental technologies, including coercive and authoritarian techniques, in the production of the conditions of a free market and the production of liberal subjects. Freedom is a central element of liberal governmentality. However, it is central because it is necessary to the broader goal of actively securing the conditions needed for market systems to operate properly and in ways that, according to the ideas of political economy, should secure greater prosperity and security for the population. This conception of liberal freedoms, as something that is actively produced through diverse and multiple technologies of government, provides a starting point for further analysis of the coercive and potentially colonial elements of liberal political reason. In the remaining sections of this chapter, I outline my use of Foucault's conception of liberal governmentality in the analysis of the NTI. This requires an examination of how other

259 Ibid., 64-65.

260 Ibid., 65.

261 Ibid., 62-63.

scholars have used the concept of governmentality to develop an understanding of, first, the role of authoritarian government in contemporary liberal and neoliberal government and, second, the relation between colonial and liberal government.

4.3 Governmentality as an analytical framework

Since Foucault's lectures in the late 1970s, scholars in many fields, including sociology, post-colonial studies, political science, and education, have adapted some of the ideas of governmentality to their own projects of analysis and critique.²⁶² These scholars have employed the concept of governmentality as a broad analytical approach, or even as an inspiration for further conceptual innovation – that which Mitchell Dean has called an 'ethos of concept formation' – rather than as a rigid method of empirical analysis.²⁶³ In the remainder of this chapter I focus on two ideas about governmentality to narrow the scope of my analysis of the NTI. First, I consider the view that coercive and authoritarian government are entirely compatible with a liberal world-view and can even be adopted as a method for producing the conditions of a successful liberal economy. I argue that this is relevant for the government of Indigenous populations. Second, I outline Foucault's ideas about neoliberal governmentality because these ideas highlight the adaptability of liberal norms about the production of self-governing subjects. Finally, I summarise the relevance of these ideas to my analysis in the remaining chapters of this dissertation.

Good government is government that produces and foster the conditions of liberal

262 For example, see Andrew Barry, Thomas Osborne, and Nikolas Rose, eds., *Foucault and Political Reason. Liberalism, Neo-Liberalism and Rationalities of Government* (Chicago: The University of Chicago Press, 1996). Majia Holmer Nadesan, *Governmentality, Biopower, and Everyday Life* (New York: Routledge, 2008). Aihwa Ong, *Neoliberalism as Exception. Mutations in Citizenship and Sovereignty* (Durham: Duke University Press, 2006). Nikolas Rose, *Governing the Soul : The Shaping of the Private Self* (London: Routledge, 1991). Makere Stewart-Harawira, *The New Imperial Order. Indigenous Responses to Globalization* (London: Zed Books, 2005).

263 Dean, *Governmentality. Power and Rule in Modern Society. Second Edition*, 14.

freedom among the population.²⁶⁴ Mitchell Dean argues that both 'facilitative' and 'authoritarian' forms of government are applied to the task of shaping individuals so they can govern themselves.²⁶⁵ According to Dean, social scientific and other forms of expert knowledge group liberal subjects according to their capacities for autonomy. The most autonomous individuals require little active government because their capacity for self-discipline allows them to conduct themselves appropriately within society and the economy. Many other individuals, such as the unemployed or children, require help or training to further acquire the necessary skills and habits for autonomous living. Finally, other individuals are conceived as having very little capacity for autonomy because of age or serious disability.²⁶⁶ Techniques for the government of individuals can be either facilitative or authoritarian in character. For instance the task of helping people get 'job ready' may involve facilitative and voluntary skills development programs run by government or non-profit organisations; as well as more coercive and regulatory programs which oblige unemployed people to be seeking employment, or volunteering time and labour to approved organisations. Authoritarian forms of government take place within the legal and political order but government of both facilitative and authoritarian types can also take place within civil society even though civil society is usually understood as a realm for voluntary interaction.²⁶⁷

There is a deep irony implicit within the idea that coercive techniques of government are necessary for the development of free, self-governing subjects. Ultimately, the purpose of these forms of coercive government are the security of economic processes and the production of subjects who know how to appropriately conduct themselves within a market society. This understanding of coercive government is relevant to the study of the NTI, and other circumstances of colonial government, because it clarifies the way that ideas about the 'backwardness' of Aboriginal people are related to liberal objectives. According to Barry Hindess, the liberal argument that individuals are capable

264 Foucault, *The Birth of Biopolitics. Lectures at the College De France 1978-1979*, 63.

265 Dean, "Liberal Government and Authoritarianism," 38.

266 Ibid., 48.

267 Ibid., 41.

of conducting themselves as autonomous agents corresponds with the argument that some people are not fully developed or are unable to be trusted with freedom. The historicism of Western political thought sees non-Western peoples, including Indigenous peoples, as falling beneath Western norms for development. Indigenous people are therefore part of a broader population of people, such as criminals, immigrant communities and the urban poor, who are often deemed to be incapable of self-government and may need to be governed using authoritarian techniques.²⁶⁸

I turn now to a brief discussion of neoliberal governmentality. I provide a brief background to the development of this idea in Foucault's lectures on biopolitics and then consider the way that neoliberal governmentality structures current understandings of the ideal liberal subject. After his genealogy of liberal governmentality in the seventeenth century, Foucault turned to an analysis of liberal and, more specifically, neoliberal governmentality in the twentieth century. He identified two forms—a German *ordo-liberalism* linked with post-world war reconstruction, and an American form defined by the New Deal—but argued that both forms of neoliberal governmentality are united by a their common enemy, the doctrines of Keynes.²⁶⁹ To put things very simply, social policy in the post-Keynesian welfare state seeks to socialise some elements of consumption, such as medical or cultural goods, to offset the risk posed to an individual by the operations of the market. Neoliberals, in contrast, have seen this form of social policy as destructive to the proper function of the economy, and prefer to privatise social policy so that individuals' must insure themselves against the risks of poor health, unemployment or old age.²⁷⁰

Foucault's analysis of neoliberal government demonstrates the 'critical and problematising character of liberalism' in a contemporary context. Far from a totalising ideology, neoliberalism is a critique, a method of governmental rationalisation, and an 'ethos of review'. The specific targets of this neoliberal critique differ depending on the

268 Barry Hindess, "Not at Home in the Empire," *Social Identities* 7, no. 3 (2001): 365-71. Hindess, "Liberalism: What's in a Name?," 28-31.

269 Foucault, *The Birth of Biopolitics. Lectures at the College De France 1978-1979*, 78-79.

270 *Ibid.*, 143-44.

historico-political circumstances in which it is employed as demonstrated by Foucault's analysis of German ordo-liberalism and American neoliberalism.²⁷¹ One important implication of Foucault's analysis of neoliberalism as a form of liberal governmentality is that neoliberal government can be understood as no less active, interventionist, or continuous than other forms of liberal governmentality. In his lectures on early governmentality Foucault posited that the government of liberal subjects is founded on the development of knowledge about the conditions of freedom and the governmental limitation necessary to the proper function of a market system. Neoliberal government may require a smaller role for centralised State-based forms of social policy, but it nonetheless seeks to create the social conditions necessary for a market economy and for the formal mechanisms of competition to function. Indeed, Foucault calls neoliberalism a 'sociological liberalism' because society has become the target and the objective of neoliberal governmental practice.²⁷²

Neoliberal forms of critique and governmentality have challenged the rationalisations on which many forms of social policy were based, but have also developed new knowledge about the objects of government. The most relevant new forms of knowledge, from the perspective of this study of the NTI, is the new conception of the individual as a object of government and subject of self-government. According to Foucault, the 'homo economicus' of the neoliberal age is not the 'man of exchange', as in classical liberalism, but an 'entrepreneur of himself'. The economic subject of neoliberal economic analysis is an *active* subject who produces his or her own earnings and who increases human capital available for economic innovation. Government should, according to this conception of the 'active economic subject', orient social, educational, cultural and economic policy around altering and optimising the environmental aspects of human capital development as this is the most alterable of the conditions that promote economic growth.²⁷³ In other words, neoliberal government has sought to create a new 'politics of the self' that encourages people to see themselves as

271 Dean, *Governmentality. Power and Rule in Modern Society. Second Edition*, 73.

272 Foucault, *The Birth of Biopolitics. Lectures at the College De France 1978-1979*, 145.

273 Ibid., 147, 227-31.

individualised and active subjects responsible for working on themselves and enhancing their own wellbeing.²⁷⁴

In this section I have summarised the connection between knowledge about the capacity of individuals and populations for self-government and the likelihood of employing more coercive techniques of government. I argued that we can conceive of liberal government as a combination of facilitative and authoritarian policy techniques which are selected for their usefulness in shaping individuals who have a limited capacity for self-government. The norms about the expected conduct of the self-governing individual are adaptable. One set of norms about the successful liberal subject is created by recent neoliberal strategies of rule which attempt to create the conditions necessary for an enterprise society by constructing active economic subjects. The concept of neoliberal governmentality provides an important starting point for my analysis of the NTI in the next chapter.

4.4 Conclusions

In this chapter I have contrasted two perspectives on liberalism. The first of these is the idea that liberalism is a doctrine of individual emancipation and that liberal political institutions are designed to constrain the activities of the State and further the cause of individual social and economic liberty. From this perspective the interventionist NTI might be considered out of step with the typical values and priority of liberal forms of government. The second perspective on liberalism acknowledges that liberal politics has a more coercive and authoritarian side as well. Historically, liberal ideas have been part of justifications for imperial and colonial forms of government, for instance, and this history of imperial liberalism makes it reasonable to explore the possible connections between Australia's liberal political society and the settler colonial mentality that I observed in operation in the NTI (Chapter Three). As the settler colonial scholarship provides very limited discussion of a possible relationship between liberal and settler

274 Wendy Larner, "Neo-Liberalism: Policy, Ideology, Governmentality," *Studies in Political Economy* 63(2000).

colonial politics, I turned to Foucault's concept of liberal governmentality to provide an analytical approach compatible with this second perspective on liberalism.

The concept of liberal governmentality can help us reconcile the apparent contradiction between liberalism as a politics of emancipation and liberalism as a politics of coercion. Foucault understands liberalism as a concern for the limitation of government, but also acknowledges the productive aspect of liberalism. Government should be limited but is also concerned with producing the conditions which enable the market system to operate most efficiently and with the greatest benefit to all. The freedom of individuals, in particular the idea that individuals should be free to pursue their economic self-interest, was an essential component of developing these optimal conditions for a market society. Ironically, this meant that liberals needed to 'produce' free individuals wherever subjects were incapable of the necessary form of self-government or self-regulation. This need to promote individual development and improvement has, according to Foucault, been the chief justification for the more coercive and authoritarian forms of government. One important aspect of Foucault's governmentality is that the process of government, which he defines as systematic attempts to conduct individual's conduct, is not simply a top down or centralised process but a diversified network of power relations which occur throughout civil society, economic society, and institutions of formal government.

In the latter part of this chapter I focused on two particular sets of ideas in the governmentality scholarship to help me outline my use of the concept of governmentality in my analysis of the NTI. The first of these is the idea that liberal government seeks to shape individuals who have a limited capacity for self-government according to various norms about the self-governing individual. I suggested that this is particularly relevant for our understanding of the government of Indigenous people because they are likely to be classed among those citizens who are seen as incapable of self-government. Second, I outlined Foucault's discussion of neoliberalism as a twentieth century form of liberal governmentality.

Foucault's genealogy of liberal government is, on one level, a history of modern ways of

understanding the world. Yet, Foucault's analysis of the genealogy of liberal governmentality is also deeply political because it interrogates the universality of many of the political concepts—such as sovereignty, civil society, economy, the individual, and so on—which appear natural and self-evident. Foucault never denies that these concepts have a reality; in fact, the discourses produced as part of this process of political reasoning define our knowledge about politics, society and ourselves as subjects of liberal government. They constitute the social world in which we are situated and live our lives. Yet, acknowledging that these concepts are contingent, and produced as part of a broader process of political reasoning, can better equip us to analyse and critic the power relations produced and reproduced through this political process of meaning-making. My analysis in the next chapter applies Foucault's concept of liberal governmentality to better understand the way one particular form of political reasoning—neoliberal political reasoning—has been produced and applied in the field of Aboriginal Affairs. In particular, I focus on the relationship between neoliberal reasoning and justifications for authoritarian government in the NTI policy.

Chapter Five: Authoritarian Governmentality and the Neoliberal Politics of the NTI

Critics of the NTI typically focused either on the idea that the NTI was colonial and represented a regression to the assimilationist government of mid-twentieth century politics, or on the idea that the NTI was part of a neoliberal reform program which sought to revoke the political or collective rights of Aboriginal peoples. Earlier in this dissertation I made a case for understanding many of the key justifications of the Intervention as examples of settler colonial discourse. In this chapter, in contrast, I develop a governmentality analysis of the neoliberal aspects of the Intervention.²⁷⁵ A governmentality analysis is able to reveal aspects of the neoliberal justification for authoritarian government that are not fully explained by previous descriptions of the Intervention as neoliberal. As I explain in the first section of this chapter, previous criticisms of the neoliberal character of the NTI have focused on the ideological flaws of neoliberal politics. These critics suggest that the individualism and free market philosophy of neoliberals has resulted in a concerted attack on the principles of self-determination, Aboriginal community self-government, and Aboriginal rights. Proponents of the NTI policy would not characterise their own views as neoliberal but they do, nonetheless, characterise the self-determination policy paradigm as an obstacle to the delivery of good outcomes within Aboriginal communities. There is, therefore, a general agreement among both proponents and critics of the Intervention that a shift has recently occurred in the Aboriginal Affairs paradigm, and I use this agreement as a starting point for my governmentality analysis of neoliberalism and authoritarian government.

In the remainder of the chapter I argue that the development of a neoliberal critique of past policy paradigms has resulted in a belief, among many members of parliament, that Aboriginal individuals have had no previous opportunity to develop the capacities

²⁷⁵ A summary of the concept of governmentality can be found in 'Governmentality and the production of liberal politics' and 'Governmentality as an analytical framework' in Chapter Four.

required for full liberal citizenship and autonomy. Consequently, policymakers have increasingly come to believe that authoritarian strategies of government are desirable and necessary, at least in the short-term. In the second section I draw on the concept of neoliberal governmentality to argue that we should understand the neoliberal problematisation of the self-determination paradigm as part of a debate over which governmental techniques best contribute to effective government. In other words, as part of a technical form of governmental reasoning. Self-determination is a governmental technique that selectively incorporates elements of Aboriginal cultural tradition and practice in ways intended to make liberal government more likely to be effective. The neoliberal critique constructs self-determination, and the associated incorporation of Aboriginal culture and participation in policy administration or development, as an obstacle to good government rather than as a viable and necessary option for policy implementation or design.

In the final section of this chapter I argue that recent forms of neoliberal governmentality contribute to justifications for authoritarian government in two ways. First, I argue that Aboriginal people are seen to be incapable of liberal freedom because of the lack of capacity-building opportunities—such as 'real' jobs—in their communities. Second, I argue that the Australian government has itself lacked the capacity for reforming the conditions of government in remote Aboriginal communities, and has therefore resorted to more authoritarian strategies as last resort. These two conditions pave the way for authoritarian strategies in Aboriginal Affairs policy. Earlier critiques of the Intervention emphasised the inherent ideological flaws of neoliberal politics. My interpretation posits that the process of dismantling an earlier policy paradigm, and the difficulty presented by the task of producing new strategies of government with which to replace it, also increase the likelihood of more authoritarian policy measures.

5.1 The ideological explanation for the NTI: A paradigm shift?

In this section I summarise the ideological explanation of the NTI and identify those

features of the neoliberal policy approach that are evident in the NTI policy.²⁷⁶ I then analyse Coalition parliamentarians' explanations for the NTI, arguing that it was founded, in part, on a neoliberal critique of rights-based Aboriginal Affairs policy approaches. Finally, I suggest that both critics and proponents of the NTER conceived of the Intervention as representative of a substantial shift in the policy paradigm of Aboriginal Affairs even as they disagree about the desirability and implications of this shift.

Ideological explanations for the NTI

I first introduced the ideological explanation for the NTI in Chapter Two where I summarised the views of several critics of the Intervention who described the NTI as an excuse for implementing a neoliberal political agenda. Many authors referred to the neoliberal character of the Intervention.²⁷⁷ It is common in Australian political debates to suggest a dichotomy between evidence-based and ideologically driven policy, especially in the field of Aboriginal Affairs government.²⁷⁸ In this context, this critique

276 See 'Two explanations for the NTI' in Chapter Two. See also: Altman, "The Howard Government's Northern Territory Intervention: Are Neo-Paternalism and Indigenous Development Compatible?," 2; Mazel, "Development in the 'First World': Alleviating Indigenous Disadvantage in Australia - the Dilemma of Difference," 489; Rundle, "Military Humanitarianism in Australia's North."; Sanderson, "Reconciliation and the Failure of Neo-Liberal Globalisation."

277 Altman, "The Howard Government's Northern Territory Intervention: Are Neo-Paternalism and Indigenous Development Compatible?," 2; Hinkson, "Introduction: In the Name of the Child."; Mazel, "Development in the 'First World': Alleviating Indigenous Disadvantage in Australia - the Dilemma of Difference," 489; Rundle, "Military Humanitarianism in Australia's North."; Sanderson, "Reconciliation and the Failure of Neo-Liberal Globalisation."; Maggie Walter, "Market Forces and Indigenous Resistance Paradigms," *Social Movement Studies: Journal of Social, Cultural and Political Protest* 9, no. 2 (2010).

278 Ideologically-driven policy is typically seen as a bad, and a source of problems and government failure in Aboriginal Affairs policy, whereas evidence is understood as based on observable facts and therefore an appropriate basis for policy. Of course this is in many ways a false dichotomy as the production and development of knowledge about Aboriginal people does not occur in a ideological vacuum and the call for evidence-based policy can be part of a neoliberal rationale for government. See: Will Sanders, "Ideology, Evidence and Competing Principles in Australian Indigenous Affairs: Mal Brough to Rudd Via Pearson and the Enter," ed. Centre for Aboriginal Economic Policy

of the Intervention suggests that the Coalition Government had designed the NTI reforms with the objective of broader ideological reform rather than for the purpose of assuring the safety and wellbeing of Aboriginal children.²⁷⁹ This broader ideological reform can be understood as part of an elite 'new right' and conservative social movement. It has typically included attempts to shift the institutional and policy framework of Australian government away from a welfare state model and toward a utopian capitalist framework in which individuals become truly free through their engagement with the market.²⁸⁰

From the perspective of critics of the Intervention, the Coalition Government subscribed to a neoliberal agenda for government reform and therefore sought to transform the institutional and legislative framework of Aboriginal Affairs policy along neoliberal lines. Jon Altman highlights the ideological character of the reforms when he writes of the 'relatively recent' ascendancy of economic liberalism, and a radical form of neoliberalism, and of its damaging influence on Aboriginal Affairs. This influence, he argues, has its origin in a number of political developments including the abolition of the Aboriginal and Torres Strait Islander Commission (ATSIC) in 2005.²⁸¹ Among other developments, Altman lists the increasing involvement of 'right-wing think tanks' in Aboriginal Affairs policy debates; the appointment of a National Indigenous Council, whose members shared the ideological positions of these think tanks; and a media 'sympathetic' to the neoliberal political agenda.²⁸² The 'influence wars' during the Coalition Government's term resulted in the exclusion of the views of Aboriginal people who disagreed with government policy reforms, as well as attempts by government

Research (CAEPR) (Canberra 2009), 1.

279 Walter, "Market Forces and Indigenous Resistance Paradigms," 124-25.

280 For further discussion of neoliberal ideology see Cahill, "The Radical Neo-Liberal Movement and Its Impact Upon Australian Politics", 2-3; Cahill, "The Contours of Neoliberal Hegemony in Australia," 228.

281 On the role and demise of ATSIC, see: Jane Robbins, "The 'Failure' of ATSIC and the Recognition of Indigenous Rights," *Journal of Australian Indigenous Issues* 7, no. 4 (2004).

282 J.C. Altman, "Indigenous Affairs Today: The 'Influence Wars' and the Attempt to Silence the Social Sciences," *Centre for Aboriginal Economic Policy Research Topical Issue*, no. 1 (2007): 1-2. Similar points are made by Walter, "Market Forces and Indigenous Resistance Paradigms," 124.

agencies to discredit scholarship and policy analysis that critiqued or questioned the effectiveness of Australian Government policy. In this context, Aboriginal Affairs policy could be understood as dominated by 'mainstream' or economic liberal notions of economic development and welfare reform.²⁸³

Critics of the Intervention sought to articulate the relationship between the neoliberal ideological program and the specifics of NTI policy. Melinda Hinkson argued that a number of the NTER measures, especially those concerning welfare and land tenure reform, sought to end the recognition of Aboriginal people's right to live in remote communities and pursue their own ways of life.²⁸⁴ The NT Intervention, she argues, was aimed at 'nothing short of the production of a newly oriented, 'normalised' Aboriginal population, one whose concerns with custom, kin and land will give way to the individualistic aspirations of private home ownership, career and self-improvement'. These individualistic aspirations were 'neoliberal prescriptions' and seen by government as the 'only possible way forward' for Aboriginal people. This means that key aspects of Aboriginal cultural life, such as traditional ways of relating to ancestral lands, became the target of a neoliberal critique.²⁸⁵

Maggie Walter's analysis provides greater detail on the conceptual bases of the neoliberal critique of Aboriginal rights, culture, and ways of life. Walter argues that neoliberalism and its free market ideals were pervasive in Australian politics in the 1990s and 2000s and became the 'central pillar' around which Aboriginal 'problems' were defined.²⁸⁶ The most prominent statements of how free market ideals could be the basis of Aboriginal policy reforms were produced, according to Walter, by authors such as Helen Hughes at the Centre for Independent Studies. The CIS has campaigned for the end of so called 'separatist' policies in Aboriginal Affairs government. This campaign involved arguments in favour of closing down 'unviable [Aboriginal] communities',

283 Altman, "Indigenous Affairs Today: The "Influence Wars" and the Attempt to Silence the Social Sciences," 2-3.

284 Hinkson, "Introduction: In the Name of the Child," 5.

285 Ibid., 6.

286 Walter, "Market Forces and Indigenous Resistance Paradigms," 122.

replacing communal forms of land ownership and management with individual freehold property rights, and removing CDEP and other 'pretend jobs'.²⁸⁷ As Walter points out, the design of the NT Intervention closely approximates these claims about policy reforms. The welfare quarantining and compulsory leases over Aboriginal land should be understood as an attempt to transform the Aboriginal citizen into a 'good citizen of the free market'. Walter also asserts, in a line that suggests familiarity with the governmentality literature, that the NTI was based on the idea that 'Indigenous people in the Northern Territory needed to be forced to be free'.²⁸⁸

Overall, this analysis points toward the development of an antipathy toward any recognition of Aboriginal difference to the 'mainstream' economic society and the development of a conception of Indigenous rights, especially land rights, as an obstacle to the development of a proper relationship between Indigenous individuals and the market economy. The neoliberal critique also focused on past policy decisions by government, such as the affect that welfare entitlements had on individuals' relationship to the market economy.

The neoliberal critique of the Aboriginal rights policy paradigm

This antipathy toward a rights-based policy approach in Aboriginal Affairs is demonstrated in the contributions that Coalition members made to parliamentary debates on the NTER. These contributions provide support for the claim that the NTI

287 Ibid., 126-27. For CIS arguments in their original form see: Sara Hudson, "From Rhetoric to Reality: Can 99-Year Leases Lead to Homeownership for Indigenous Communities," (St Leonards: Centre for Independent Studies, 2009); Helen Hughes and Mark Hughes, "Indigenous Employment, Unemployment and Labour Force Participation: Facts for Evidence Based Policy," (St Leonards: Centre for Independent Studies, 2010); Helen Hughes, Mark Hughes, and Sara Hudson, "Private Housing on Indigenous Land," (St Leonards: Centre for Independent Studies, 2010).

288 Walter, "Market Forces and Indigenous Resistance Paradigms," 127-28. This last comment is probably inspired by Jean-Jacques Rousseau's comments about forcing citizens to be free, though it is also similar to Foucault's claim about liberal government seeing to it that individuals 'are free to be free': Foucault, *The Birth of Biopolitics. Lectures at the College De France 1978-1979*, 63; Jean-Jacques Rousseau, *The Social Contract*, trans. Maurice Cranston (London: Penguin Books, 1968 [1762]), 64.

was the product of a top down application of neoliberal ideological principles to the field of Aboriginal Affairs. The concept of neoliberalism is a useful analytical concept, as shown above, but the term is typically used in a derogatory manner in political discourse. In practice, and partly as a result of this derogatory usage, few people, and none of the Coalition parliamentarians, identify their views as part of a neoliberal paradigm. Nonetheless, Coalition views are very much in keeping with the problematisation of separatist policies, communal land management and welfare presented by the CIS and other neoliberal, 'free market' think tanks. The examples below focus on the problematisation of Aboriginal behaviour and attitudes, and on criticism of the main achievements of a rights-based political agenda for Aboriginal Affairs policy. I mostly focus on the views of Coalition party backbenchers because I have discussed the official justifications of the Intervention, expressed by ministers such as Mal Brough, previously.²⁸⁹ Also, the contributions of these Members of Parliament resemble the CIS position in a more explicit manner than the explanations given by ministers of the government. One explanation of this difference could be that backbenchers in the Coalition parties were more supportive of free market, neoliberal ideals than the leadership of the Coalition Government. However, this difference could also arise because departmental advice and professional speech-writing might tone down the presence of distinctly neoliberal rationales in ministers' speeches and contributions to the debate. I favour the second explanation because the policy design of the NTER, in keeping with neoliberal forms of problematisation, so clearly targets the 'problems' of land tenure, the permit system, and welfare dependency.

Coalition politicians made a two part argument about the need for the NTER reforms. They focused, first, on an evaluation of Aboriginal people and ways of life as an obstacle to proper engagement with a market economy and employment. Liberal Barry Haase, for instance, problematised Aboriginal culture by making a comparison of the Aboriginal and mainstream 'style of life'. Some of the 'cornerstones of our mainstream society' including a respect for education, the rule of law, and an acceptance of personal

289 See section 2.3 'Justifications for the NTI'.

responsibility are, he argued, non-existent in many Indigenous communities.²⁹⁰ This point about the failures of Aboriginal people is purposeful as it contributes to the argument that proper engagement with the market system could address the problems faced by Aboriginal communities. Haase attributed social disorder in Aboriginal communities to a lack of what he understands as 'real' employment. He argued that the Community Development Employment Projects (CDEP) was a sort of 'furphy' employment and that employment policies were therefore part of the problem rather than the solution.²⁹¹ Haase suggested that real employment would benefit Aboriginal people because it would foster individual skills and attitudes such as a sense of responsibility, financial independence and self-esteem.²⁹²

National member Ian Causley provides a very similar analysis of the problems in Aboriginal communities and the failure of past employment policies. Causley argued that the problems in Aboriginal communities could be attributed to the 'fact that these people are not employed'. He attributed Aboriginal people's unemployment to a lack of education and a lack of the skills required for people to find employment.²⁹³ Like Haase, Causley drew attention to Aboriginal people's lack of capacity for engagement in the economic system and particularly the employment market. Causley also makes the case that current governmental approaches to employment and capacity building in Aboriginal communities had failed; he argues that 'over the years governments of both persuasions [both Labor and Coalition government] have tried very hard to give them [Aboriginal people] opportunities but, to this stage, we've failed'.²⁹⁴

The second part of the argument about the NTER reforms related the inability of Aboriginal people to establish a proper relationship with the market to the failures of previous approaches to government in Aboriginal communities. Causley and Haase's criticism of employment policy fits into this mould. The objectives of CDEP, which had

290 Parliament of Australia, "Parliamentary Debates, Hansard 7 August 2007," 102-03.

291 Ibid., 102-03.

292 Ibid., 102-03.

293 Ibid., 104-05.

294 Ibid., 105.

been established as a Australian Government scheme in 1977, included community development and the creation of employment in remote communities that often had few other job opportunities. CDEP grants were used by community controlled organisations to employ community members at rates similar to unemployment benefits for work on projects that accorded with local community aspirations.²⁹⁵ Causley and Haase's criticism of the CDEP, and its abolition as part of the original NTER legislation, should be understood as a critique of the broader Aboriginal rights and self-determination political agenda that had been influential prior to the Coalition Government's election in 1996.

Arguments about the failure of the *Land Rights Act* of 1976 also fall into this category of criticism. The development of land rights legislation in the Northern Territory was one of the milestones of the self-determination era of policy-making. It sought to guarantee Aboriginal participation in decisions about land use and ensure Aboriginal people benefited from the proceeds of mining and other industry on Aboriginal land.²⁹⁶ Liberal MP David Tollner, however, argued that land rights legislation, and particularly the permit system, was misguided because it has failed to provide good economic outcomes for Aboriginal communities. The Act was, he argues, about the 'preservation of culture' rather than 'good land management, land administration or planning for the future exploitation and productivity of the land'.²⁹⁷ Furthermore, the land rights system was detrimental to individuals' economic prospects. Aboriginal control of land use had, according to Tollner, 'reduced Aboriginals to a welfare dependency status'. He describes land councils, who administer the use of Aboriginal land, as powerful and expensive bureaucracies. He argues that a powerful Aboriginal elite controls available funds and distribute these to 'select groups and individuals on a grace-and-favour basis, with little

295 Jon Altman and Will Sanders, "The Cdep Scheme: Administrative and Policy Issues," *Australian Journal of Public Administration* 50, no. 4 (1991): 515; J.C. Altman, "Neo-Paternalism and the Destruction of CDEP. Topical Issue Paper No. 14/2007," (Canberra: Centre for Aboriginal Economic Policy Research (CAEPR), 2007), 1.

296 Central Land Council, "Aboriginal Land Rights Act," http://www.clc.org.au/Ourland/land_rights_act/Land_rights_act.html.

297 Parliament of Australia, "Parliamentary Debates, Hansard 7 August 2007," 96-97.

flowing down to those at the bottom'.²⁹⁸ This characterisation of land rights as a failure is part of the broader argument about the failure of self-determination and Aboriginal rights approaches to government.

In summary, there is clearly support among Coalition MPs for the task of transforming Aboriginal citizens into what Walter called good citizens of the free market. Haase and Causley define Aboriginal people's success or failure in terms of their suitability for and engagement with the employment market. Government policy is also evaluated according to the free market criterion with the CDEP program and the Land Rights Act coming under fire for acting as an obstacle to proper economic development and an obstacle to the production of citizens who can operate independently of the support of the state. This notion of independence is an important one but used in a particular way. Tollner's concerns about 'welfare dependency' imply that Aboriginal people should be financially independent of the Australian State. However, the notion of Aboriginal independence does not extend to the concept of control of Aboriginal land by Aboriginal organisations, as this is seen as a factor increasing individuals' dependence on welfare. In other words, the notion of independence is clearly an individualist one. Collective ownership or management of resources by Aboriginal people is seen as inherently problematic and a threat to individual's economic engagement and prospects. Overall, the arguments of Coalition party MPs tend to support the assertion by critics of the Intervention that the NTI was an excuse for implementing a neoliberal political agenda.

The narrative of policy paradigm shift in Aboriginal Affairs policy

With some minor differences about exact dates, scholars of Aboriginal Affairs policy have typically distinguished three periods of Aboriginal Affairs policy. First, an early period of exclusionary or frontier policy, including warfare, other forms of violence, and the 'protection' policies of the period up to the mid-twentieth century; second, a period of assimilation-oriented policies from the 1950s to the mid-1960s; and, third, a period of community self-determination that defined policies in the latter years of the 1960s

²⁹⁸ Ibid., 97.

onward.²⁹⁹ This raises the question of whether the NT Intervention should be understood as an example of a fourth period or of a new policy paradigm in Aboriginal Affairs policy. Critics and supporters of the NT Intervention emphasised the NTI as a significant shift in Aboriginal Affairs policies, though they did so for different reasons and with different expectations.

Critics of the Intervention emphasised its coercive, neoliberal aspects and contrasted these with an earlier period of Aboriginal rights recognition and self-determination. Walter is a good example of this interpretation of the NTI. Walter defines the NTI as one of two 'big events' in Coalition Aboriginal Affairs policy—the other being the abolition of ATSIC—that are representative of the Howard Government's attempts to undermine Aboriginal autonomy and 'undo previous positive changes in the state's relationship with Indigenous people'.³⁰⁰ The dominance of neoliberalism, according to Walter, made the concepts of Indigenous rights and culture 'ideologically unpalatable', heralded a 'new, radical era of suppression' for Aboriginal Australians, and turned the clock back on Indigenous rights.³⁰¹ In this understanding of the NTI and Coalition Aboriginal Affairs policy, this neoliberal influence results in a shift from a self-determination paradigm to what has variously been referred to as a 'rights and responsibilities' paradigm, an 'economic development paradigm' or a paradigm based on 'mainstreaming' and 'normalisation'.³⁰² Obviously, from the point of view of critics, this shift is a damaging one and, among other implications, is only likely to further embed the 'hegemony of white privilege' and increase the resistance of Aboriginal people to

299 Ian Anderson, "The End of Aboriginal Self-Determination?," *Futures* 39, no. 2-3 (2007); Mazel, "Development in the 'First World': Alleviating Indigenous Disadvantage in Australia - the Dilemma of Difference."; Virginia Watson, "Liberalism and Advanced Liberalism in Australian Indigenous Affairs," *Alternatives: Global, Local, Political* 29, no. 5 (2004): 580-83.

300 Walter, "Market Forces and Indigenous Resistance Paradigms," 124.

301 *Ibid.*, 122-23.

302 Altman, "The Howard Government's Northern Territory Intervention: Are Neo-Paternalism and Indigenous Development Compatible?," 2; Altman, "Submission to the Northern Territory Emergency Response Review": v; Sanders, "Ideology, Evidence and Competing Principles in Australian Indigenous Affairs: Mal Brough to Rudd Via Pearson and the Nter," 4; Paul t'Hart, "The Limits of Crisis Exploitation: The Nt Intervention as a Reform Boomerang," *Arena Journal*, no. 29-30 (2008): 54.

government policy.³⁰³

The Coalition Government clearly had different ideas about the implications of this shift in policy. First, it is clear that the government understood the Intervention as part of a concerted and deliberate change in the direction of government policy. Minister Mal Brough summarised the situation in the following manner: 'When confronted with a failed society...[d]o we respond with more of what we have done in the past? Or do we radically change direction with an intervention strategy matched to the magnitude of the problem?'³⁰⁴ Obviously Brough is asking a rhetorical question here and the Intervention was indeed understood as part of a radical change in policy. For Brough and his parliamentary colleagues these major reforms removed artificial obstacles to development in Aboriginal communities. The Intervention was designed to 'break the back of violence and dysfunction' and 'allow us to build sustainable, healthy approaches in the long term'.³⁰⁵ It was therefore understood as a significant shift in Aboriginal policy, a form of 'emergency surgery' after a long period of 'bandaid' or ineffective solutions.³⁰⁶

In this section I have outlined and evaluated the ideological explanation of the Intervention. Many critics understood the Northern Territory Intervention as an important episode in a program of neoliberal reform of Aboriginal Affairs policy. This program sought to transform the Aboriginal citizen, making their ways of life compatible with a free market conception of the economy. This involved perceiving a rights-based or self-determination paradigm in Aboriginal Affairs as an obstacle to proper development. Elements of this paradigm, such as land rights, the permit system, community governance, and the CDEP program, came under concerted attack as part of the justifications of the NTI. The problematisation of the rights-based policy paradigm is particularly evident in the contributions of Coalition party members to parliamentary debates. Overall, there is substantial evidence in support of the case that the NTI was

303 Walter, "Market Forces and Indigenous Resistance Paradigms," 134-35.

304 Parliament of Australia, "Parliamentary Debates, Hansard 7 August 2007," 10.

305 Ibid., 12.

306 Ibid., 12.

not only part of a neoliberal program of government but was understood by proponents and critics of the policy as part of a shift in the Aboriginal Affairs policy paradigm.

5.2 Defining governmental failure: A governmentality analysis of the role of neoliberal government in the NTI

I now turn to an analysis of the neoliberal politics of the NTI using the concept of governmentality as an analytical tool. So far in this chapter I have argued that a particular form of liberal government—neoliberalism—played a crucial role in the development of the Northern Territory Intervention. The Intervention has often been interpreted as part of a shift in the policy paradigm or direction of Aboriginal Affairs policy under the influence of neoliberal ideology. The remainder of this chapter employs the concept of governmentality to analyse the relationship between the neoliberal government and the coercive and authoritarian aspects of the NTER policy.

In this penultimate section I conceive of the Intervention as a process of ongoing adaptation of neoliberal ideas to the development of governmental practice and critique in the field of Aboriginal government. This section has two parts. In the first part, I draw parallels between the recent neoliberal critique of the rights-based policy agenda in Aboriginal Affairs and previous research on neoliberal governmentality. Elaborating on my earlier analysis of the views of Coalition MPs on rights-based approaches to Aboriginal governance, I argue that the narrative about the failure of Aboriginal rights and self-determination adapts the neoliberal critique of 'social' or 'welfarist' government. While, this critique of 'welfarist' government has been identified in the scholarship as a feature of advanced liberal government more broadly, it is particularly prominent in neoliberal forms of governmental reasoning. In other words, neoliberal critique of Aboriginal Affairs governance in Australia appears to take a similar form to critiques of the 'welfare state' in many other places and policy contexts worldwide. This understanding of the Intervention appears compatible with the ideological explanations of the policy because in both cases neoliberalism can be interpreted as a fairly consistent and coherent set of ideas about good government which could be implemented with

little real variation and in a 'top down' manner in different policy contexts.

The second part of this section develops evidence which complicates this understanding of neoliberalism by emphasising the particularities of the NTI case study. Most of the critiques of the NTI—including those which focused on the rush with which legislation was pushed through parliament, the lack of consultation before and during the implementation of the Intervention, and the side-lining of the Racial Discrimination Act—were focused on the method or techniques of government. In this context, I characterise the justifications for the Intervention as part of a broader debate about the relative effectiveness of different ways of governing Aboriginal subjects in remote Northern Territory communities. In particular, I suggest that self-determination is not just a normative commitment to Aboriginal autonomy but a governmental technique that has commonly been used to translate Aboriginal traditions or authority structures into forms which can be incorporated into the goals of state agencies and policy. From this perspective, the problematisation of self-determination is part of a recent tendency to question the value of incorporating Aboriginal cultural practices into liberal government.

The neoliberal critique of 'welfarism' and social forms of governmentality

Earlier in this chapter I analysed the Coalition Government's problematisation of rights-based approaches to Aboriginal governance and related this reasoning to a neoliberal political agenda. That analysis was intended to enrich our understanding of the relationship between neoliberal ideology and the recent critique of Aboriginal rights and self-determination. Now I wish to acknowledge the resemblance between this ideological explanation of recent government policy and the discussion of neoliberalism as a critique of 'welfarist' or 'social' forms of governmentality. Below I discuss the concept of the welfare or 'social' state as it appears in the scholarship on governmentality. I discuss the shift from welfarist modes of liberal government to advanced liberal government, including the role of neoliberal styles of political reason as part of this process. I also consider the way that citizenship and the relationship between the state and individual was redefined by neoliberal conceptions of

government. Finally, I relate my analysis of the NTI as a product of neoliberal reasoning to this conceptual framework.

Rationales for contemporary rule can be 'derived from quite different ethical regimes'.³⁰⁷ This means not only that the practice of government reflects the ethos that it is shaped by, but also that this affects both the way that problems of government are constructed and defined, and the forms of individual identity, agency and the relation between individual and the state is conceived and produced.³⁰⁸ The welfarist or 'social' rationale for political rule emerged in the twentieth century in response to the problematisation of liberal governmentality from the end of the 19th century onward. Socialism raised questions about the social costs of a capitalist system. The 'welfare state' arose as a new formula of liberal rule which could guarantee individual wellbeing while maintaining the freedom of the capitalist enterprise.³⁰⁹ The new mode of 'social' government incorporated a variety of programs and technologies of government including tax regimes, social insurance, social casework, employment agencies, state planning and intervention in the economy, and residential homes for the elderly. These social programs were developed by a variety of agents including medical professionals, charitable organisations, and philanthropists, and became increasingly incorporated into the state over the course of the twentieth century as attempts to secure social and economic objectives were developed in parliaments and state agencies.³¹⁰

Neoliberal rationales for contemporary rule can be understood as part of a critique of welfarism and social forms of government. The idea of neoliberalism as a critique of the welfare state is not specific to governmentality analyses, but is central to the rhetoric of neoliberal government and analyses. Neoliberal rhetoric is hostile to the 'interventionist'

307 Mitchell Dean and Barry Hindess, "Introduction: Government, Liberalism, Society," in *Governing Australia. Studies in Contemporary Rationalities of Government*, ed. Mitchell Dean and Barry Hindess (Cambridge: Cambridge University Press., 1998), 12.

308 Ibid., 12.

309 Nikolas Rose, "Government, Authority and Expertise in Advanced Liberalism," *Economy and Society*, no. August (1993): 292-93.

310 Nikolas Rose and Peter Miller, "Political Power Beyond the State: Problematics of Government," *The British Journal of Sociology* 43, no. 2 (1992): 191-92.

or welfare state which it sees as economically inefficient, likely to result in currency inflation, and tending toward big government. The welfare state is also understood to be morally damaging to citizens because it encourages a 'culture of dependency' where citizens expect government to provide for the individual.³¹¹ The governmentality scholarship provides a unique interpretation of the neoliberal approach. Following on from Foucault's analysis of neoliberal government, many governmentality scholars emphasise that neoliberal government is no less 'interventionist' than earlier welfarist forms of government. Rather, neoliberal analyses are part of both a reorganisation of political rationalities, and the development of new 'advanced liberal' techniques or technologies of government.³¹² Neoliberal forms of political rationality are closely related to, though not the only form of, these advanced liberal rationalities. Where 'early liberal rationality' linked government to an understanding of the 'natural', 'or laissez-faire' processes of the free market, advanced liberalism emphasises the constructed or artificial, though necessary, conditions that make the market, and good government, possible.³¹³

Projects of neoliberal reform have had important implications for conceptions of citizenship. Earlier liberal conceptions of citizenship typically focused on a national community of male breadwinners and female domestic workers.³¹⁴ Welfarist conceptions of government promoted 'responsible solidarity'; namely, the idea that citizens had the responsibility to be 'thrifty, industrious, and socially responsible' and that citizens would be looked after by the State in periods of misfortune. Social insurance schemes, such as national health schemes and social security programs, socialised the risks of poor health or periods of unemployment and were delivered by state agencies and other institutions.³¹⁵ Neoliberal technologies of government, in

311 Ibid., 198.

312 Ibid., 199; Rose, "Government, Authority and Expertise in Advanced Liberalism," 294. See my comments on Foucault's analysis of neoliberalism in section 4.3 - 'Governmentality as an analytical framework'.

313 Donzelot, "Michel Foucault's Understanding of Liberal Politics," 28-30; Watson, "Liberalism and Advanced Liberalism in Australian Indigenous Affairs," 587-88.

314 Larner, "Neo-Liberalism: Policy, Ideology, Governmentality," 13.

315 Rose and Miller, "Political Power Beyond the State: Problematics of Government," 192.

contrast, encourage people to think of themselves as active, autonomous and entrepreneurial individuals, rather than citizens with obligations deriving from membership of a body politic. The neoliberal citizen is responsible for managing risk, purchasing insurance in the private market, and enhancing their own wellbeing. The neoliberal individual has human capital which they must maintain or enhance if they expect to optimise the quality of life of themselves and their families.³¹⁶ Consequently, many neoliberal programs of reform attempt to deliver health, employment, education and similar services via market or quasi-market arrangements rather than through 'social' technologies such as nationalised health or employment agencies.³¹⁷ There are clearly similarities here between the ideological explanation of the Intervention, developed by authors such as Altman, Hinkson and Walter, and governmentality scholars' understanding of neoliberalism as style of governmental critique and a contribution to the development of advanced liberal technologies of government. My earlier analysis of the NTI from an ideological perspective illustrated the focus of parliamentary discourse on producing good citizens of the free market in NT Aboriginal communities. This conception of the good citizen has a number of parallels with the perception of the neoliberal citizen outlined in the governmentality scholarship. For instance, Causley and Haase understood the employment market as a site for training Aboriginal people. The availability of real employment was crucial, from their perspective, because it could help individuals build the capabilities for engagement in the economic system as well as develop various proper attitudes such as a respect for education, a sense of personal responsibility and respect for the rule of law.³¹⁸ This argument about Aboriginal people learning to look after themselves and their families in a real market system is similar to the conception of the active, autonomous and entrepreneurial citizen described in the scholarship on neoliberal

316 Donzelot, "Michel Foucault's Understanding of Liberal Politics," 29; Larner, "Neo-Liberalism: Policy, Ideology, Governmentality," 13; Rose and Miller, "Political Power Beyond the State: Problematics of Government," 198-200; Rose, "Government, Authority and Expertise in Advanced Liberalism," 296.

317 Barry Hindess, "Neo-Liberal Citizenship," *Citizenship Studies* 6, no. 2 (2002): 140.

318 Parliament of Australia, "Parliamentary Debates, Hansard 7 August 2007," 102-05. See my earlier analysis of Haase and Causley in section 5.1 - 'The ideological explanation for the NTI: A paradigm shift?'

governmentality. Furthermore, the view that the Land Rights Act, CDEP projects and other former approaches to government increased welfare dependency has clear parallels with the neoliberal critique of 'social' or 'welfarist' government described in the governmentality scholarship.³¹⁹

The NTI rhetoric adapts the neoliberal rationale for political rule to the field of Aboriginal Affairs. The critique of a whole range of governing principles, policies and institutional frameworks—including land rights legislation and administration, Aboriginal community governance arrangements, CDEP programs, and principles of self-determination—reproduces the neoliberal antipathy toward 'welfarism' and 'welfare dependency'. Similarly, in the language of governmentality, this could be seen as an attempt to undermine the 'social' and 'political' forms of reasoning in Aboriginal Affairs and to replace these with a vision of economic and social enterprises, held at a necessary distance from State authorities. The purpose of such a program would be to develop enterprising, active, economic citizens, and to govern through models that provide real choice to Aboriginal individuals while training individuals' in the capabilities necessary to full engagement with the market.

The technical dimension of governing Aboriginal subjects: perspectives on the utility of culture

I now turn my analysis to the technical dimension of the discussions about government in NT Aboriginal communities.

I have previously argued that the Coalition's critique of Aboriginal rights and self-determination has followed the lines laid down in neoliberal critiques of welfarist and social approaches to government. Thus, the NTI approach to the government of Aboriginal communities can be understood, in part, as reflecting the neoliberal rationale for political rule. Yet, we should also understand the Coalition's critique of self-determination in terms of the debate about the effectiveness of different methods or techniques of governing Aboriginal subjects. More specifically, the critique of self-

319 Ibid., 96-97, 102-05.

determination should also be understood as a technical argument focusing on the value of incorporating Aboriginal cultural practices, including local forms of authority and power relations, into liberal policies and governmental practice.

Setting aside the explanations of the Intervention as colonial or neoliberal, the majority of critiques and analysis of the Intervention can also be viewed in similar terms—that is, as engaged in technical argument about the relative effectiveness of different strategies for Aboriginal government. These critiques of the NTI should be understood as technical and professional policy discourses about the strategies that commonwealth, state and non-governmental agencies, including Aboriginal agencies, have used in the past, and the success of these strategies in bringing about specific changes in the conduct or attitudes of Aboriginal individuals. The three main critiques were as follows: first, the claim that the policy was undemocratic because it ignored conventional parliamentary processes, involved little consultation with Aboriginal people and other stakeholders, and was implemented in a top down manner; second, that the policy was discriminatory because it overturned the Racial Discrimination Act and because it didn't meet the criteria for a 'special measure' as had been claimed by the Coalition Government; finally, the policy was poorly designed and government had ignored evidence about policy best practice.³²⁰ These criticisms certainly have a normative component; namely, the assertion that democratic process, human rights and individual autonomy are important qualities in Aboriginal Affairs policy. But they are also a technical argument about the significance of Aboriginal people's participation and consent in the development and execution of strategies for changing Aboriginal people's conduct and attitudes.

Ideas about the role of Aboriginal participation and autonomy are central to the technical debates over the NT Intervention. I have already noted that the self-determination policy paradigm had become increasingly challenged by proponents of a

³²⁰ A more detailed summary of these criticisms can be found in section 2.4 - 'An overview of the main criticisms of the NTI'. I haven't mentioned a fourth critique, relating to the dishonesty of Coalition politician's in their justifications for the NTI, as I consider this a political rather than a technical argument.

neoliberal policy paradigm. This recent critique of self-determination stems as much from a critique of the role and usefulness of culture in the development of effective government for Aboriginal people as it does from a neoliberal critique of 'welfarism' or social government.

Pat O'Malley's governmentality inspired analysis of the Western Australian Government's Marlba or 'elder brother' program can help me illustrate this disagreement over the necessity of incorporating Aboriginal cultural practices and authority structures into government policy. The Marlba program was established in 1990. It aimed to address petrol sniffing among the Ngaanyatjarra people. It was intended to provide a community owned alternative to the white justice and imprisonment system and proposed to train community members in the skills they would need to mentor and provide daily support to a petrol sniffer. The program sought to address a problem that was perceived to be poorly addressed through the criminal justice system, and to extend the self-determination of the Ngaanyatjarra people.³²¹

O'Malley's analysis of the Marlba program illustrates the complex process of 'translation' that needed to occur to make policies of self-determination work. These programs needed to selectively approve and incorporate those aspects of Aboriginal governance and cultural practice that could be seen to 'produce administratively desired effects' or, in other words, those aspects of community government that could be used to achieve the goals of liberal government. O'Malley explains that this process is selective because there are other aspects of Aboriginal government that need to be neutralised or suppressed because they might be hostile or incompatible with the project of liberal rule. O'Malley uses the word 'translation' to refer to the process by which program administrators construct an understanding of the Aboriginal governances which recognises the familiar aspects of Aboriginal governance and ignores those aspects which are incomprehensible or 'alien'.³²² The process of translation is, however, at least

321 Pat O'Malley, "Indigenous Governance," in *Governing Australia. Studies in Contemporary Rationalities of Government*, ed. Mitchell Dean and Barry Hindess (Cambridge: Cambridge University Press., 1998), 163-64.

322 Ibid., 162-63.

partly a reciprocal one because officials need to alter the program in order to make it acceptable to the Aboriginal community. In this sense, programs based on principles of self-determination both appropriated the 'useful' aspects of Aboriginal tradition or cultural life and made various concessions to Aboriginal practices or customs in order to ensure the program would be supported by members of Aboriginal communities.³²³

In the Marlba case, program administrators promoted what they saw as more rational options among the range of 'traditional' practices or attitudes that were relevant to the problem of petrol sniffing. The laissez-faire approach to child rearing among Ngaanyatjarra community members, where adults were loathe to interfere with the personal autonomy of Aboriginal children, could explain the apparent tolerance for petrol sniffing within the community. But this attitude was baffling to the DCS (WA Department of Community Services) and clearly not a useful aspect of culture because it could not help eliminate or reduce petrol sniffing behaviours.³²⁴ In contrast, the DCS was willing to uphold and make use of what they perceived as the traditional authority of men in the community. The approval of elders, especially male elders, was seen as one aspect of Aboriginal cultural practices that could be useful as it would make it possible to implement the program.³²⁵ O'Malley claims that there is also evidence of officials needing to make concessions that they hadn't expected. Negotiations between the DCS and community members revealed that the original DCS criteria for selection of mentors would not have worked in the Ngaanyatjarra context because it would put young male members of the community under the authority of a member of another family. The program therefore needed to be altered to reflect the familism of Ngaanyatjarra social practice and ensure that mentors and their mentees shared an appropriate kinship relationship.³²⁶

The NT Intervention represents a changing understanding of the necessity of this process of cultural translation. In the Marlba case, the program objective was to displace

323 Ibid., 166-69.

324 Ibid., 165-66.

325 Ibid., 166.

326 Ibid., 167-68.

state involvement and train members of the community to manage the problem of petrol sniffing in an autonomous manner. Community involvement and self-determination were seen as 'essential to the proper and effective governance of Aboriginal people'.³²⁷ In other words, the concessions that had to be made to garner community support and the adaptations to the original program design were accepted because program administrators accepted that these amendments were necessary if the program was to have a chance to effectively decrease incidences of petrol sniffing in the community.

In the case of the NT Intervention, however, the techniques of self-determination, and even the minimal involvement of Aboriginal people through community consultation, were understood as non-essential to the success of government in Aboriginal communities. This is demonstrated in the lack of consultation and the top down approach of the Intervention. The design of the NT Intervention suggests that Aboriginal decision making or administration of local development projects was seen not only as unnecessary but as an impediment to good outcomes in Aboriginal communities. Many of the measures in the NT Intervention undermined self-determination approaches to community governance and centralised decision making and program coordination.

The land use measures provide an example of the undermining of self-determination approaches. The NTER legislation amended the permit system for access to Aboriginal owned land and made it possible for the Australian Government to compulsorily acquire five year leases over Aboriginal owned land within Aboriginal townships.³²⁸ These leases were intended to secure the conditions necessary for other aspects of the NTER program, including refurbishments to housing, implementation of new property management arrangements, the creation of new safe houses, and the installation of new accommodation for GBMs.³²⁹ Being compulsory, the leases of Aboriginal land to the Australian Government certainly undermined Aboriginal decision-making. The

327 Ibid., 163-64.

328 Community Services and Indigenous Affairs Department of Families, "Appendix 1: Measures and Sub-Measures,"

http://www.nterreview.gov.au/docs/nter_review_submission/app1.htm.

329 Ibid. Parliament of Australia, "Parliamentary Debates, Hansard 7 August 2007," 13-14.

Aboriginal Land Rights (Northern Territory) Act of 1976 (ALRA) had made it possible for Land Councils and Aboriginal owners of land to issue and revoke permits for entry onto Aboriginal land. The new permit system arrangements, in contrast, allowed Minister Mal Brough to authorise access to Aboriginal communities for all government employees, contractors and volunteers involved in the implementation of the Intervention.³³⁰ The rights of Aboriginal owners, under the ALRA, to make decisions about the use of, and access to, Aboriginal land was seen as an impediment to the government plans for development in those communities.

The changes to community governance are another example of measures that imply that Aboriginal self-determination is an impediment to good policy outcomes. GBMs were appointed to prescribed communities in the Northern Territory to implement the NTER measures; by mid-2008 55 GBMs had been appointed to 72 communities.³³¹ A number of 'serious and important powers', as Minister Mal Brough described them, were introduced to support the work of GBMs.³³² These powers gave the Australian Government the authority to give directions to non-government organisations on how to carry out government-funded services, and how to use assets to provide those services; the authority to authorise a non-voting observer on the board of organisations carrying out community services; and the authority to place bodies in external administration if they failed to adequately provide government services.³³³ GBMs were charged, among other tasks, with 'supporting the implementation of the emergency response', '[a]dvising the Operational Centre on...revision of service delivery or replacement of service

330 Department of Families, "Appendix 1: Measures and Sub-Measures."

331 Ibid.

332 Parliament of Australia, "Parliamentary Debates, Hansard 7 August 2007," 15.

333 Community Services and Indigenous Affairs Department of Families, "Appendix 3: Roles of Government Business Managers and Community Employment Brokers," http://www.terreview.gov.au/docs/nter_review_submission/app3.htm; Parliament of Australia, "Parliamentary Debates, Hansard 7 August 2007," 15. As far as I can establish, these emergency powers have not been employed. Nonetheless, the mere existence of these powers position GBMs in a position of considerable authority and influence in Aboriginal communities. Community-based views on the impact of GBMs in Aboriginal communities can be found in submissions to the 2008 review of the NTI policy: Commonwealth of Australia, "Submissions," <http://www.terreview.gov.au/subs.htm>.

providers where current provision is not functional', and working with key stakeholders to implement transitions in local government arrangements. While the ability to 'communicate effectively and sensitively' with Aboriginal people was a required skill for GBMs, the GBM role was explicitly not a community development role.³³⁴ The job of GBMs was to coordinate centrally-determined policy goals and there was no indication in official documents that GBMs were expected to or had the authority to amend programs in ways which would enable Aboriginal self-determination or the 'translation' of Aboriginal culture into governmental objectives and strategies.

In this section I have sought to unpack the neoliberal aspects of the Northern Territory Intervention. I argued, first, that the rhetoric of the NTI—including the critique of land rights legislation, its administration through land councils, Aboriginal community government, self-determination, the CDEP program, and so on reflect that of the widespread neoliberal critique of welfarism and 'welfare dependency'. Second, I argued that the Coalition critique of self-determination should be understood as part of a reevaluation of techniques or strategies for developing and administering the objectives of governments in Aboriginal Affairs, and of self-determination in particular. The strategy of self-determination was based on an understanding that Aboriginal cultural traditions and practices could be selectively incorporated or *translated* into governmental programs, thereby serving broader government policy objectives. However, this form of reasoning was viewed with suspicion by designers of the NTI who saw Aboriginal self-determination as unnecessary for, or even an impediment to, the effective implementation of the Intervention. In the remaining section of this chapter I consider the authoritarian aspects of the Intervention from the perspective of the governmentality scholarship on authoritarian liberalism. In particular, I draw on my observations about the neoliberal political rationality and the new understanding of culture as an impediment to good government to argue that the NTI is inspired by a particular style of neoliberal governmentality that problematises many of the advances liberal technologies of government and, consequently, makes authoritarian forms of

334 Department of Families, "Appendix 3: Roles of Government Business Managers and Community Employment Brokers."

government appear particularly necessary.

5.3 Authoritarian governmentality and the neoliberal program in Aboriginal Affairs policy

In this final section of this chapter I draw on analyses from earlier sections to analyse the authoritarian aspects of the NTI policy. While there has been a long history of authoritarian governmentality in Australian Aboriginal Affairs policy, I argue in this section that the authoritarian aspects of the Northern Territory Intervention have their origins in the specific form of neoliberal governmentality outlined above. I argue, first, that the NTI is authoritarian because it seeks to neutralise the opposition of Aboriginal people and other stakeholders to the NTI reform agenda while also relying heavily on new welfare arrangements and a regime of penalties and fines to discipline Aboriginal people and ensure their obedience. Second, I argue that the rhetorical and technical aspects of recent neoliberal government, which position almost all previous approaches and strategies of Aboriginal governance as part of a failed 'welfarist' policy paradigm, contributed to the view that authoritarian government was necessary for the success of Aboriginal Affairs government. In particular, strategies of neoliberal and advanced liberal government—including strategies designed to produce neoliberal entrepreneurial subjects, and the strategy of replacing the 'social' relation of individuals to the state for a relationship between individuals and their self-governing communities—are classified as problematic. In this context, authoritarian measures formed part of a severely constrained arsenal of governmental techniques available to the Coalition and Labor governments.

Authoritarian aspects of the NT Intervention: Neutralising opposition and disciplining Aboriginal subjects

In Chapter Four I argued that the governmentality perspective can assist us in reconciling the apparent contradiction between liberalism as a doctrine of emancipation and individual liberty and liberalism as a form of imperial and coercive political

practices. Liberal governmentality is indeed concerned with freedom in the sense that individual freedom and autonomy is considered necessary for, first, the enforcement of proper limitations on the power of the state and, second, for the proper functioning of economic systems. However, as many scholars of governmentality have pointed out, individual liberties are actively produced by government, with government defined in its broader sense to include all systematic attempts to shape conduct, as well as practices of government developed within state agencies and institutions. This leads to a situation where coercive or authoritarian techniques of government are sometimes seen as necessary for the development of free or self-governing liberal subjects. Coercive and authoritarian techniques, from this perspective, are part of a wider range of governmental technologies employed for the production of liberal subjects and the production of free markets.³³⁵

Aboriginal people are the target of more intensive forms of government than many other populations in liberal societies and are also more likely to be governed using authoritarian or coercive techniques. The governmentality scholarship, along with much postcolonial writing, has documented the liberal tendency to differentiate between subjects with greater and lesser capacities for self-government in liberal economic society. The historicism of Western political thought tends to lead to conceptions of Aboriginal and other non-Western people as falling behind Western norms of economic and social development. People who are considered incapable of autonomously and successfully operating as part of liberal civil and economic society are more likely to be governed using authoritarian techniques which mandate, for example, training in proper attitudes or behaviours.³³⁶ Robert van Krieken illustrates this dynamic in the Australian context. Van Krieken posits that the liberal welfare state had a 'strongly normalising edge' which can, in the context of racial divisions, result in effects similar to that of authoritarian regimes. Van Krieken considers the assimilationist ethos of pre-1960s welfare liberalism and argues that liberals assumed that coercive, disciplinary strategies,

335 Dean, "Liberal Government and Authoritarianism," 38; Foucault, *The Birth of Biopolitics. Lectures at the College De France 1978-1979*, 63-68.

336 Hindess, "Not at Home in the Empire," 365-71; Hindess, "Liberalism: What's in a Name?," 28-31.

such as the remove of Indigenous children from their families, were necessary if Indigenous people were to effectively adopt the civilised forms of conduct recognised by authorities such as the state, Church, schools and welfare agencies. The rights and liberties of liberal citizenship are shared only to the degree that Aboriginal people are willing to assimilate and abandon their own cultural practices.³³⁷

While advanced liberal forms of political rationality have come to challenge the association between the welfare state and assimilation, the use of authoritarian techniques of government is still evident in contemporary Aboriginal Affairs governance. I will discuss the influence of advanced liberal forms of political reasoning on Aboriginal governance later in this section. First, I need to clarify my use of the word authoritarian to describe the NTI policies. Dean's discussion of authoritarian governmentality can help me to do this. As I mentioned briefly in Chapter One, Dean describes authoritarian governmentalities as forms of rule that 'seek to operate through obedient rather than free subjects, or, at a minimum, endeavour to neutralise any opposition to authority'.³³⁸ While Dean refers to authoritarian rule as 'non-liberal' forms of thought and practice, he also argues that the practices and rationalities of authoritarian government can exist within liberal rule. One way of conceptualising the range of non-liberal forms of political rationality is to differentiate between three types of authoritarian rule. These include, first, non-liberal forms of rule 'proper', or those types of authoritarian rule which reject the concept of limited government and the rule of law. Second, there are non-liberal forms of thought that 'will gain a certain legitimacy within liberal democracies'. I would include the translation of Aboriginal cultural practices through techniques of self-determination in this category. Finally, there are non-liberal practices that are a component of liberal forms of reasoning and are applied to those populations that, as I discussed above, are considered to be incapable or unwilling to be responsible and autonomous liberal citizens.³³⁹

337 Robert van Krieken, "Welfare, Civilization and Government: Liberalism between Assimilation and Cultural Genocide,"(2000), http://www.personal.usyd.edu.au/~robertvk/papers/welfare.htm#N_.

338 Dean, *Governmentality. Power and Rule in Modern Society. Second Edition*, 155.

339 Ibid., 158-59, 72-73.

I classify the Northern Territory Intervention as an illustration of this third category; namely, those authoritarian practices that exist within liberal rule. The NTI was sought to enforce obedience and neutralise opposition and can therefore be classified as authoritarian. The removal of the legal right to control access to, or even negotiate over the use of, Aboriginal land was one of the key measures of the Intervention. These measures exemplify the attempt to neutralise opposition. This is particularly evident when considered in conjunction with the changes to community governance, the appointment of GBMs, and within the context of inadequate political representation.³⁴⁰ The NTI also sought to ensure obedience among Aboriginal subjects in some of its short-term, disciplinary measures such as the Income Management Regime (IMR) and the regulations and prohibitions on alcohol and pornography in Aboriginal communities. These measures were designed to observe and direct behaviour, and curb irresponsible behaviours, in these communities.

A closer examination of the disciplinary IMR measure demonstrates the relationship between understandings about the capability of certain population groups and justifications for authoritarian government. Liberal MP David Fawcett argued that the IMR was a 'recognition that there is a small subset within our community who, for whatever reasons, have not developed the life skills, the motivation or the ability to manage their own circumstances and the circumstances of those whom they have responsibility for'.³⁴¹ His comments illustrate the connection between the perception that Aboriginal people—and other subjects of income management—fall below socially acceptable norms of behaviour and the justification of a high degree of regulation of individual behaviour. The income management regime diverted fifty per cent of regular fortnightly social security payments and one hundred per cent of all lump sum payments such as the Baby Bonus to a 'special IMR management account' for each individual

340 Political representation for Indigenous people was inadequate as the Aboriginal and Torres Strait Islander Commission, an elected representative body for Indigenous Australians, had been abolished in 2005 and replaced with a government-appointed board of advisers.

341 Parliament of Australia, "Parliamentary Debates, Hansard 7 August 2007," 111.

living in a prescribed Aboriginal community. It allowed government to direct Aboriginal individuals' expenditure including the type of items individuals could buy—for example, items such as food, beverages, clothing, household items, housing, and childcare—and where they could buy it. Funds in an individuals' IMR account could only be accessed through a special store value card that can be spent at designated shops.³⁴² This level of oversight and specification of individuals' expenditure was intended to improve health, encourage better food habits, and decrease the money available for the purchase of harmful substances such as alcohol.³⁴³

The challenge of producing 'real' economies and autonomous neoliberal subjects

Having described the NT Intervention as an example of authoritarian governmentality, I now move on to an analysis of the roots of these authoritarian techniques of government in neoliberal political rationality. I argue that these authoritarian strategies are understood as necessary because the possibility of using more facilitative strategies of government—that is, programs that rely on individuals' voluntary involvement—are limited by the particular assemblage of rhetoric and technical argument that has characterised recent neoliberal reasoning. This occurs in two ways. First, the neoliberal emphasis on markets and quasi-markets as a strategy for the production of free and autonomous neoliberal subjects poses particular challenges for government in remote Aboriginal communities. Second, the problematisation of previous approaches to government limited the more facilitative strategies of government available to policymakers.

As I mentioned above, the concept of a 'real' job was a central concept in the justification of the NTI and the problematisation of government policies such as CDEP. The availability of real employment was seen as a crucial prerequisite for the production of subjects who had the proper attitudes and capabilities for success in a mainstream

342 Human Rights and Equal Opportunities Commission (HREOC), "Social Justice Report 2007," 270.

343 Macklin, "Strengthening the Northern Territory Emergency Response."; Macklin, "Compulsory Income Management to Continue as Key Nter Measure.."

market economy.³⁴⁴ This productive conception of the market economy, where the market produces neoliberal citizens, is a hallmark of conservative varieties of neoliberal governmentalities. Whereas labour and social democratic political parties have typically understood the state to have an organising role in the establishment of competitive market systems, liberal parties have conceived of the market as an educative tool. Based on the idea that the market 'teaches the manner in which we should guide our own conduct, neoliberal governments have constructed quasi-markets to deliver services that were previously delivered by public agencies. For instance, the Coalition government in Australia replaced public job creation and employment services with a competitive market of private and community sector job placement enterprises in the mid-1990s. The ethos of these quasi-market based delivery of social services is that clients could learn the norms and values of the market—such as initiative, responsibility, and competitiveness—through their experience of choosing between a range of private service providers, and then apply these skills in real markets.³⁴⁵

The challenge for neoliberal government is to produce both 'real' economies and autonomous neoliberal citizens when, according to their analyses, both of these conditions are absent from Aboriginal communities. This is a considerable technical problem. In the employment agency example, job-seekers are either actively engaged with or at least in proximity to, real market systems and 'real' jobs. In that context, job-seekers learn through their interactions with various job agencies and services, and can practice the skills of liberal citizenship once they are employed. In remote Aboriginal communities, in contrast, there are few 'real' jobs in which Aboriginal people could exercise their freedom and learn the attitudes and behaviours of autonomous neoliberal citizens. Furthermore, Aboriginal people might be seen to lack the capacities required for any but the most basic of 'real' jobs even if such jobs were available in Aboriginal communities. In other words, the main obstacle to neoliberal government in Aboriginal communities is that the production of real economies and the production of the

344 See section 5.2 - 'Defining governmental failure: A governmentality analysis of the role of neoliberal government in the NTI'.

345 Dean, *Governmentality. Power and Rule in Modern Society. Second Edition*, 187-89.

autonomous neoliberal subject are interdependent processes. Neither process is sufficiently developed, according to neoliberal analyses, to properly support the development of the other.

While the strategy of fostering autonomy through the construction of quasi-markets appears to be a suitable strategy in these circumstances, the antipathy of neoliberals to the non-governmental bodies of the 'Aboriginal sector' makes this possibility less viable in the context of recent Aboriginal Affairs policy. The production of quasi-markets depends on the availability of private or community-based agencies present and willing to participate in a competitive scramble for clients. While there are many Aboriginal managed corporations throughout the Northern Territory it is unlikely that small communities of several hundred people could sustain several providers of the same or similar types of social services, especially where some communities have access to no providers of certain types of health, education, job-searching or other social services.³⁴⁶ Quite apart from the logistics of producing these sorts of quasi-markets, the recent problematisation of earlier forms of community government in Aboriginal communities suggests that lawmakers view the community agencies and incorporated bodies that emerged during the self-determination 'era' with suspicion. By this I mean that these agencies might be considered inappropriate exemplars of neoliberal norms and values and therefore unlikely to contribute to the proper training of Aboriginal individuals. With the neoliberal strategy of quasi-markets difficult to pursue in Aboriginal communities, policymakers have turned to other strategies for government, including authoritarian strategies.

Of course, the absence of conventional or mainstream forms of economy in Aboriginal communities and the difficulty of developing quasi-markets in these circumstances are not the only reasons for the adoption of authoritarian strategies of government. The second reason is that recent neoliberal reasoning in Australian Aboriginal Affairs governance has problematised many of the facilitative strategies of government that

346 For instance, Labor leader Kevin Rudd acknowledged the poor social services infrastructure in remote Aboriginal communities as part of his justification for the IMR. See: Parliament of Australia, "Parliamentary Debates, Hansard 7 August 2007," 107-08.

have typically been amenable to, or adapted to the purpose of, neoliberal conceptions of citizenship and economic development. An ideological perspective on the Intervention, such as that which I outlined earlier in this chapter, emphasises the Coalition Government as the turning point at which Aboriginal Affairs policy shifted from a self-determination paradigm to a neoliberal paradigm. However, this ideological analysis is incomplete and underplays the role of neoliberal and advanced liberal techniques and rationalities of government in the self-determination era. This is important because there are a range of relatively facilitative strategies—as opposed to primarily coercive ones—that could, hypothetically, be adapted to the purposes of neoliberal government but which are ruled out because of the association of rights-based policy approaches with welfarist forms of government.

The limitations of the ideological explanation of the NTI can be demonstrated through a discussion of the scholarship on advanced liberal government and the institutional framework and practices of liberal government in the post-assimilation era. This scholarship argues that a shift from assimilation to self-determination in Aboriginal Affairs policy started to occur in the 1960s and that this shift was part of the development of advanced liberal and neoliberal modes of rule in Australia.³⁴⁷ Tim Rowse, for instance, argues that the main feature of the 'era' of self-determination, the devolution of governmental functions from state to subsidised Indigenous associations, formed part of the 'degovernmentalization' of the state mentioned by Nikolas Rose in his conception of advanced liberal government. He argues that a shift has occurred in preferred conceptions of citizenship from a 'social' understanding of citizenship, which encourages Indigenous people to assimilate and identify with a sense of common Australian identity, to an advanced liberal or neoliberal conception of citizenship in which the primary relationship is between responsible Indigenous individuals and their

347 Tim Rowse, "Neo-Liberal/Advanced Liberal Tendencies in Contemporary Aboriginal Affairs," in *Culture and Citizenship Conference* (Australian Key Centre for Cultural and Media Policy, Griffith University, Brisbane, Australia 1996); van Krieken, "Welfare, Civilization and Government: Liberalism between Assimilation and Cultural Genocide."; Watson, "Liberalism and Advanced Liberalism in Australian Indigenous Affairs."

self-governing Indigenous communities.³⁴⁸ A plethora of Indigenous corporations and bodies have developed in past decades as part of this 'collectivizing' mode of government and this growth in the Aboriginal sector has been accompanied by an awareness of the importance of accountability—to other institutions of government and to Indigenous constituents—that is uniquely advanced liberal in form.³⁴⁹

The interpretation of self-determination as part of an advanced liberal ethos of government is extended by van Krieken. Van Krieken argues that the rhetoric of assimilation relied upon a 'mono-cultural, and unitary conception of citizenship and community' and that Aboriginal people were encouraged or coerced into acceptance of this conception of political society. The objective of this 'welfare state' liberalism was to construct equal individuals who were 'free of any other social bonds' and had a direct relationship with their nation-state. He contrasts this with the advanced liberal 'enabling state' which conceived of the assimilationist mono-culturalism of the welfare state as despotic and highly problematic. The enabling state can therefore be considered a critique of the welfare ethos, as it pertained to Aboriginal governance. The enabling state involved an understanding of culture as a form of social order that could mediate the relationship between the citizen and the state, and an understanding of 'social and cultural connectivity of individuals' as an important feature of political identity. Van Krieken acknowledges that the enabling state did not completely replace a welfare state ethos in the post 1960s era of policymaking. Rather, we can point to a tension in Aboriginal Affairs governance between competing conceptions of liberal citizenship and competing ethos of liberal government.³⁵⁰

These analyses of late twentieth century Aboriginal Affairs policy imply that self-determination, land rights and other rights-based strategies of government may not, as Coalition party MPs and other proponents of the NTI suggested, be strategies of the

348 Rowse uses the terms neoliberal and advanced liberalism interchangeably here so I have not tried to distinguish between these concepts.

349 Rowse, "Neo-Liberal/Advanced Liberal Tendencies in Contemporary Aboriginal Affairs."

350 van Krieken, "Welfare, Civilization and Government: Liberalism between Assimilation and Cultural Genocide."

welfare state. If there is no clear relationship between self-determination and welfarist forms of government then the recent problematisation of self-determination strategies makes less inherent sense as part of a neoliberal critique of the welfare state. In particular, the problematisation of Aboriginal culture, and in particular the argument that translation of Aboriginal practices, authority structures or views are an obstacle to good government in Aboriginal communities, is no longer concretely linked to the neoliberal critique of welfare governance. In other words, the technical arguments that have been made recently about Aboriginal culture and good government might be an impediment to the realisation of stated objectives of neoliberal governance. This inconsistency between objectives and technical perspectives of neoliberal policymakers suggests that the production of both functional economies and neoliberal citizens in Aboriginal communities requires different strategies than those being used or, perhaps, that the authoritarian strategies that have been adopted are insufficient for these purposes.

The adaptation and extension of the NT Intervention by the Labor Government can be interpreted as an attempt to find more effective strategies for the accomplishment of neoliberal goals and Aboriginal community development. The original NTER legislation was, as I mentioned above, focused on removing the institutional and legislative foundations of rights-based approaches to Aboriginal governance. However the removal of apparent obstacles to good government is not the same as the development of effective techniques for the realisation of neoliberal governmental objectives. Furthermore, the disciplinary aspects of the NTI, such as enforcing particular types of behaviour—for example, school attendance, lowering alcohol use, etc.—can effect short-term changes to behaviour but would be unlikely to reshape the identities or the capacities of Aboriginal subjects. In the wake of the 2008 NTER review, the Labor Government committed to a long-term development phase with the objective of promoting personal responsibility and rebuilding community norms.³⁵¹ The long term strategy for the NTI extended each of the major measures of the NTI—including programs of income management, housing, education, employment creation and so on

351 Macklin, "Compulsory Income Management to Continue as Key Nter Measure." In addition, see my summary of the Labor Government's NTI reforms in section 2.2 'Labor government reforms and the implementation of the NTI'.

—but allowed commonwealth departments some scope for adjusting the implementation of these programs on a community by community basis. Furthermore, the income management measure, which was extended to other 'dysfunctional families and communities' to bring the program in line with racial discrimination legislation, was amended to allow people to seek an exemption from income management by demonstrating that they were engaged in paid work, formal study or demonstrating 'responsible parenting'.³⁵² Each of these refinements could be considered a move away from the focus on removing obstacles to government in Aboriginal communities. However they are still chiefly disciplinary in form with greater autonomy only provided to those individuals and communities who can demonstrate their capability or their cooperation with the objectives of the Australian Government.

Overall the Labor Government was limited in its choice of strategies for government in Aboriginal communities by a similar understanding of the utility of culture in governing Aboriginal people as that held by Coalition party MPs. In Chapter Three I argued that the political discourse of the Labor Government revealed a tension between, on the one hand, a respect for Aboriginal cultures and a commitment to human rights and, on the other, a commitment to a version of the NTI that continued to exclude Aboriginal people from playing a substantive role in Aboriginal governance. I suggested that Labor parliamentarians believed there was a trade off between human rights and Aboriginal development and welfare.³⁵³ This perception likely originated in a view that the translation of Aboriginal cultural practices into governmental programs was an obstacle to good government. While Labor parliamentarians held more positive views of Aboriginal culture as an aspect of Aboriginal people's daily lives, they apparently felt that the incorporation of cultural practice into government programs was unnecessary. This is demonstrated by the attitude of the Labor Government toward consultation with Aboriginal communities. Numerous mentions of the commitment of the government to

352 Department of Families, "Policy Statement: Landmark Reform to the Welfare System, Reinstatement of the Racial Discrimination Act, and Strengthening of the Northern Territory Emergency Response ", 8-9.

353 See my discussion in section 3.3 'The Labor Government and the tension between human rights and community development'.

consultation with Aboriginal people can be found in public documents and consultation preceded the announcement of the *Landmark Reform* policy document in 2009.³⁵⁴ However, consultation on this policy was restricted to the discussion of small changes to the Intervention rather than the broader objectives or strategies of the Intervention.³⁵⁵ This supports my argument that Aboriginal involvement was seen as unnecessary for the development of effective programs.

The specific combination of neoliberal rhetoric and technical arguments about culture, as found in the Australian context, locks the Labor Government into an impoverished range of (mostly authoritarian) techniques for the government of Aboriginal people. The tensions in Aboriginal Affairs governance between welfarist and advanced liberal conceptions of citizenship have resulted in the development of a wide range of strategies for the government of Aboriginal people, including strategies of Aboriginal self-government and self-determination. Some of these strategies are advanced liberal and, and even neoliberal, in form but are understood as poor or ineffective government according to current neoliberal practices of government. For instance, consider the technologies of agency that have been employed by social democratic neoliberal governments to increase the capability of 'at risk' or targeted populations for active citizenship and individual autonomy. These often involve a combination of facilitative forms of government, such as techniques of self-esteem, empowerment and consultation—these are designed to assist individuals in taking control of their own risks or managing their own community organisations or social movements—and more coercive forms of government such as contracts or sanctions which require individuals to subject themselves to these facilitative techniques of government.³⁵⁶ The erroneous

354 For statements about the commitment to consultation see: Jenny Macklin, "Closing the Gap in the Northern Territory," http://www.jennymacklin.fahcsia.gov.au/mediareleases/2009/Pages/closing_gap_nt_12_may2009.aspx; Rudd, "Closing the Gap Report." For the Labor Government's summary of these consultations see: Department of Families, "Policy Statement: Landmark Reform to the Welfare System, Reinstatement of the Racial Discrimination Act, and Strengthening of the Northern Territory Emergency Response".

355 Nicholson et al., "Will They Be Heard? A Response to the NTER Consultations June to August 2009," 4-5.

356 Dean, *Governmentality. Power and Rule in Modern Society. Second Edition*. See

understanding of self-determination and self-government techniques in Aboriginal governance as a flawed remnant of the welfare state could result in policymakers ruling out technologies of agency and citizenship as strategies for producing entrepreneurial and autonomous neoliberal citizens.

In this section I have argued that the conceptualisation of most aspects of community governance as part of a problematic self-determination approach resulted in a hollowing out of the Australian Government's capacity to pursue its objectives in remote NT Aboriginal communities. Liberal government has a tendency to govern using authoritarian techniques where populations are understood to lack capacity for self-discipline and self-government. The first part of this section demonstrates that this dynamic holds in relation to the government of Aboriginal people in the NT Intervention. The Intervention is a form of authoritarian government because it seeks to neutralise opposition to authority, through the development of new community governance and land use legislation, and to operate through obedient subjects—such as those subject to income management and other forms of disciplinary oversight—rather than active, self-governing subjects. The second part of this section looked at the neoliberal context of these authoritarian forms of government, particularly in light of the commitment of conservative neoliberals to the market as the most effective mechanism for training individuals in the skills of liberal citizenship. I argued that the goals of neoliberal government are difficult to accomplish in Aboriginal communities because of the apparent absence of viable market systems and the difficulty of implementing quasi-market programs for the delivery of social services. The perception that self-determination approaches are a form of welfarism, and that the translation of culture into government programs is either unnecessary or problematic, also poses a challenge for Aboriginal governance. In particular, the Labor Government's subscription to this view is limiting because it may otherwise been able to employ the mix of coercive and facilitative techniques of government that have typically been developed by social democratic government.

also: Barbara Cruikshank, "Revolutions Within: Self-Government and Self-Esteem " in *Foucault and Political Reason*, ed. Andrew Barry, Thomas Osborne, and Nikolas Rose (Chicago: University of Chicago Press, 1996).

5.4 Conclusions

In this chapter I have developed an understanding of the neoliberal character of the Intervention and, drawing on the concepts of neoliberal and authoritarian governmentality, highlighted the relationship between the coercive and liberal aspects of the Intervention. Previous accounts of the NTI had claimed that the NTI was a product of neoliberal political ideology and my analysis in this chapter supports and strengthens this claim. Crucial to the ideological explanation of the NTI is the idea that the Coalition Government subscribed to a radical form of neoliberalism that led to major reforms of Aboriginal Affairs policy with the objective of 'normalising' Aboriginal people and their economic and social systems. The coercive aspects of the NTI, in this context, could be understood as part of the forced transformation of the Aboriginal Affairs policy paradigm from one of self-determination and Aboriginal rights, associated with a Keynesian welfare state, to a neoliberal economic development paradigm. Coalition Government politicians, while not understanding the NTI in neoliberal terms, nonetheless understood the NTI in terms of a major shift in the policy paradigm and as a reform of highly problematic welfare state policies. In other words, both proponents and critics of the Intervention understood the policy in ideological terms; the shift in policy paradigm was linked to a broader reconceptualisation of the role of the state from welfare state to neoliberal state.

Previous research in the governmentality scholarship has emphasised the development, since the earlier part of the twentieth century, of various forms of advanced liberal governmentality—including various forms of neoliberalism—that have problematised and sought to replace more welfarist forms of political reasoning. On one level, this account of twentieth century politics is not unlike that presented in the ideological explanation of the NTI. Where the ideological explanation correlates new policy paradigms with shifts in ideology, the governmentality literature suggests that new strategies and technologies of government are produced in association with the development of new rationales for contemporary rule and new conceptions of the

capable liberal individual. I demonstrate a number of parallels between the concept of neoliberal governmentality and the circumstances of the NTI. On another level, the concept of governmentality can be used to illustrate an element of the NTI case study that is obscured by the ideological explanation for the Intervention. This is the role that technical arguments about 'what works' in Aboriginal governance structures and limits the form that policy takes, and the way that these types of arguments are related to broader practices of political reasoning. I argue that the recent critique of self-determination is part of a technical argument about, and reevaluation of, the value of incorporating and translating Aboriginal cultural practices into liberal governmental practice. While this technical argument about the failure of self-determination has typically been rolled into the broader critique of the welfare state, they are nonetheless two distinct criticisms and not automatically aligned.

I concluded this chapter by relating my analysis of the neoliberal politics of the NTI to the conditions that favoured authoritarian government of Aboriginal people. Many other forms of liberal governmentality, including welfare liberalism and advanced liberalism, have previously been associated with the authoritarian government of Aboriginal people; the understanding of Aboriginal people as incapable of liberal ways of living is a crucial aspect of liberal justifications of authoritarian government. In the context of the NTI, this understanding of Aboriginal people is constructed in two ways. First, conservative neoliberals assume that the production of capable citizens is dependent upon the presence of 'real' economies. The apparent absence of real economies, and the difficulty of producing functional quasi-markets in small and remote communities, lead to the conclusion that inhabitants of Aboriginal communities are incapable of proper forms of economic and political engagement. Consequently, there is little perceived value in incorporating their perspectives and preferences into policy programs. Second, the technical argument about the failure of self-determination reinforces the perception that Aboriginal participation and consent are unnecessary or an obstacle to good government. Arguably, this conception of effective government limits the strategies of government available to Australian governments, especially those available to social democratic neoliberals within the Labor party, and increases dependence on coercive rather than facilitative strategies for pursuing governmental objectives.

Chapter Six: The Compatibility of Settler Colonial and Liberal Politics

In this chapter I build on my earlier analyses to generate a better understanding of the relationship between settler colonial and liberal politics. In previous chapters I developed an understanding of the Northern Territory Intervention policy which acknowledged the role that settler colonial and neoliberal politics have played in the production of justifications for the authoritarian character of the Intervention. I argued that the view of Aboriginal people as dysfunctional, and therefore incapable of self-discipline and self-government, played an important role in the justification for authoritarian and coercive policies in remote Northern Territory communities. Here in Chapter Six, I argue that the liberal tendency to authoritarian government is exacerbated within a settler colonial context. Furthermore, liberal and settler colonial forms of political reasoning can reinforce one another and prevent adequate critique of the coercive and authoritarian elements of a settler-liberal politics.

This chapter has three parts. In the first section I situate the findings of my earlier analyses within the scholarship on settler colonialism and liberal government. I argue that my evidence on the NTI case study suggests that the settler colonial mentality provides a simple mechanism for the identification of Aboriginal people as 'problem populations' and the appropriate target of Interventionist government. In the second section of this chapter I explore the motivation for the development of settler colonial discourses, and for the incorporation of such discourses into contemporary liberal politics. In the case of the NTI, settler colonial discourses were employed by proponents of the Intervention to emphasise the failures of past forms of interventionist government, to strengthen the perception that the policy field was experiencing a crisis, and to develop a neoliberal inspired consensus on the source of the problems in Aboriginal communities. In section three I argue that it is these situations, where settler colonial and liberal forms of government reinforce one another, which present the greatest challenge to emancipatory views of liberal politics, and to hopes for a decolonised Australian society.

6.1 Settler colonialism and the identification of 'problem populations'

So far, I have employed two major analytical frameworks—settler colonialism and liberal governmentality—to develop a better understanding of the relation, first, between colonial and authoritarian politics and, secondly, between liberal and authoritarian government. I introduced the concept of liberal governmentality because, as I argued in Chapter Four, the concept of settler colonialism was inadequate to the task of exploring the role of liberal politics in the Northern Territory Intervention. While suitable for the analytical objectives of the earlier chapters, neither the settler colonial or governmentality scholarship develop a detailed conception of the nature of the relationship between liberal and settler colonial politics. In this section I draw on both these literatures to speculate on the mechanism by which settler colonial discourses are produced in liberal contexts and incorporated into liberal practices of government. I argue that the liberal tendency for the authoritarian government of 'problem populations' opens up a conceptual space for the incorporation of settler colonial dichotomies into liberal rationales for government. Settler colonial discourses which characterise settler society as civilised, functional and liberal, and Aboriginal peoples as uncivilised, dysfunctional and illiberal, can therefore become part of liberal rationales for authoritarian government. Before getting into the detail of this argument, however, it is necessary to present a summary of relevant material from the settler colonial scholarship. I draw upon my earlier analysis of the NTI to illustrate key points.

Whereas other forms of colonialism have focused on the exploitation of colonised peoples for the purposes of labour extraction or military or trade advantages, the objective of settler colonialism is to acquire land for permanent settlers and establish settler governments and sovereignties.³⁵⁷ The removal of Aboriginal people from their

357 Carole Pateman, "The Settler Contract," in *The Contract and Domination*, ed. Carole Pateman and Charles Mills (Cambridge: Polity Press, 2007), 38. See also: Barbara Arneil, *John Locke and America: The Defence of English Colonialism* (Broadbridge: Clarendon Press, 1996); Bell, "John Stuart Mill on Colonies."

land—through genocide, physical displacement to less valuable land, or assimilation into the wider society—is an important element of the establishment and continued operation of settler societies.³⁵⁸ Earlier in this dissertation I posited that it is feasible, in light of the development of liberalism in imperial and colonial political contexts, that the NTI has its roots in a combination of liberal and settler colonial politics. The lack of engagement with the liberal character of many settler societies is, as I pointed out in Chapter Four, a notable characteristic of settler colonial scholarship.³⁵⁹ This lack of engagement may be the result of a disciplinary blind-spot; the subjects of political ideology and political systems are, in the main, the focus of political science scholarship, whereas scholars of settler colonialism typically have academic backgrounds in history, sociology, or anthropology. But it is important that this blind-spot is addressed. If discourse is, as Patrick Wolfe has claimed, constitutive of colonialism, then liberal discourses about Aboriginal people are likely a significant aspect of, and contributor to, contemporary settler colonial ideologies.³⁶⁰

I will elaborate here on the idea of settler colonial discourse as it has significance for my argument later in this section. The settler colonial scholarship highlights the centrality of colonial discourse to current attempts to assimilate Aboriginal people, to the failures of reconciliation politics, and to the legitimization of settler nationalisms.³⁶¹ Wolfe argues that ideology and discourse is particularly important in settler colonial contexts because it is the main strategy Aboriginal people have for resisting assimilation in a situation where their presence is economically unnecessary. This can be difficult because the hegemonic processes of colonial settlement are produced and reproduced through discursive practices. For example, expert forms of knowledge about Aboriginal people are created by anthropologists, biologists, archaeologists, historians and criminologists

358 A more detailed summary of settler colonialism in the Australian context is presented in section 3.1 'The concept of settler colonialism'. See also, Veracini, *Settler Colonialism. A Theoretical Overview*.

359 For example, Australia, the United States, Canada, New Zealand, and Israel are all settler societies with liberal democratic political systems.

360 Wolfe, *Settler Colonialism and the Transformation of Anthropology*, 3-4.

361 For instance see: Anthony Moran, "White Australia, Settler Nationalism and Aboriginal Assimilation," *Australian Journal of Politics & History* 51, no. 2 (2005); Pearson, *The Politics of Ethnicity in Settler Societies : States of Unease*, 12.

in ways which drown out Aboriginal people's attempts to create knowledge about themselves. Expert forms of knowledge can also be used selectively to rationalise and legitimise official policies for dealing with the 'Aboriginal problem'; namely, the problem of the continued existence of Aboriginal people and the challenge Aboriginal peoples' existence poses to settler sovereignty over Aboriginal land.³⁶² The relationship between 'Western' forms of knowledge of colonised peoples and colonial forms of power is, of course, a familiar theme in postcolonial scholarship and Aboriginal political critique.³⁶³

Colonial discourses rely on simplistic dichotomies that emphasise the differences between settler and Aboriginal peoples.³⁶⁴ This dichotomy may be drawn along cultural, racial, evolutionary, or developmental lines, but in each case the backwardness of Aboriginal peoples—including their culture, political views and ways of life—and the superiority of settler society is the key theme.³⁶⁵ As I demonstrated in my analyses of the Northern Territory Intervention, this dichotomy is central to those political discourses seeking to justify the necessity of the NTI policy. While there were differences in the political rhetoric of the Coalition and Labor governments, both governments developed a conception of Aboriginality that understood Aboriginal cultural practices as backward in comparison with 'mainstream' settler society, and Aboriginal communities as dysfunctional and unsafe places for children. This included the adoption of a narrow definition of community development which required Aboriginal people to adopt settler ways of life and transform their communities in accordance with principles of the market economy.³⁶⁶

362 Wolfe, *Settler Colonialism and the Transformation of Anthropology*, 2-4.

363 See, for instance Ian Anderson, "Introduction: The Aboriginal Critique of Colonial Knowing," in *Blacklines: Contemporary Critical Writing by Indigenous Australians*, ed. Ian Anderson and Michelle Grossman (Melbourne: Melbourne University Publishing, 2003), 22-23; Bain Attwood, "Introduction," in *Power, Knowledge and Aborigines*, ed. Bain Attwood and John Arnold (Bundoora: La Trobe University Press and National Centre for Australian Studies, Monash University, 1992), i-iii.

364 See Lynette Russell, "Introduction," in *Boundary Writing: An Exploration of Race, Culture, and Gender Binaries in Contemporary Australia*, ed. Lynette Russell (Honolulu: University of Hawaii Press, 2006), 2.

365 See section 3.1 'The concept of settler colonialism'.

366 See my analysis in section 3.2 'Colonial representations of Indigenous people by the

While some scholars have described settler colonialism as a 'ghostly aftermath' that continues to affect the landscape, culture, educational, and political systems of settler colonies, most scholars in this field argue that settler colonial politics is a contemporary and adaptive form of politics that continues to play a significant role—or even the predominant role—in our present politics.³⁶⁷ Michelle Grossman, for instance, argues that colonial structures have never been dismantled in settler colonial states.

Furthermore, she argues that colonial 'ways of knowing' are actively reproduced in our present day politics, and are not just 'historical artifacts that...linger in contemporary discourse'.³⁶⁸ This is an important point because it suggests that the key to the mutable, yet impregnable, character of settler colonial politics lies in the continued significance, and usefulness, of colonialist discourses and forms of knowledge for broader political agendas or political goals. I suspect that a clear understanding of the specific role that settler colonial discourse plays in wider political objectives is something that should be determined on a case by case basis. I return to this subject in the following section in relation to the case of the NTI. First, however, I want to consider the mechanism by which settler colonial discourses are incorporated into liberal politics.

The conception of liberal politics developed in the governmentality scholarship can be used to provide some insight into this mechanism. This is because the productive view of government developed in the governmentality scholarship can help resolve the apparent contradiction between, on the one hand, the liberal concern with freedom and limited government and, on the other, the liberal justification for imperial, colonial and authoritarian forms of government. This view of liberalism acknowledges the role of government—where government is defined broadly to incorporate all systematic

Coalition Government' and section 3.3 'The Labor Government and the tension between human rights and community development'.

367 For the idea of the 'ghostly aftermath' see Elkins and Pedersen, "Settler Colonialism: A Concept and Its Uses," 16.

368 Michelle Grossman, "Introduction. After Aboriginalism: Power, Knowledge and Indigenous Australian Critical Writing," in *Blacklines: Contemporary Critical Writing by Indigenous Australians*, ed. Ian Anderson and Michelle Grossman (Melbourne: Melbourne University Publishing, 2003), 23-24.

attempts to shape the conduct of individuals—in actively producing the conditions of economic and political freedom. These conditions can be social, economic and political conditions, such as laws about consumer or property rights, or freedom of expression, but they can also involve strategies that are designed to develop or increase individuals' capacity for freedom, self-discipline, and autonomy.³⁶⁹ Liberalism 'contains the possibility of *illiberal* practices and rationalities of government' because, while it seeks to 'work through the capacities and freedom of judicial, political and economic subjects', it must also intervene to produce these capacities where they are known to be absent.³⁷⁰ In this context, liberal justifications for authoritarian government are related to judgements about the capability of liberal subjects. Furthermore, as I argued in Chapter Four, the authoritarian government of Aboriginal people is often dependent upon representations of Aboriginal people as incapable of the self-government and self-discipline expected of liberal subjects.

Settler colonial discourses are incorporated into, and produced within, liberal politics as part of the process of making judgements about the capabilities of Aboriginal people. Liberal government engages with a wide range of specialist social, economic and political forms of knowledge as part of the process of defining which subjects should be understood as capable of self-regulation, and in what circumstances. These forms of knowledge include social economy, policy science, statistics, welfare economics, feminism, theories of management and a multitude of other interpretive disciplines and critical discourses that seek to describe and understand the objects of government.³⁷¹ Colonial discourses—especially those which emphasise the dysfunctional character of Aboriginal culture or customary practices—are taken up in broader debates about the essential nature and likely behaviour of Aboriginal people in various circumstances. They can therefore contribute to an understanding of Aboriginal people as problematic and insufficient liberal subjects. 'Bad' or 'risky subjects' —which include not just Aboriginal people but often unemployed people, the urban poor, migrants, some ethnic

369 See section 4.2 'Governmentality and the production of liberal politics' for a more detailed introduction to the concept of governmentality.

370 Dean, *Governmentality. Power and Rule in Modern Society. Second Edition*, 257.

371 *Ibid.*, 65.

minority groups, and criminals as well—become the target of 'increased surveillance and disciplinary normalization'.³⁷² Colonial discourses result in the definition of Aboriginal people according to what they lack, and emphasise the apparent differences between Aboriginal subjects and whatever conception, or conceptions, of the good liberal subject may be in vogue at a particular time.

The pervasiveness of settler colonial conceptions of Aboriginality normalises a view of Aboriginal culture as not only dysfunctional, but also a rejection of modern or liberal society. The extra surveillance of Aboriginal people has been noted in the governmentality scholarship. In her analysis of the *Aboriginal Councils and Associations (ACA) Act 1976*, Virginia Watson observed the increasing governmental scrutiny of Aboriginal corporations formed under the conditions of the ACA Act. This included the reform of the Act to ensure greater accountability of Aboriginal corporations to external bodies and enforce more complex and time consuming financial reporting requirements. These amendments made the Act more onerous in requirements than the Corporations Act which outlines reporting requirements for small businesses. Watson argued, correctly in my view, that the requirements of the ACA Act stem from a doubt about the capacity of Indigenous people to govern themselves and pointed out that this capacity is 'presumed for those subjects populating nonindigenous [sic] corporations'.³⁷³ Aboriginal people can be viewed not just as incapable subjects but as potentially subversive ones as well. While some aspects of Aboriginal culture can, as I mentioned earlier, be translated into liberal government programs, policymakers also guard against the appropriation of government resources or programs for objectives that that are incompatible with either policymakers' original intent or with liberal projects of reform.³⁷⁴

372 Hindess, "Liberalism: What's in a Name?," 28; Holmer Nadesan, *Governmentality, Biopower, and Everyday Life*, 213.

373 Watson, "Liberalism and Advanced Liberalism in Australian Indigenous Affairs," 593-94.

374 O'Malley, "Indigenous Governance," 163-69. Also, see my earlier discussion of the translation of Aboriginal cultural practices into liberal programs of government in section 5.2 'Defining governmental failure: A governmentality analysis of the role of neoliberal government in the NTI'.

The relationship between Aboriginal people and settler colonial populations 'poses very specific problems for liberal political thought and practice'.³⁷⁵ In this section I have drawn on the insights of both settler colonial and governmentality scholarship to better articulate the relationship between settler colonial and liberal politics. I argued that the concept of governmentality allows us to envision a conceptual space within liberal government where various forms of knowledge about Aboriginal people, including settler colonial discourses, are incorporated into the process of reasoning about, and rationalising, particular governmental practices. The ubiquity of settler colonial conceptions of Aboriginal people make the colonial effects of these discourses on Aboriginal people's lives invisible to many liberal actors. However, this doesn't mean that liberals don't purposefully and strategically engage with such discourses as a means of strengthening and normalising particular conceptions of liberal citizenship and good government. In the next section of this chapter I develop an understanding of the role that settler colonial discourses played in the rationalisation of wider neoliberal political objectives.

6.2 The utility of settler colonial discourses for neoliberal government

In the first section of this chapter I argued that settler colonial discourses are incorporated in liberal government as part of judgements about Aboriginal people's capability for autonomous self-government. I suggested, however, that settler colonial discourses are only incorporated into liberal government because they play a useful role within broader political agendas. In other words, settler colonial discourses are actively produced and reproduced in contemporary political discourse and are not simply an invisible or poorly suppressed remnant of an earlier colonial period. In this section I provide evidence for this latter point. I develop an interpretation of the NTI case study which emphasises the utility of recent settler colonial discourses to the establishment of a neoliberal conception of economic development. In particular, I argue that settler

375 van Krieken, "Welfare, Civilization and Government: Liberalism between Assimilation and Cultural Genocide."

colonial discourses are used to reinforce the neoliberal argument about the failures of welfarist liberalism. These discourses are incorporated into a crisis master frame which leads to the development of a new 'common sense' about the origins of the problems in Aboriginal communities and which suppress alternate perspectives on development in Aboriginal communities. This section has two parts. In the first part I summarise uses of the concept of 'crisis' in the scholarship on governmentality and characterise crisis frameworks as part of a broader process of liberal reflection and reform of government. In the second part of this section I consider how my analyses of neoliberal governmentality and settler colonial discourse can contribute to an understanding of the NTI as a crisis of governmentality.

Crises of governmentality

Later in this section I argue that settler colonial discourses were useful in the NTI because discourses of Aboriginal cultural failure and dysfunction appeared to confirm the neoliberal argument about the failure of welfare state governance in remote Northern Territory Aboriginal communities. I posit that this argument was strengthened through the production of a 'crisis' master frame. This master frame encompassed the colonial discourses of the Coalition and Labor governments, and redefined common understandings of the problems within the Aboriginal Affairs policy field. Before making this argument, however, I wish to discuss the concept of crisis in a little more detail. I argue that crises of liberal government are examples of liberalism's self-limiting character. Later in this chapter I return to this subject to discuss the difficulty of fostering postcolonial forms of politics within the liberal context.

In his lecture series *The Birth of Biopolitics* Foucault remarks that the liberal art of government appears to be subject to crises of governmentality.³⁷⁶ As I mentioned earlier, Foucault conceived of liberalism as a process of reasoning about and justifying government. Specifically, he understood liberalism as a form of governmentality which

³⁷⁶ Foucault, *The Birth of Biopolitics. Lectures at the College De France 1978-1979*, 68-69.

accepts that there must be limitations on government, and which seeks to determine the appropriate form of these limitations. The limitation of government relies on the knowledge that is produced about the nature of the objects of government, and about how these objects respond to particular strategies of government intervention. Liberalism is an imperfectible and heterogeneous project which is characterised by an ongoing questioning of governmental objectives as part of the development of principles of self-limitation. It builds on a history of tensions, frictions, and successful and failed adjustments to earlier attempts at intervention.³⁷⁷ In recent decades, this tendency to self-limitation and critique has developed into a form of 'reflexive government'. This involves government turning its gaze back on itself in order to render 'governmental institutions and mechanisms...efficient, transparent and democratic'. This has involved a renewed emphasis on technologies of performance such as 'the various forms of auditing and the financial instruments of accounting'.³⁷⁸

Crises of liberal government occur when liberal political and economic interventions, originally designed to secure freedom against various external and internal threats, come to be understood as a threat to freedom instead. For instance, Foucault characterises Keynesian forms of economic intervention as a form of economic intervention that evolved in the context of the threat that socialism and fascism posed to liberal freedoms. Specifically, these forms of government saw the expansion of welfare policies in both the United States and Britain from the 1930s and sought to allay the threat posed, in the context of widespread unemployment and political unrest, by home grown forms of socialism or fascism. A later crisis of liberal government, namely neoliberal government, problematised Keynesian forms of government because of concerns with, first, the potential of welfare state despotism and, second, the economic cost of the

377 Ibid., 21-22.

378 Dean, *Governmentality. Power and Rule in Modern Society. Second Edition*, 223. The concept of reflexive government builds on the sociological concept of reflexive modernity. This concept suggests that we are now experiencing a second era of modernisation which builds on and transforms the industrial society built in the early modern period. See Ulrich. Beck, Anthony. Giddens, and Scott. Lash, *Reflexive Modernization: Politics, Tradition and Aesthetics in the Modern Social Order* (Palo Alto: Stanford University Press, 1994), 2-8.

welfare state government.³⁷⁹

The attempt to establish appropriate limitations on liberal government is a constant process of evaluating and reevaluating the grounds on which government intervention is justified. Beyond the neoliberal crises of government identified by Foucault—a crisis which, as I show below in relation to the NTI case study, is still a relevant component of liberal political debate—are other crises of liberal government. According to Dean, for example, there have been two crises of contemporary liberal or neoliberal governmentality since the dawn of the twenty first century. At the beginning of the decade was a crisis initiated by the destruction of the World Trade Center in September 2001. This, Dean argues, resulted in a considerable shift in our understanding of risk, security, and war, and had 'profound consequences for how we practise our freedom'. The second crisis occurred in the aftermath of the 2008 Global Financial Crisis. This crisis involved the problematisation of neoliberal forms of financial regulation and has consequences for our perception of financial security and the role of state regulation and oversight of financial markets.³⁸⁰ With the benefit of hindsight, I would suggest that this second crisis was stillborn, and had relatively little impact on domestic or international financial systems. The relevant point here, however, is that liberalism is prone to crises of government. Specifically, the practice of liberal government is characterised by the difficulty of balancing the dependence of liberal forms of government on economic liberty, with the necessity of government intervention designed to produce free subjects and to secure the welfare of those subjects so they can act autonomously within a free society.³⁸¹

The view of government as prone to crises is useful because it allows us to conceptualise those circumstances in which understandings of the priorities, purpose

379 Foucault, *The Birth of Biopolitics. Lectures at the College De France 1978-1979*, 67-70, 192-97. See section 4.3 'Governmentality as an analytical framework' for my summary of Foucault's ideas about neoliberal governmentality.

380 Dean, *Governmentality. Power and Rule in Modern Society. Second Edition*, 264-65.

381 Foucault, *The Birth of Biopolitics. Lectures at the College De France 1978-1979*, 68-69.

and objectives of government are reconstituted and transformed. Extrapolating from the examples provided by Foucault and Dean, I suggest that we can conceive of crises in liberal government as those circumstances in which new conceptions of common sense are formed around particular aspects of liberal government. We can differentiate these crises in governmentality from the usual ideological back and forth of liberal politics. An ideological conception of politics focuses on how two or more relatively coherent sets of ideas about the objectives, understandings and strategies of government—often simplistically reduced in public discourse to a conception of 'left' and 'right' forms of politics—compete in an open market of ideas for influence. Crises of government may have their roots in this ideological warfare, but it seems to me that they are only truly crises when a particular way of conceptualising the problems of government becomes widely accepted and there is widespread consensus that 'something must be done' to address the problem. Another feature of a crisis of government is the exclusion of alternative understandings of the problematised aspect of government because alternative views are considered outside the realm of common knowledge about a situation. In this context, resistance is likely to be understood as self serving, irrational, or impractically idealistic.

A crisis of governmentality: Settler colonial discourse and the failures of the welfare state

In the remainder of this section I argue that the NTI should be interpreted as part of a crisis in governmentality. I argue that the neoliberal politics of the NTI contributed to a perception of crisis in Aboriginal government, particularly in relation to the intractability of many social and economic problems in remote Aboriginal communities. As I explained in the previous chapter, the conception of the problems in Aboriginal communities was dependent on an erroneous perception of past policy strategies. It was nonetheless crucial to the reevaluation and reform of Aboriginal Affairs policy. My interpretation of the NTI as part of a crisis of liberal government contributes to a better understanding of the relationship between settler colonialism and liberal government by demonstrating the integral role of settler colonial discourse in attempts to redefine liberal politics. The dichotomous perception of Aboriginal and settler ways of life, and

the perception of Aboriginal cultural backwardness, were employed by proponents of the Intervention to emphasise the failures of past forms of interventionist government and, therefore, to strengthen the perception that the policy field was experiencing a crisis.

As I mentioned earlier in this dissertation, the state of child welfare and the problems of child abuse and neglect in remote Aboriginal communities were frequently described in terms of a 'crisis' during the early days of the Intervention. This included Prime Minister Howard's description of the situation in the NT as a crisis and a national emergency in the announcement of the Intervention in June 2007.³⁸² Public policy scholarship has identified a phenomenon known as 'crisis exploitation' wherein political actors, though not necessarily politicians, utilise 'crisis-type rhetoric' in order to alter policy and public opinion. The process of crisis exploitation involves the management of perceptions about a situation; this includes the process of folding a range of ambiguous or contradictory definitions of a situation into a 'master frame' that will be widely accepted or appealing. It also involves a process which delegitimises those people, structures, and institutions who are understood to be responsible for the crisis, and legitimises the political reforms that are proffered as solutions to the crisis.³⁸³

The NTI is an example of not just 'crisis exploitation' but also a crisis of governmentality. The original process of crisis exploitation, in which the Coalition parties built on the 'master frame' originally proffered by free market and conservative ideologues, evolved into a new common sense about the origin of the problems in Aboriginal communities. The persuasiveness of this particular master frame depended upon its incorporation of two familiar political narratives. The first of these was the well worn neoliberal narrative about the pitfalls and failures of the welfare state. In Chapter Five I demonstrated that proponents of the Intervention consistently evoked this narrative about the failures of the welfare state in their criticism of Aboriginal Affairs policy. Indeed, a wide range of policies and legislation in the Aboriginal Affairs policy

382 Howard and Brough, "Joint Press Conference with the Hon Mal Brough."

383 t' Hart, "The Limits of Crisis Exploitation," 163-64.

field, including land rights legislation, the administration of land by Land Councils, legislation for various forms of Aboriginal community government or self-determination, and the Community Development Employment Projects (CDEP) schemes, were characterised as part of the problematic remnants of the welfare state era of policy making.³⁸⁴ Neoliberal ideas about the productive role of market economies and the problems of the welfare state appear to have played an important role in the development of a new understanding of past Aboriginal Affairs policy and the causes of child abuse and neglect in Aboriginal communities.

The second reason for the persuasiveness of this master frame—and the reason most applicable to my argument about the strategic incorporation of settler colonial discourse into liberal government—was the incorporation of the ubiquitous understanding of Aboriginal people as dysfunctional. As I mentioned earlier in this dissertation, settler colonial discourses have been used to legitimise a wide-range of policies throughout Australia's post-settlement history. The knowledge produced about Aboriginal people has shifted many times and includes earlier racial conceptions of Aboriginal people as a doomed remnant of humanity's evolutionary history and more recent attempts to understand—using the sciences of demography, epidemiology, anthropology, criminology, and so on—the role that Aboriginal cultural identification and heritage plays in individuals' risk of experiencing economic, educational, legal, and health problems. While the specific content of knowledge about Aboriginal people varies enormously, settler colonial discourses of Aboriginal cultural and community dysfunction have been essential to political arguments and rhetoric about the necessity of developing, coercively if not by other means, viable liberal economies and social systems within remote Aboriginal communities. The dichotomy between a progressive settler society and backward Aboriginal societies, which is the most consistent element of the settler colonial mentality, is a form of justification for colonial rule and one which is familiar to Australians of all backgrounds.³⁸⁵

384 See my discussion of these arguments in section 5.2 'Defining governmental failure: A governmentality analysis of the role of neoliberal government in the NTI'.

385 The concept of settler colonialism is introduced in some depth in Chapter Three. See section 3.1 'The concept of settler colonialism'.

This settler colonial conception of Aboriginal culture and NT remote communities as dysfunctional became an important component of the crisis framing of the Intervention. In particular, settler colonial discourses of Aboriginal failure were used to flesh out the neoliberal narrative of welfare state failure. Proponents of the Intervention argued that the dysfunctional characteristics of life in remote NT communities, including those highlighted in the *Little Children Are Sacred* report, proved that earlier strategies of government had not only failed but made problems worse than they should have been. As Foucault pointed out, crises in liberal government commonly stem from the concern that forms of governmental intervention initially designed to produce freedom might actually pose a threat to that freedom.³⁸⁶ In this case, policies associated with welfarist types of liberal government—such as land rights legislation, CDEP programs, and Aboriginal corporations and land councils—were accused of fostering greater dependence on government welfare programs and therefore undermining attempts to produce the conditions of liberal freedom in Aboriginal communities.³⁸⁷ The relationship between this argument and the settler colonial discourses of the NTI, as outlined in Chapter Three, is evident from the types of policies criticised for producing welfare dependency. Namely, the policies considered to be problematic were all policies which supported Aboriginal cultural practice, admittedly in a form heavily regulated by state agencies and statutes, by acknowledging Aboriginal land ownership and encouraging community based forms of governance and development.

Settler colonial discourses were employed strategically within broader attempts to redefine liberal government. Settler colonial discourses were not just incorporated into liberal practice, but were also actively produced as part of political discourse on the NTI. This involved the construction of a new conception of the settler-Indigenous dichotomy based on neoliberal conceptions of development and neoliberal conceptions of the free liberal citizen. As I mentioned earlier, politicians such as Mal Brough, Barry

386 Foucault, *The Birth of Biopolitics. Lectures at the College De France 1978-1979*, 21-22.

387 For example, see Brough and Tollner's contributions to the parliamentary debate: Parliament of Australia, "Parliamentary Debates, Hansard 7 August 2007," 5-7, 97.

Haase and Ian Causley problematised Aboriginal culture by comparing the social disorder of Aboriginal communities to the order of 'mainstream' society.³⁸⁸ However, the conception of mainstream society was a highly idealised one where most citizens happily pursue the neoliberal fantasy of private home ownership, career development and constant self improvement. Namely, where citizens are autonomous, educated, responsible, and entrepreneurial. Criticisms of Aboriginal people mirrored this idealised conception of the liberal citizen with the 'failure', lack of order, and violence of Aboriginal communities attributed to the lack of parental and civil responsibility, and a lack of appropriate respect for education, gainful employment, and self improvement.³⁸⁹

By emphasising a singular, neoliberal pathway for Aboriginal community development, proponents of the NTI not only justified the exclusion of Aboriginal perspectives on community development, but also positioned their idealised conception of the liberal citizen and society as a universal liberal norm which Aboriginal people are seen, in colonial discourse, as unable to meet. The production of a settler colonial discourse—based on the dichotomy between incapable Aboriginal subject and the capable, autonomous neoliberal subject—helped to redefine liberal government. It did this by discrediting welfarist conceptions of government while simultaneously normalising neoliberal conceptions of government as the standard against which all government is judged. In other words, the master frame of the NTI reinforced neoliberal conceptions of the liberal subject and good government within Australian politics in general as well as within Aboriginal Affairs policy specifically.

In summary, I argue that the NTI exemplifies the self-limiting character of liberal government and demonstrates the role that settler colonial discourses can play within broader attempts to redefine liberal government. The neoliberal master frame combines two familiar narratives within Australian political thought in order to develop a sophisticated explanation of the need to reevaluate understandings of good government. The first narrative is the 'crisis' of the welfare state, which is employed in NTI rhetoric

388 See section 5.1 'The ideological explanation for the NTI: A paradigm shift?'

389 Ibid., 10-12, 96-97, 102-05.

as a critique of welfare dependency. The second narrative is based on the settler colonial mentality and involves the production of a dichotomy between the idealised norms of successful 'mainstream' settler society and the failures of Aboriginal culture and ways of life. The bipartisan support for this crisis framework is evidence of the success of this form of framing, and demonstrates the transition of this master frame from a form of crisis exploitation by neoliberal ideologues to the foundation of a broader common sense understanding of the problems in remote Aboriginal communities. This analysis of the political rhetoric of the NTI supports the view of settler colonial discourse as a form of discourse that is, as Lorenzo Veracini has put it, 'recurrently activated in the public sphere and mobilised in political discourse'.³⁹⁰ Furthermore, it is clear that this discourse can be mobilised not only for colonial ends but for the role it can play in the process of producing and authenticating particular conceptions of liberal government.

6.3 Liberal government and the resilience of settler colonial politics

Throughout this chapter I have sought to better articulate the relationship between liberal government and the settler colonial mentality. In the first section of this chapter I argued that we can envision a conceptual space within liberal government where settler colonial discourses can be incorporated into new understandings of liberal government. In the second section of this chapter I drew on the case study of the Northern Territory Intervention to argue that settler colonial discourses can also be produced in service of broader liberal strategies and goals. The relationship between liberal and colonial politics is, therefore, a complex and intimate one in which settler colonial discourse is mobilised and produced as part of a dynamic process of liberal government. In this last section of the chapter, I argue that the mutually reinforcing characteristics of settler colonial and liberal politics makes the decolonisation of Australian society and government a difficult process. I begin with a discussion of what a postcolonial politics might look like in the liberal context by drawing on the scholarship of Duncan Ivison. I then argue that the resilience and adaptability of settler colonial discourse, in

390 Lorenzo Veracini, "Colonialism Brought Home: On the Colonization of the Metropolitan Space," *Borderlands E-Journal* 4, no. 1 (2005): 10.

conjunction with the tendency of liberal government to crises and reconceptualisation of the problems of government, increases the likelihood of assimilationist and colonial forms of government and makes this form of decolonisation a challenging endeavour.

A postcolonial liberalism?

In his book *Postcolonial Liberalism*, political theorist Duncan Ivison develops a normative conceptual framework for a postcolonial form of liberal politics. This framework, based on the concept of 'complex mutual coexistence', acknowledges the difficulties that Aboriginal people have faced in their attempts to hang on to their own values in the context of the 'dominant institutions and values of liberal democracies'.³⁹¹ The political order envisioned by Ivison is 'complex' because the legitimacy of this kind of order depends on mutual engagement and cooperation between Indigenous and non-Indigenous political actors. This means eschewing hostility and adopting a discursive approach in which Indigenous perspectives have the opportunity to challenge and contest liberal notions about public reason, citizenship and justice. In other words, Ivison proposes a process of 'both-ways' learning which can lead to the development of political arrangements that are acceptable to both Indigenous and non-Indigenous people.³⁹² A postcolonial state is one with a commitment to treating its citizens with equal respect, while minimising domination, promoting freedom and providing conditions in which people can pursue meaningful lives.³⁹³

Ivison's conception of a postcolonial liberalism draws on many of the ideas of the governmentality scholarship. For instance, Ivison refers to Foucault's concept of the 'governmentalisation of the state' which locates government within both the agencies of the state and more broadly in society. In this context, Ivison posits that Indigenous struggles occur on many fronts. The most commonly recognised site of postcolonial struggle is at the level of the state with Indigenous peoples around the globe contesting

391 Duncan Ivison, *Postcolonial Liberalism* (Cambridge: Cambridge University Press, 2002), 2, 4-5.

392 Ibid., 1-2.

393 Ibid., 113.

the legitimacy of the modern conception of the state and the normative conceptions of equality, justice, and freedom which underpin that legitimacy. But Ivison observes that anti-colonial struggles also occur in public discourse, and emerge as a critique of ideas about which cultural practices are 'civilised' and worthy of toleration. These struggles against broader forms of governmental power are evident in critiques of those social and political norms which, while often well intentioned and based on ideals of equal citizenship or equal treatment, lead to the assimilation of Indigenous peoples.³⁹⁴ Ivison acknowledges that we are located within a particular set of norms, practices and institutions. While we cannot step outside of these power relations we can, Ivison argues, work at the local level to shape these norms in ways which are less distorting and alienating for the people subjected to them. This can include reforming liberal institutions and norms so that they are more open to local knowledges and practices such as the way Indigenous peoples sustain and adapt their ways of life to fit present day circumstances and politics.³⁹⁵

This process requires that people have the 'capabilities' to contest and modify the norms and practices that govern them, and to reject the terms which justify coercive forms of government. Building on the work of scholars such as Amartya Sen and Martha Nussbaum on the concept of capabilities, Ivison argues that a postcolonial order is one which aims to secure those capabilities required for people to effectively participate in collective practices of public reason. However, he argues that a postcolonial order should also acknowledge that the list of capabilities understood as constituting the 'threshold' of necessary capability should itself be subject to contestation and revision.³⁹⁶ In addition to a notion of a basic, but contestable, threshold of necessary human capacities, Ivison proposes several other features of a capabilities approach. All of these emphasise the local and particular nature of the postcolonial process. For instance, Ivison proposes a contextual account of rights which acknowledges that rights may apply differently within different local contexts and cultures. Here Ivison contrasts the formal right to political or social action with the more important task of developing

394 Ibid., 116-17.

395 Ibid., 11-12, 117.

396 Ibid., 11, 133.

practices and institutions which can ensure that people actually have the capability and opportunity for meaningful political or social interaction. For such institutions and practices to be effective they must be customised to the particular historical, social, and cultural situations and emerge out of democratic contestation and agreement.³⁹⁷ A postcolonial form of liberalism should therefore be understood as a series of provisional and local political settlements and reforms, based on a process of mutual respect and equality and renegotiated when necessary.

Iverson's conception of a contestable and modifiable capabilities approach is a useful normative standard which can be used to evaluate situations such as the NTI and articulate their failings. Iverson argues that in a *just* liberal order people who are affected by the way that capabilities are defined should be able to contribute to the formulation of these definitions of necessary capabilities.³⁹⁸ According to this standard, the production of ideals of liberal citizenship are unjust to the extent that they exclude Aboriginal people from the development of new definitions of the capable, autonomous liberal subject. Yet, in the case of the NTI, there is little evidence of a willingness to develop a discursive space, within either formal political institutions or in the broader public sphere, in which Aboriginal people might challenge, question, approve, or amend the prevailing conception of neoliberal citizenship. Rather, the evidence points to the opposite situation. For example, the years immediately preceding the NTI have been described as a 'new, radical era of suppression' for Aboriginal people; a description that is confirmed by incidences such as the abolition of the Indigenous-led Aboriginal and Torres Strait Islander Commission (ATSIC) in 2004.³⁹⁹ Furthermore, the non-democratic and exclusionary character of the implementation of the NTI was one of the chief criticisms made of the policy.⁴⁰⁰ Consequently, the standard against which Aboriginal people were assessed and found wanting was one which developed within political debates that excluded, and possibly had little relevance for, Aboriginal people. The

397 Ibid., 128-29.

398 Ibid., 134.

399 Walter, "Market Forces and Indigenous Resistance Paradigms," 123.

400 For a summary of critiques of the policy see section 2.4 'An overview of the main criticisms of the NTI'.

representation of Aboriginal people within the political discourse of the NTI was therefore clearly unjust by Ivison's standards, and certainly unlikely to contribute to the development of a postcolonial liberal order.

The mutually reinforcing nature of liberal and settler colonial politics

The exclusion of Aboriginal people's perspectives from formal processes of policy development and implementation limits the opportunity for Aboriginal people to critique those norms and institutions which lead to the assimilation of Aboriginal people. As the NTI is more a case of a colonial than postcolonial liberalism, it offers a good case study for understanding some of the obstacles to the development of a postcolonial liberalism. In the remainder of this section I posit that the mutually reinforcing relationship of liberal and settler colonial politics makes the development of postcolonial settlements difficult though not entirely impossible. While neither settler colonial or liberal forms of politics depend on the presence of the other, the NTI case study suggests that they can often become intertwined with settler colonial discourses contributing to liberal understandings of the capability of Aboriginal citizens and the ongoing liberal critique of government sometimes resulting in the adaptation and production of new variations of settler colonial discourses. This combination of liberal and settler colonial politics prevents the development of a more postcolonial liberalism. In particular, the strategic incorporation and production of settler colonial discourses within liberal government makes it almost impossible for Aboriginal people to be understood as capable liberal subjects.

Earlier I mentioned the injustice of excluding Aboriginal people from the definitions of liberal citizenship against which they are evaluated as inadequate. Here I would like to extend this argument. The problem with settler colonial discourse is not just that it contributes to undemocratic conceptions of ideal liberal citizenship, but that it positions Aboriginal people as incapable regardless of what capabilities they have already developed.⁴⁰¹ The dichotomies produced within settler colonial forms of discourse

401 While the nature of these capabilities varies between individuals, many Aboriginal

differentiate between functional, civilised non-Indigenous people and dysfunctional, uncivilised Indigenous people. For example, as I mentioned earlier, in the case of the NTI this manifested as a discourse which contrasted an idealised conception of the entrepreneurial, autonomous, neoliberal citizen with a representation of Aboriginal people as dysfunctional, irresponsible and incapable citizens.⁴⁰² Authoritarian, coercive and disciplinary forms of government were just some of a broader array of strategies that could be used to help Aboriginal people one day meet the 'threshold' of capabilities which would allow them to become capable, autonomous and self-governing liberal citizens. These new capacities would, it was claimed, allow Aboriginal people to participate on an equal and fulfilling basis within the liberal economic and social context and to benefit properly from all the rights of liberal citizenship.

The apparently temporary suspension of those rights typically associated with liberal citizenship is evident in the NTI. I alluded to this issue in Chapter Three of this dissertation when I argued that the Labor Government subscribed to the idea that there was a trade off between Aboriginal people's human rights and the long-term success of the NTI policy. The short-term suspension of the rights to be consulted over the implementation of the NTI or to manage one's own income, to give two examples, were seen as justified by the prospect of Aboriginal people having greater involvement in political, and economic society at some later date.⁴⁰³ However, the withholding of Aboriginal people's rights for an indefinite period of time is not restricted to the case of the NTI. Desmond Manderson has argued that the 'deferral' of the rule of law and legal rights for Aboriginal people occurred not only during the NT Intervention but during the early colonial period as well and therefore is a more widely applicable issue.⁴⁰⁴ Similarly, van Krieken has commented on the 'ongoing' nature of liberal projects aimed

people have the skills and capacities required to critique or challenge the norms of settler society. Indeed, their position on the boundaries of the liberal political system may make them uniquely qualified for this critical role.

402 See my discussion of capabilities in section 5.3 'Authoritarian governmentality and the neoliberal program in Aboriginal Affairs policy' and earlier in chapter six.

403 See section 3.3 'The Labor Government and the tension between human rights and community development'.

404 Manderson, "Not Yet."

at the 'assimilatory (re)shaping of conduct so as to permit eventual reentry into civilization and its attendant identity as a free liberal agent, a modern citizen'.⁴⁰⁵

The promise of eventual equality is unlikely to be kept in liberal contexts because the conception of the good liberal citizen, and the conditions of good liberal government are in an ongoing state of transition. I have already argued that the resilience and adaptability of the settler colonial mentality can be attributed to the process of liberal reflexivity and critique. In this context, it is likely that ideas about both the capabilities necessary for good liberal citizenship, and the understanding of the problems that Aboriginality poses to liberal government, are also problematised and transformed as part of liberal processes of critique and reform. If the definition of the 'successful' liberal subject is a shifting one, then it becomes difficult for Aboriginal people to position themselves as capable subjects who meet the minimum requirements for autonomy and self-government in liberal contexts. When we consider the shifting conceptual boundaries of liberal citizenship and government in conjunction with the resilience of settler colonial discourse, then we can begin to understand how the government of Indigenous people has become a site of particular critique, intervention, and oversight by both state agencies and the institutions of civil society. Aboriginal people are consistently constituted not just as subjects of liberal government but problem populations that require more regulation than other subjects and who are continuously repositioned as falling below a minimum threshold of capabilities.

So far in this section I have focused on the reasons why settler colonial resilience and liberal reflexivity makes it unlikely that the gatekeepers of Australian political opinion will view Aboriginal people as capable. I have argued that the rights of Aboriginal people are often deferred to some indeterminate point in the future when they will be considered capable of autonomy and self-government. Rather than completing this chapter with the rather bleak conclusion that postcolonial liberalism is impossible, I offer a slight corrective to my argument. Whereas settler colonial discourses result in the

405 van Krieken, "Welfare, Civilization and Government: Liberalism between Assimilation and Cultural Genocide."

representation of Aboriginal people in simplistic ways which emphasise their incapacities, these representations provide little insight into the skills or strategies that Indigenous people have had to develop in order to straddle the divide between settler and Indigenous social and political spheres of life. Representation is not always reality and, as Ivison has pointed out, resistance to assimilationist norms and practices can occur not simply at the level of state agencies but in that broader array of governmental institutions and norms that make up contemporary societies and economies.⁴⁰⁶ Furthermore, as Foucault has argued, there is always the possibility of resistance, and evasion in any social relationship meaning that power relations are unstable, ambiguous and reversible.⁴⁰⁷ It is this instability which makes Ivison's provisional political settlements, a form of incomplete and provisional postcolonial liberalism, possible.

6.4 Conclusions

In this chapter I have argued that settler colonial and liberal politics can be mutually reinforcing and that this situation makes the decolonisation of Australian politics difficult. I began by positing that settler colonial discourses become incorporated into liberal politics as part of a process of making judgements about the capabilities of Aboriginal people. In the first section of this chapter I suggested that liberal government is already predisposed to authoritarian government for citizens deemed incapable of autonomy and self-government. In this context, settler colonial representations of Aboriginal people as dysfunctional can operate as a form of knowledge about Aboriginal people which can then be incorporated into conceptions of government. In the second section of this chapter I used the NT Intervention as a case study of this process. I argued that settler colonial discourses were utilised and also strategically produced as part of a neoliberal critique of welfarist government. In this case, a dichotomy was produced between entrepreneurial neoliberal citizens, on the one hand, and dysfunctional, irresponsible and incapable Aboriginal citizens on the other. A

406 Ivison, *Postcolonial Liberalism*, 116-17.

407 See Barry Hindess, *Discourses of Power: From Hobbes to Foucault* (Oxford: Blackwell Publishers, 1996), 101.

neoliberal crisis framing contributed to a new 'common sense' about the nature of the problems in Aboriginal communities while problematising welfare dependency and earlier conceptions of good government.

In the final section of this chapter I argued that the incorporation and production of settler colonial discourse within liberal politics makes decolonisation difficult. I compared the politics of the NTI to Duncan Ivison's conception of postcolonial liberalism. Ivison argues that a just liberal order would ensure that those people affected by the way that capabilities are defined are able to contribute to the discursive construction of norms and standards about minimum levels of capability. The exclusion of Aboriginal people, during and preceding the Intervention, from such discussions suggests that the NTI was unjust and that it is an example of colonial, rather than postcolonial, liberal politics. In the final part of this section I focused on the reasons that liberal reflexivity makes decolonisation difficult. I argued that settler colonial discourses result in the deferral of Aboriginal rights to an indeterminate point in the future and that shifting conceptions of the ideal citizen make it difficult for Aboriginal people to demonstrate that they are capable of self-government. In this context, the challenge for liberals is to find ways to equitably include Aboriginal contributions to debates about necessary capabilities and about processes for the recognition of rights and obligations. This may include an acknowledgement that Aboriginal people ought to be included in these discussions even when Aboriginal people either do not have, or are perceived not to have, the minimum capabilities necessary for their involvement in such discussions.

Chapter Seven: Conclusion

The Australian Government's Northern Territory Intervention became a controversial policy because many of the liberties and rights usually understood as necessary for a liberal democratic form of government were replaced with an intensive regulation of Aboriginal people's behaviour, spending, and community governance. Both the Coalition and the Labor parties became convinced that the problem of child abuse in Aboriginal communities—as outlined in the *Little Children are Sacred* report—required an immediate, comprehensive, and top down policy response. Throughout this dissertation, I have sought to develop an understanding of the reasons for the bipartisan support of the more authoritarian aspects of the Intervention. In particular, I have been interested in the discursive conditions in which authoritarian strategies of government came to be understood, by politicians and policy makers, as necessary for good government. This subject is an important one because many of the original measures of the NTI policy remain in place as part of federal Aboriginal Affairs policy in the Northern Territory. Furthermore, some of these measures are being rolled out to both Aboriginal and non-Aboriginal communities in other regions of Australia. This suggests that the policy has had an affect not just on Aboriginal Affairs, but on conceptions of social policy and welfare more generally. Furthermore, an analysis of this policy can contribute to a better understanding of the potential for authoritarian government in liberal democratic societies, especially those which share Australia's settler colonial origins.

I drew on two analytical perspectives, settler colonialism and governmentality, to assist me in this task. I chose the settler colonial framework because this scholarship focuses on the unique form of colonialism in settler societies and the difficulties of decolonisation in these circumstances. It was therefore an appropriate framework for adding context and detail to my analysis of colonialism in the NTI. The governmentality scholarship, in contrast, provides a conceptual framework for describing the role of authoritarianism in liberal government and was therefore an appropriate starting point for an analysis of the neoliberal aspects of the NTI. Starting with the insights of these

scholarly literatures, I argued that the NTI illustrates the intimate relationship between liberal, colonial, and authoritarian politics. In particular, I posited that the colonial representation of Aboriginal people as dysfunctional, and therefore incapable of proper functioning in liberal society, played an important role in the justification of the coercive and authoritarian aspects of the Northern Territory Intervention.

In this final chapter of this dissertation I position my main arguments in relation to the earlier scholarship on the NTI. To make my contribution clearer, I differentiate between those arguments that broadly support the explanations of the Intervention as colonial and neoliberal, and those which help me establish an alternative perspective on the significance of the NTI. Previous scholarship on the NTI is usually compatible with an emancipatory view of liberal democratic politics. This view interprets colonial and neoliberal politics as anomalous, and atypical of liberalism's usual focus on securing the liberty, rights, and wellbeing of citizens. My analysis, in contrast, bears out the governmentality literature's claim about liberal government's authoritarian potential, and the centrality of judgements about individual's capacities in decisions about the necessity of more coercive strategies of government. It also concretely links settler colonialism to the strategies and priorities of liberal government. This had not been previously done. I conclude this chapter with a discussion of the contributions of this research and its implications for future research.

7.1 A summary of the colonial and neoliberal aspects of the NT Intervention

In the first section of this chapter I summarise those aspects of my analysis which support and strengthen earlier interpretations of the Intervention. These earlier interpretations typically offered one, or both, of the following explanations for the policy. The first of these is that the NTI represents a reversion of Australian politics to an earlier colonial and paternalist era in Australia's government of Aboriginal people. These policies were described as assimilationist. For instance, Melinda Hinkson argued that '...at the heart of the government's coercive approach lies a clear intent: to bring to an end the recognition of, and support for, Aboriginal people living in remote

communities pursuing culturally distinctive ways of life'.⁴⁰⁸ The second explanation is that the Intervention is part of an ideologically driven reform of Aboriginal Affairs policy and of Australian political institutions in general. This ideological explanation suggests that the Intervention represents a shift in the policy paradigm from an evidence based policies of community self-determination and Aboriginal rights to a neoliberal policy paradigm based on a capitalist framework. To provide one example, Jon Altman argued that while the Intervention was 'ostensibly about child protection', but was actually a 'radical plan' which sought to 'transform kin-based societies to market-based ones'. Furthermore, this plan was '...based on some highly contentious notions that have become so dominant in powerful policy circles in Canberra that they are no longer debated'.⁴⁰⁹ My analysis of the NT Intervention supported the claim that the Intervention was colonial and neoliberal in the following ways.

To begin with the description of the Intervention as a colonial policy, my analysis in Chapter Three drew on political speeches, policy documents and transcripts of parliamentary debates to develop a clearer understanding of the official discourses about Aboriginal people and the problems in Aboriginal communities in the Northern Territory. The two governments that oversaw the implementation of the NTI policy developed two distinct discourses about the necessity of the Intervention. Nonetheless both of these discourses emphasised the incompatibility between Aboriginal ways of life and economic development. Coalition parliamentarians employed colonialist stereotypes about the violent and backward nature of Aboriginal people and the dysfunctional and dangerous state of Aboriginal communities. This discourse, used to justify the 'normalisation' of Aboriginal communities—a process by which Aboriginal communities would be forced to resemble 'normal suburbs'—shared many similarities with the early twentieth century concern with rescuing the children of a presumably dying Aboriginal race.⁴¹⁰ The Labor Government sought to differentiate its approach

408 Hinkson, "Introduction: In the Name of the Child," 5.

409 Altman, "In the Name of the Market?," 307. For similar arguments see: Mazel, "Development in the 'First World': Alleviating Indigenous Disadvantage in Australia - the Dilemma of Difference."; Walter, "Market Forces and Indigenous Resistance Paradigms," 122.

410 For reference to 'normal suburbs' see Minister Brough's comments: Parliament of

from the Coalition Government with a greater use of the language of human rights and a lesser focus on the failure of Aboriginal culture and communities. Yet ultimately, a commitment to a very narrow conception of community and economic development, resulted in a Labor Government discourse that justified the discriminatory elements of the Intervention in the short term as part of the government's longer term plan for Aboriginal equality and wellbeing.

The scholarship on settler colonialism highlights the way that attempts at decolonisation have been resisted by moves to reinforce the power and authority of the settler state and to assimilate Aboriginal people into settler society. The official discourses of the NT Intervention replicated the dichotomous, or binaristic, conception of Aboriginal and settler culture that has previously been observed in settler colonial contexts. This is the division between settler or 'mainstream' society, which is seen as the model of rational, liberal democratic governance, and Aboriginal society, which is understood in static terms as backward and unable to adapt to the demands of modernity.⁴¹¹ The dichotomous discourses of the NT Intervention contribute to a settler colonial politics because they are used to justify assimilationist notions of economic and community development. By attributing problems in Aboriginal communities to the problematic, backward nature of Aboriginal culture, official discourses conceived of Aboriginal people, and the autonomy and preferences of Aboriginal people, as an obstacle to proper community development. This made discriminatory politics which excluded Aboriginal people from substantive involvement in plans for the development of their communities appear a necessary prerequisite for effective community development. Overall, these elements of my analysis of NTI discourse substantiate earlier explanations of the Intervention as the product of colonial politics. The use of a settler colonial literature extends these earlier analyses by developing the first detailed analysis of official and parliamentary discourses about Aboriginal people, and by linking the production of colonial discourse to the justification for interventionist and exclusionary policy.

Australia, "Parliamentary Debates, Hansard 7 August 2007," 14.
411 Bruyneel, *The Third Space of Sovereignty*, 8.

Critics of the Intervention argued that a policy paradigm shift had occurred in Aboriginal Affairs and the shift toward neoliberalism had resulted in an increasingly assimilationist policy approach. My analysis of the liberal politics of the NTI supports this ideological explanation of the Intervention by developing an analysis of the reasoning behind the NTI reforms and relating these reasons to the concept of neoliberal governmentality. Drawing on the governmentality framework that I introduce in Chapter Four, my analysis in Chapter Five demonstrates that proponents of the Intervention saw the Intervention as a necessary corrective to an earlier, problematic policy regime. Coalition party backbenchers such as Barry Haase, David Tollner, and Ian Causley echoed the arguments of free-market think tanks such as the Centre for Independent Studies (CIS).⁴¹² They argued that 'separatist' policies—such as communal land ownership, permit systems, community self governance and Aboriginal rights—must be dismantled and replaced with a governmental approach focused on creating 'real jobs' and encompassing Aboriginal people in the mainstream economic system.⁴¹³ It was clear from comments made by Minister Mal Brough, among others, that the Coalition Government understood the NTI as part of a radical shift in Aboriginal Affairs policy after a period of ineffective policy solutions.⁴¹⁴

The governmentality framework provides me with the opportunity to develop an understanding of the relationship between a neoliberal policy approach and authoritarian government. Applying the governmentality framework, I argued that arguments about the necessity of a shift in the policy paradigm could be understood as part of the advanced liberal problematisation, and reform, of 'welfarist' approaches to government. The governmentality scholarship has pointed to the development of new conceptions of the capable liberal individual, including the development of neoliberal conceptions of the entrepreneurial, autonomous liberal subject. This subject was understood as the product of appropriate experiences with employment and productive forms of interaction with a broader economic society. In relation to the NTI, I argued that the

412 Walter, "Market Forces and Indigenous Resistance Paradigms," 126-27.

413 Parliament of Australia, "Parliamentary Debates, Hansard 7 August 2007," 96-97, 102-05.

414 Ibid., 12.

economic conditions in Aboriginal communities were understood as insufficient for the production of autonomous neoliberal subjects, and that Aboriginal citizens were therefore assumed to be incapable of the approved forms of economic and political engagement. Furthermore, in the case of the NTI, the characterisation of self-determination as part of a welfarist form of government resulted in a conception of Aboriginal participation in government as an obstacle to effective government. In this context, I argued that neoliberal policymakers could see little point in incorporating the perspectives or preferences of Aboriginal inhabitants into plans for economic development in Aboriginal communities. Discipline and regulation became the default policy for the government of Aboriginal people.

In summary, my analyses of both the colonial and liberal aspects of the Intervention provide supporting evidence for earlier explanations of the NT Intervention policy as an ideologically driven and radical reform of Aboriginal Affairs which resulted in a renewal of assimilationist approaches toward Aboriginal governance. My adoption of the concepts of settler colonialism and governmentality as analytical frameworks assisted in the analysis of official political discourse in a detailed and systematic way. Crucially, I was able to identify the forms of political reasoning which made coercive and authoritarian forms of government intervention appear, to politicians, necessary and reasonable. The combination of colonial arguments about the dysfunctional character of Aboriginal culture and communities, on the one hand, and neoliberal conceptions of Aboriginal communities as environments that were unable to produce capable, entrepreneurial liberal subjects, on the other, resulted in a conviction that Aboriginal involvement in government would be counter productive. Furthermore, it became seen as acceptable to waive Aboriginal people's rights in the short-term in order to transform Aboriginal communities into the sort of mainstream, normalised environment that could be expected to produce capable liberal citizens.

7.2 The tension between limited liberal government and the production of free liberal citizens

Throughout this dissertation I have sought to create an analytical space in which I could develop a better understanding of the complicated relationship between the reproduction of colonial discourse in the NTI policy and Australia's liberal institutions and expectations. I have argued that the coercive and authoritarian elements of the Intervention are not so much 'illiberal', as some earlier analyses had suggested, as a complex combination of settler colonial discourse and neoliberal reasoning.⁴¹⁵ In this section I summarise this argument, and suggest that my analysis indicates a much closer, and long standing, association between liberal politics and settler colonial discourse than suggested by emancipatory conceptions of liberal politics and linear conceptions of Aboriginal Affairs policy.

Accounts of Aboriginal Affairs policy in Australia lend themselves to an emancipatory view of liberal politics. For example, common accounts of Aboriginal policy as progressing through stages from an early colonial period to the more enlightened era of individual rights, Aboriginal citizenship and community self-determination, can lead to the perception that Aboriginal Government was developing in a linear fashion from colonial to more liberal forms of government.⁴¹⁶ Furthermore, political discussion on Aboriginal Affairs is shaped by the perception that, following the Aboriginal campaign for civil rights in the 1960s and the national referendum in 1967, Aboriginal people are now entitled to, and enjoy, the full rights associated with citizenship in a modern liberal democratic state.⁴¹⁷ These views are illustrated by comments made in January 2012 by federal opposition leader Tony Abbott about the Aboriginal Tent Embassy, a permanent

415 For an example of claims about illiberalism, see Hunter, "Conspicuous Compassion and Wicked Problems. The Howard Government's National Emergency in Indigenous Affairs," 37.

416 For example, see: Anderson, "The End of Aboriginal Self-Determination?."; Mazel, "Development in the 'First World': Alleviating Indigenous Disadvantage in Australia - the Dilemma of Difference," 480-85; Watson, "Liberalism and Advanced Liberalism in Australian Indigenous Affairs," 580-83.

417 Though, as Larissa Behrendt explains, the change to the constitution simply allowed for Aboriginal people to be included in the census and for the federal parliament to make special laws in relation to Aboriginal people. Supporters of the referendum expected governments to use this power benevolently but there remained no protection against discrimination in the Australian constitution. Behrendt, "The Emergency We Had to Have," 18-19.

protest site established by Aboriginal people in 1972 to protest for the recognition of political rights and acknowledgement of Aboriginal land ownership. Abbott said that he could 'understand why the tent embassy was established' but that, 'a lot has changed for the better since then and...it probably is time to move on from that [the tent embassy protest]'.⁴¹⁸ Such accounts of Aboriginal policy suggest that discrimination is a feature of a distant pre-liberal colonial past and that colonialism and liberalism are incompatible political systems.

Critics of the Intervention are aware of the continued influence of a colonial form of politics to contemporary Australian government, but find it difficult to reconcile the simultaneous influence of colonial and liberal forms of politics without resorting to a linear conception of progress in Aboriginal Affairs policy. In keeping with a linear view of the evolution of Aboriginal Affairs government—that is, from paternalistic 'protection', to civil rights, to self-determination—many critics of the Intervention refer to the policies of the Howard Coalition Government between 1996 and 2007 as a regression in Aboriginal Affairs government to an earlier, more blatantly assimilationist era. For instance, Maggie Walter refers to the Howard era as one which involves a '... coordinated effort to *undo* previous positive changes in the state's relationship with Indigenous people [emphasis added]'.⁴¹⁹ Similarly, Patrick Dodson writes of the Howard Government's '*dismantling* of the building blocks of self-determination [emphasis added]'.⁴²⁰ These critiques imply that the neoliberal, assimilationist NT Intervention interrupts the proper progression of Aboriginal Affairs policy toward greater emancipation and recognition of Indigenous Australians as distinct peoples within a liberal democratic state.

My own analysis of the Intervention suggests that the colonial aspects of the NTI are

418 Matt Johnston and Alecs Devik, "Aboriginal Activists Attack Gillard, Abbott on Australia Day," <http://www.news.com.au/top-stories/mob-sinks-slipper-into-nations-day/story-e6frfkp9-1226255249671>.

419 Walter, "Market Forces and Indigenous Resistance Paradigms," 124.

420 Patrick Dodson, "Whatever Happened to Reconciliation?," in *Coercive Reconciliation. Stabilise, Normalise, Exit Aboriginal Australia*, ed. Jon Altman and Melinda Hinkson (North Carlton: Arena Publications, 2007), 23.

not so much a regression to an earlier era of policy making, as an example of the strategic deployment of new settler colonial discourses in service of a neoliberal conception of citizenship and good government. A short summary of my argument in Chapter Six about the relationship between the colonial and liberal aspects of the Intervention will help illustrate this assertion. In Chapter Six I drew on the concept of governmentality to argue that liberalism is an ongoing project of reasoning about government, and that this involves the production of crises of government where governmental objectives are questioned and attempts are made to limit government in new ways.⁴²¹ I also proposed that settler colonial discourses—about the dichotomy between uncivilised, illiberal Aboriginal cultures and civilised, liberal settler society—could be incorporated into liberal government as a form of knowledge about Aboriginal people. I suggested that, since liberal government is already predisposed to authoritarian forms of government for citizens understood as incapable of proper liberal behaviour, settler colonial discourses about the dysfunctional character of Aboriginal communities can be used to position Aboriginal people as appropriate targets of liberal intervention.⁴²²

In the case of the NTI, the political discourse became characterised by a crisis frame, and the case for reform of Aboriginal communities became dependant upon two familiar narratives in Australian politics. The first of these was a well-established argument about the failure of the welfare state. The problematisation of 'welfarism' or the welfare state has long been a feature of neoliberal argument. Governmentality scholars have described this narrative as part of a crisis of the welfare state, a crisis framework which has emphasised the dangers that welfare state despotism poses to liberal freedom.⁴²³ In relation to Aboriginal Affairs policy, this has manifested as a criticism of land rights,

421 Foucault, *The Birth of Biopolitics. Lectures at the College De France 1978-1979*, 21-22, 68-69.

422 For governmentality accounts of liberal authoritarianism see: Mitchell Dean, "'Demonic Societies' Liberalism, Biopolitics, and Sovereignty," in *States of Imagination. Ethnographic Explorations of the Postcolonial State*, ed. Thomas Blom Hansen and Finn Stepputat (Durham: Duke University Press, 2001); Dean, "Liberal Government and Authoritarianism."

423 Foucault, *The Birth of Biopolitics. Lectures at the College De France 1978-1979*, 67-70, 192-97.

community governance and self-determination, CDEP, and income support programs. These programs were attributed to a failed welfare state model of governance which was accused of promoting welfare dependency at the expense of individual autonomy and self reliance.⁴²⁴

The second narrative on which the case for a crisis in Aboriginal communities depended, was the settler colonial narrative about the dysfunctional character of Aboriginal societies. Earlier in this chapter I mentioned the differences between the colonial discourses produced by Coalition and Labor party parliamentarians in relation to the NT Intervention. The dynamic and adaptable nature of these settler colonial discourses demonstrates that colonial discourse is not just a relict of a fading colonial past, but a form of reasoning which is actively produced and mobilised in political discourse. I argued that the settler colonial discourses produced as part of the justification for the NTI were used to reinforce the neoliberal narrative about welfare state failure. The failures of Aboriginal citizens to develop the capacities necessary for full participation in a liberal economic society was seen as evidence of the failures of earlier welfarist approaches to government. A specific neoliberal style of settler colonial discourse was employed which developed a conception of Aboriginal dysfunction which mirrored a neoliberal conception of the successful liberal citizen. The capable, neoliberal individual was expected to be autonomous, educated, responsible, and entrepreneurial, whereas representations of Aboriginal individuals emphasised their dependency, lack of civic and parental responsibility, and disrespect for education, employment and self improvement.⁴²⁵

Overall, my analysis suggests an intimate association between liberal politics and settler colonial discourse, and challenges the view of Aboriginal Affairs government as a progression from colonialism to a more liberal, emancipatory form of government. It is not that liberal government can not be emancipatory. As early as the eighteenth century liberals were developing critiques of imperial and colonial government, and they

424 For example, see Parliament of Australia, "Parliamentary Debates, Hansard 7 August 2007," 5-7, 97.

425 Ibid., 10-12, 96-97, 102-05.

continue to do so today.⁴²⁶ However, the production of a less colonial, emancipatory liberalism is not a linear process. This is partly because it is impossible to develop a permanent consensus about the appropriate limits society can place on individual liberty, or the most effective means of producing free, capable liberal subjects. Even Ivison's conception of a postcolonial liberalism, wrestles with the difficulties of this tension in liberal government between the necessity of limiting government and the necessity of producing capable citizens. For Ivison, Aboriginal evaluation and critique of assimilationist and colonial discourse, practice, and norms is the best safeguard against oppressive and colonial institutions and practices of government. However, the production of capable citizens is also important; according to Ivison people can only engage in the process of contesting and redefining the way that capabilities are defined when they have themselves secured some basic capabilities.⁴²⁷ The difficult question for liberals, is just how coercive government should be in order to produce these minimum levels of capability, or which political actors have the right to decide such matters or oversee coercive practices of government.

7.3 Implications for future research

So far in this chapter I have summarised the main contributions of my research, arguing that there is an intimate and complex relationship between settler colonial discourse and liberal justifications for authoritarian government. Throughout this dissertation I have sought to make evident the contingent and particular nature of the discourses on which official knowledge about Aboriginal people, and about Aboriginal Affairs governance, is based. I have attempted to interrogate those discourses which have contributed to justifications for authoritarian government. I focused on two types of discourse. First, settler colonial discourses which, I argue, have contributed to a perception of Aboriginal people as incapable and in need of governmental intervention. Second, discourses about good government which have resulted in the retrospective classification of past

426 For example, see Behrendt, *Achieving Social Justice. Indigenous Rights and Australia's Future*; Muthu, *Enlightenment against Empire*.

427 Ivison, *Postcolonial Liberalism*, 134.

strategies of government in Aboriginal Affairs governance as part of a failed and problematic welfare state paradigm. Hopefully, this analysis of the discourses of the NTI can help to undermine the perception that the authoritarian measures of the Intervention are necessary and legitimate. In this final section of the chapter I consider the main implications of my dissertation for future research on the Northern Territory Intervention, for research on Aboriginal Affairs policy in Australia, and for research in other liberal and settler colonial contexts.

Continuing research on the Northern Territory Intervention

My arguments in this dissertation are necessarily subjective ones and I make no claims to providing the definitive interpretation of the politics of the NT Intervention. Nonetheless, my research does offer a useful starting point for the continuing analysis and critique of the NTI, particularly a critique and analysis of the later incarnations of the NTI policy. As I have mentioned, the Intervention is now poised to enter a new, ten year phase under the *Stronger Futures* framework. This framework retains many of the original measures of the Intervention but there is also some evidence of attempts by the government to negotiate with communities, within strictly defined parameters, over the exact nature of alcohol management plans, leases over communities and other components of the Intervention.⁴²⁸ It is unclear what the significance of this new framework is in terms of the Labor Government's understanding of its role in Indigenous Affairs policy, or in terms of its conception of Aboriginal people as the target of government Intervention. Future research could ask whether these changes signify a gradual move away from the neoliberal Aboriginal Affairs policy paradigm developed by the Coalition Government or, as I suspect, are indicative of the tension that I identified in Chapter Three between a commitment to human rights and a commitment to improving the welfare of Aboriginal people.

There are a number of issues that received insufficient analysis in this dissertation and

428 Australian Government, "Stronger Futures in the Northern Territory Policy Statement November."

which could therefore form the basis of future research. One of these is the role of conservative ideology in the NTI and the relationship of conservative ideology to neoliberal conceptions of good government and the ideal citizen. During the initial stages of the Intervention a number of critics described the Intervention as the product of a conservative ideology. A combination of culturally conservative and economically neoliberal ideology has been described many times in the broader political science scholarship and is typically known as the 'New Right' movement.⁴²⁹ The role that such New Right concepts might have played in the development of discourses justifying the NTI would add an additional dimension to the analysis of the role of neoliberal conceptions of government in the NTI. There is already scope in the literature on governmentality for exploring such issues. Dean, for example, has previously described the role of social conservative ideas in the production of authoritarian liberal government. He argues that ideas about the social obligations of citizenship, respect for the law, and responsibility toward children—all components of a social conservative conception of the good society—have developed in conjunction with neoliberal forms of reasoning to form a 'new paternalism'. This new paternalism works through state and non-state agencies, and approves the use of coercion to develop good work habits among the unemployed.⁴³⁰ There is therefore considerable scope for investigating the effect of conservative discourses on the politics of the NTI, especially since some of the strategies of the Intervention, such as the income management regime, appear to have much in common with New Right social welfare policies elsewhere in the world.

Another issue that I haven't addressed in this dissertation, but which may provide an interesting subject for future research, is the resilience of Aboriginal people to attempts to assimilate them into mainstream society, and the role that Aboriginal resistance may play in the NTI policy's ultimate failure or success. This issue was beyond the scope of this dissertation because I was not attempting to explain or evaluate the success of the policy, but the subject of Aboriginal resistance nonetheless provides an interesting possibility for future research. Hunter observed, not long after the announcement of the

429 Cahill, "The Radical Neo-Liberal Movement and Its Impact Upon Australian Politics".

430 Dean, "Liberal Government and Authoritarianism," 39-48.

NTI, that the lack of consultation with Aboriginal people 'almost guaranteed' resistance to the policy's implementation.⁴³¹ I expect that a closer analysis of this subject would reveal that individuals in multiple sites—for example, government agencies, schools, and within local communities—have engaged in activities that resist the coercive and oppressive aspects of the Intervention. Unfortunately, a causal relationship between resistance and the effectiveness or outcomes of policies would be very difficult to establish, even if we had good evaluations of the effectiveness of the NTI measures.⁴³² It may, however, be possible to make an analysis using anecdotal, or self-reported case-studies of resistance to the various measures of the NTI. I think that, while colonialist and assimilationist policies are indeed resilient, it is important not to fall into a fatalistic mindset. Power relations are, as Foucault has mentioned, unstable and reversible.⁴³³ There are aspects of liberal government, such as the ongoing liberal concern with governing too much, and the tendency toward the examination and review of strategies of government, that create a conceptual space within liberal practice for the rebuttal of some of the extremes of liberal authoritarianism.⁴³⁴

Understanding Aboriginal Affairs and social policy in Australia

I have previously suggested that the NT Intervention has had an affect not only on Aboriginal Affairs policy but on social and welfare policy more generally. The clearest example of these broader effects of the Intervention is the extension of the income management regime to new communities, including non-Aboriginal communities, around Australia. The decision to extend income management was probably made for

431 Hunter, "Conspicuous Compassion and Wicked Problems. The Howard Government's National Emergency in Indigenous Affairs," 42. Also, see Larner for examples of Aboriginal resistance in other neoliberal contexts: Larner, "Neo-Liberalism: Policy, Ideology, Governmentality."

432 The 2008 review of the NTI mentioned that it was difficult to measure the outcomes of the NTI measures because of the lack of good 'baseline indicators'. See Yu, Duncan, and Gray, "Northern Territory Emergency Response. Report of the Nter Review Board," 16.

433 Hindess, *Discourses of Power: From Hobbes to Foucault*, 97.

434 Foucault, *The Birth of Biopolitics. Lectures at the College De France 1978-1979*, 17.

practical reasons—namely, to neutralise the long-standing criticisms of the NTI as racially discriminatory—but it may also represent an important shift in the way that social security and social policy is conceptualised by Australian policy-makers. One potential line of inquiry would involve investigating whether the discourses justifying income management are different depending on whether Aboriginal or non-Aboriginal people are considered the major targets of the policy. Following on from my conclusions in this dissertation, I would expect that justifications for income management would depend on discourses about the incapacity, lack of responsibility or lack of skills, of Aboriginal people and non-Aboriginal people alike. The suspension of social security payments as a compliance tool to ensure children's school attendance does suggest that incapacity in one arena of life, such as an inability to find and keep employment, is considered indicative of incapacity in others such as effective parenting. It is too soon to speculate on the long-term implications of the current social security arrangements for Australian understandings of the capable, free liberal citizen. But this too could be the subject of future research at some later point in time.

Research in other liberal and settler colonial contexts

While I have focused in this dissertation on the link between a particular style of neoliberal framing and the production of settler colonial discourse, some of my observations about authoritarian and colonial government are likely to be applicable to other settler colonial and liberal contexts. Ideological explanations of the NTI imply that it is the specifically neoliberal character of the Intervention responsible for the coercive and paternalistic character of the Intervention. My analysis, in contrast, emphasises elements of liberal politics which are unlikely to be solely applicable to neoliberal contexts. These include narrow conceptions of development and progress, and a strategic use of dichotomies which focus on the backwardness of Aboriginal people and the inability of Aboriginal people to adapt to modern political and economic circumstances.

It seems plausible that my analysis of the intimate connection between liberal and settler colonial discourse may also be relevant to studies involving other settler colonial

societies, though this would require further investigation. Strikingly similar narratives and political conceptions of Indigenous peoples have been identified in many settler colonial contexts. Australia, Canada and New Zealand have been singled out as particularly similar to one another, particularly in relation to the way that mythical narratives about national origins and identity have played out in both historical and present day politics.⁴³⁵ Additionally, a growing international consciousness between settler colonial states, or a 'settler international', has also been noted. Settler states such as Israel, Australia and the United States have similar voting patterns in international bodies such as the United Nations, especially on issues pertaining to Indigenous peoples. This suggests that settler colonial politics may define states in ways that extend beyond their approach to governing diverse populations.⁴³⁶ These similarities also suggest that similar patterns of discourse, including the use of settler colonial discourse to justify coercive and authoritarian forms of Aboriginal governance, could occur in countries other than Australia. In general the scholarship on settler colonialism does not address the relationship between settler colonial and liberal politics so this dissertation provides a model for exploring and analysing this relationship.

Conclusion

In conclusion, my analysis of the Northern Territory Intervention demonstrates that there is a complex yet clearly evident relationship between settler colonialism, liberal reasoning, and authoritarian government. Specifically, conceptions of Indigenous people as incapable and falling short of norms about liberal attitudes and behaviour, in conjunction with concerns about the failures of former approaches of government, can increase the chance of authoritarian, rather than facilitative, strategies being adopted and appearing necessary in the field of Aboriginal governance. Hunter mentions that the 'problem' of Indigenous Affairs policy may not ever be completely solved.⁴³⁷

435 Pearson, *The Politics of Ethnicity in Settler Societies : States of Unease*, 4-5.

436 Lorenzo Veracini, "The Fourth Geneva Convention: Its Relevance for Settler Nations," *Arena Journal*, no. 24 (2005): 113.

437 Hunter, "Conspicuous Compassion and Wicked Problems. The Howard Government's National Emergency in Indigenous Affairs," 36-37.

Considering the propensity for liberals, and not just liberals who subscribe to neoliberal reasoning, to strategically employ and produce settler colonial discourse as part of wider liberal debates, it does indeed seem likely that Indigenous people will continue to be defined as a problem population, and be seen to require a greater degree of oversight and regulation than other citizens. Similarly, as conceptions of liberal citizenship and government shift, so too do requirements made of Indigenous people change. This makes it more difficult for Indigenous people to prove themselves capable of self-government either on a collective basis, or on the individualist basis approved of in recent neoliberal reasoning. In this context, critics of the Intervention should work to undermine, dismantle, and resist not only the current forms of settler colonial discourse, but also any political framework that justifies the indefinite suspension of the rights or liberties of Indigenous people.

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