VISIBLE & INVISIBLE
Aboriginal People in the Economy of Northern Australia
Greg Crough

BONANZA!
scratch it!

SCRATCH "Jacky and Billy". SCRATCH all five. FIND the gold and WIN the prize. INSTANT BONANZA!

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Published jointly by the North Australia Research Unit and the Nugget Coombs Forum for Indigenous Studies
VISIBLE AND INVISIBLE:
ABORIGINAL PEOPLE IN THE ECONOMY
OF NORTHERN AUSTRALIA

Greg Crough

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Greg Crough
Darwin
December 1992
CHAPTER 1

INTRODUCTION: VISIBLE AND INVISIBLE?

Aboriginal people's social predicament in these urban and remote settings can sometimes be seen in terms of visibility and invisibility. Visible when they impact on mainstream structures and processes i.e. offending behaviour, and invisible when mainstream society impacts on them i.e. their relegation to Third World living conditions on the fringes of these urban centres (Dodson 1991, 500).

Anyone who has lived in northern Australia for any period of time cannot fail to notice how much public and private debate is focussed on Aboriginal issues. Compared with most other parts of Australia, in northern Australia Aboriginal people and their organisations receive a great deal of critical attention from the main political parties, the media, commercial interests and industry groups.

At times the issues are absolutely bizarre, a recent example of which was whether participants in a car rally, comprising dozens of cars, many with flashing lights and sirens, should be allowed to enter one of Australia's World Heritage Areas, an area of land which also happens to be one of the most important spiritual and cultural sites for hundreds of Aboriginal people in central Australia. The then Northern Territory Attorney-General and the Minister for Tourism encouraged a number of rally drivers to enter the Park without permission, which was described by an editorial in the Sydney Morning Herald (15 September 1992) as 'manoeuvre made up of an unappetising combination of humbug and deception'. The Attorney-General defended his actions in the Legislative Assembly (30 September 1992) with the extraordinary assertion that he was defending the rights of [some] Australians, because 'laws and bureaucrats have control over individuals which is unprecedented in our time, except in the days of Adolf Hitler'.

At other times the issue might be whether the Aboriginal Land Rights (Northern Territory) Act impedes resource and other commercial development on Aboriginal land. The Kenbi (Cox Peninsula) land claim near Darwin will, if it is successful, destroy the city, according to the
Attorney-General (Northern Territory News, 28 February 1992). The Northern Territory Government has deluged Darwin residents with a scare campaign about the land claim for almost a decade. The Government even took the drastic step in 1978 of changing Darwin's boundaries so that the area of the city expanded from 142.4 square kilometres to 4,350 square kilometres. The High Court ruled that the Government's use of the Town Planning Regulations was invalid, and suggested that the Government's actions were designed to defeat the land claim (Aboriginal Land Commissioner 1991b). The same regulations were used to expand the area of Tennant Creek to 750 square kilometres to undermine the Warumungu land claim (Aboriginal Land Commissioner 1991a).

More generally, and perhaps more insidiously, Aboriginal people are routinely criticised for their use, or perhaps more correctly, alleged misuse, of 'taxpayers' dollars', and for the 'special' benefits they receive. Spending on Aboriginal affairs programs and services, as the Minister for Aboriginal and Torres Strait Islander Affairs, Mr Tickner, is fond of saying, is the most scrutinised part of the Commonwealth budget. It is somewhat ironic that government spending on the most disadvantaged, marginalised and powerless group of Australians should be so finely detailed and so extensively debated. Very few governments receive as close a degree of scrutiny of their spending as Aboriginal organisations, as the reports of the Royal Commissions on the financial dealings of State governments during the 1980s are now demonstrating. Commissioner Johnston noted in his National Report of the Royal Commission into Aboriginal Deaths in Custody that many Aboriginal people complained that they have been subject to 'insensitive, racist and super critical monitoring' by government, the media and 'armies of bureaucrats' (Johnston 1991, vol 2, 525).

In some respects it is not surprising that Aboriginal people are very much part of the public agenda in northern Australia. In the Northern Territory Aboriginal people comprise almost 22 per cent of the population (Australian Bureau of Statistics 1992b). Traditional Aboriginal land owners in the Northern Territory own more than 35 per cent of the land under the Aboriginal Land Rights (Northern Territory) Act. In the Kimberley region of Western Australia, about 45 per cent of the population are Aboriginal people (WA Department of Regional Development and the Northwest 1990, 20), compared with 2.5 per cent for the State as a whole (Australian Bureau of Statistics 1992b).
Aboriginal interests own 18 pastoral leases, approximately 35 per cent of the pastoral land in the region. More than half of the Queensland Aboriginal and Torres Strait Islander population lives in the three most northern Aboriginal and Torres Strait Islander Commission (ATSIC) Zones (Aboriginal and Torres Strait Islander Commission 1990). Cape York Peninsula and the Torres Strait Islands are subject to an increasing degree of national attention regarding the relationship between Aboriginal people, land use and development, and Aboriginal people comprise 46 per cent of the population (55 per cent if the mining town of Weipa is excluded).

One of the most common assertions, often vociferously expressed by Northern Territory Government ministers, is that Aboriginal people and their organisations undermine, or actually impede, 'development' in northern Australia. The activities perceived to be the most threatened are pastoralism, mineral exploration and mining. While this assertion is a feature of the public agenda, there is another more subtle agenda. It is revealed in the way government departments and authorities, and commercial interests, carry out their day-to-day activities and business. The Northern Territory Government, for example, has an explicit policy of mainstreaming service delivery, and a slightly less explicit policy of systematically undermining some Aboriginal organisations. In the case of the two large land councils in the Northern Territory, the Government has actively supported attempts to dismember these organisations. The Northern Territory Chief Minister has made it clear that his government is intent on destroying Aboriginal cultural and social values in order to assimilate Aboriginal people into the mainstream:

The resolution to Aboriginal poverty as we see it today is to turn them from the have-nots into the haves', he says. 'By the haves, I mean people who do have a job and strive for the things the rest of us strive for. But in order to do that, Aboriginal cultural ways are of necessity going to have to dissipate, because the two are incompatible' (quoted in *Time*, 20 July 1992, 67).

In northern Australia, as in many other parts of Australia, when economic development issues are discussed, Aboriginal people are often treated as though they are 'invisible people'. For many government policy makers and commercial interests, they are regarded as people whose interests and rights can be systematically ignored. Many Aboriginal people remain effectively marginalised, and are excluded from much of the economic development that is taking place. Although the land rights legislation in
the Northern Territory improves the bargaining power of many traditional Aboriginal land owners, the same certainly cannot be said for other Aboriginal people in the Northern Territory who do not have title to their traditional lands, or Aboriginal people in Western Australia and Queensland.

The two aspects of the relationship of Aboriginal people to non-Aboriginal society were neatly summarised by Commissioner Dodson in the quote at the beginning of this chapter. When Aboriginal people impinge on certain aspects of non-Aboriginal society, such as the use of 'taxpayers' funds', or drinking in public, they are highly visible and routinely criticised for their lack of responsibility and for their lack of respect for property. But despite the increases in government spending in response to the Royal Commission, for most Australians Aboriginal people remain a relatively unimportant component of the Australian population, people who, for the majority of the time, can be safely ignored. Commissioner Dodson reinforced this point in another section of his Western Australian Royal Commission report:

Aboriginal people stand outside of the real control and decision making arenas, but are abused and condemned as guilty when outcomes from the perspective of public expenditure are not what is expected (Dodson 1991, 769).

The debate about Aboriginal issues in the Northern Territory has taken on a new focus with the appointment of a Minister for Aboriginal Development in November 1992. The statement by the Chief Minister in the Legislative Assembly (26 November 1992) provides details of the Government's Aboriginal agenda. It is clear that the Government's response to the calls for self government by some Aboriginal people will be met with increasing criticism of the administration of some Aboriginal organisations and community councils. The statement begins by referring to the 'maladministration' of Aboriginal community councils, and the 'misappropriation' of funds and 'outright fraud' that is occurring. While no one would deny that fraud and maladministration do exist in Aboriginal communities, the implication of the Chief Minister's statement is that these problems are solely the fault of Aboriginal people. There is considerable evidence that many non-Aboriginal people have used their positions in Aboriginal communities to misappropriate funds, including managers of community stores and pastoral properties. The complexities of the funding arrangements of many communities almost inevitably means that non-Aboriginal people will hold most of the responsible
positions in many communities, even though the elected positions on the
council or the board of the community store are all held by Aboriginal
people.

The Chief Minister has also decided to redefine self management and self
determination. Self determination will be achieved by the establishment
of smaller land councils, which the government will spend $600,000 on
promoting. But self management and self determination also:

appears to be no more than handing over the money that was once spent
on services and facilities with an open invitation for people to spend it as
they see fit. There is no requirement that it should be spent on providing
the same services and facilities or that it will be well spent. It is a one-
way process. The money is accepted without any apparent sense of
responsibility that comes with it. The Government, the community and
the taxpayers who provide it, are all within their rights to expect a return,
even if that it only the satisfaction of seeing the money used well to
redress disadvantage (Legislative Assembly, 26 November 1992).

While the Chief Minister suggests that Aboriginal people are not to blame
for the situation in which they find themselves, he attributes the blame to
the 'welfare cheque, the free hand-outs', and the 'largesse of benevolent
government'. The statement has all the hallmarks of something that
would have been delivered by a government minister in the 1960s.
Indeed, the proposed name of the new minister was the Minister for
Aboriginal Advancement, but within a week the Chief Minister had to
change his mind in the face of considerable criticism from some
Aboriginal people and Aboriginal organisations.

The primary intention of this book is to provide information and
arguments which might contribute to the debate about many of these
contentious issues. It is written by someone who has lived in various
parts of northern Australia for a number of years. People living in other
areas of Australia may find some of the language in the book strong.
However, it is hard as an academic and commentator not to become
personally involved in the public and private debates relating to
Aboriginal people. It is hard not to be moved by the desperate plight of
many Aboriginal people, and to be appalled by the criticism they are
subjected to, and the systematic and unrelenting attempts by governments
and others to control and further redefine the lives of Aboriginal people.
CHAPTER 2

THE NORTHERN AUSTRALIAN ECONOMY AND THE IMPORTANCE OF PUBLIC SECTOR SPENDING

While the debate about 'development' in northern Australia tends to focus on the opportunities for, and constraints on, the resource industries, very little attention is given to one of the most important components of the economic base of northern Australia: public sector spending. In saying this, however, the intention is not to ignore the economic importance of some major industries and projects in northern Australia. The development of these industries, particularly mining in the past three decades, has resulted in faster growth of per capita incomes in northern Australia relative to most other parts of Australia. But many of these industries are also unstable, dependent as they often are on the prevailing world market conditions. The difficulties of many of the agricultural industries and the fluctuations in the commodity markets mean that economic activity in northern Australia is very fragile and exposed, and even growing sectors such as tourism experience continuing uncertainties. Further, the bulk of the economic benefits of many of these activities in northern Australia flow outside of the regions where they are located. Many of the activities are highly capital intensive, and many mining operations are based on 'fly-in fly-out' working arrangements. Many of the projects are owned by interests elsewhere in Australia or in other countries.

Public sector spending, however, tends to be much more stable and predictable, and often has a marked local and regional economic impact. In the Northern Territory its effects are pervasive. Total Commonwealth spending in the Northern Territory in 1991–92 exceeded $2 billion, including general revenue assistance and specific purpose payments to the Northern Territory Government, and spending by Commonwealth Government departments and authorities. There are a number of aspects of this public sector spending. The first is the extent to which governments in northern Australia receive higher levels of per capita funding from the Commonwealth Government. This, as the discussion in chapter 11 demonstrates, is particularly important for the Northern Territory Government, which receives per capita funding from the
Commonwealth at six times the level of the New South Wales and Victorian Governments. But both the Western Australian and Queensland Governments also benefit from the application of the principle of fiscal equalisation.

Although there have been changes in the intergovernmental financial arrangements in recent years, and reduced real payments to the States and Territories by the Commonwealth, there is no doubt that employment, income and the general level of economic activity in northern Australia are heavily reliant on continuing flows of Commonwealth general revenue assistance. In 1991–92 the Northern Territory Government received $812.7 million in general revenue assistance from the Commonwealth Government. Apart from the general revenue assistance, there are also specific purpose payments to the State and Territory Governments. Under the Commonwealth-State Housing Agreement, for example, $1,053 million of funding was allocated to the States and Territories in 1992–93, including $91 million for Aboriginal housing. The Northern Territory, Queensland and Western Australian Governments received two-thirds of the Aboriginal housing funding. ATSIC is presently negotiating with the Department of Health, Housing and Community Services to channel the Aboriginal component of the CSHA funds through ATSIC.

Another important component of public sector spending is social security and welfare payments. Some of the data presented in chapter 6 shows that Commonwealth social security spending in the Northern Territory may amount to at least $220 million a year. Despite many changes in the administration of the social security system in the past decade, these payments, because they are citizenship entitlements, are reasonably stable. The changes in the family payments have been particularly beneficial for many low income earners with large families.

Added to this is the spending directly targeted at the Aboriginal population of northern Australia. This includes spending by the Aboriginal and Torres Strait Islander Commission (ATSIC) and the Department of Employment, Education and Training. ATSIC program spending in the Northern Territory and Western Australia (excluding CDEP wage payments) is more than three times the level of its spending, on a per capita basis, in New South Wales (Aboriginal and Torres Strait Islander Commission 1992a, 4). The two most important components of the spending on Aboriginal affairs are the 'wage' and on-cost payments
under the Community Development Employment Projects (CDEP) scheme, and spending on housing and community infrastructure. Both of these categories of spending have a significant local or regional impact, as of course do the social security payments. It is well known that local businesses all over northern Australia gear up for the days when pensions are paid.

An increasingly important component of Commonwealth spending in parts of northern Australia is defence spending. Once again the impact is most apparent in the Northern Territory. Katherine’s population nearly doubled in size following the construction of the RAAF base at Tindal, and there is an ever-growing military presence in and around Darwin. A major defence force housing program is presently being implemented. Information supplied by the Minister for Defence Science and Personnel showed that total expenditure by the defence forces in the Northern Territory in 1991–92 was almost $160 million (Bilney 1992). The Government has announced that further relocations of defence force personnel, facilities and equipment will occur during the remainder of this decade, and it has been estimated that the defence-related construction projects during the decade could exceed $500 million (Northern Territory News, 10 October 1992).

The defence forces have clearly been attempting to create a favourable public impression in northern Australia. In recent months there have been numerous media reports about the economic contribution of the defence forces to northern Australia, similar to the one noted above. The defence forces must have concluded that promoting the beneficial impacts of military spending on local and regional economies is an important part of good public relations. While one would expect local politicians to emphasise these issues, the information for the media reports provided by the defence forces could be designed to counter any potential criticism of the military build-up in northern Australia. The defence forces are totally dependent on ‘taxpayers’ dollars’, and presumably they see a need to demonstrate to the broader community that there are benefits other than those relating to the military protection of Australia. A lot more of the same type of information will be necessary to convince some sections of the community that Aboriginal people actually contribute to economic activity, rather than them always being portrayed as undermining economic activity.
A recently published report to the Commonwealth Government, the *Northern Australia Economic Development Strategy*, argued that the dependence on government employment in the Kimberley region is a weakness of the region (Harris 1992, 62). While from a national perspective, government spending and taxation are important issues, at a regional or local level different considerations often apply. It is a legitimate concern of national policy makers that there is sufficient economic activity to generate adequate taxation revenue, or that high rates of taxation may impair economic activity. But in a region such as the Kimberleys, government spending and government employment are a fundamental part of the economic base of the region. In a country as large and geographically diverse as Australia, it is to be expected that some regions will, in effect, subsidise other areas through a redistribution of taxation revenue. Government spending and employment can promote further economic activity in many local or regional economies.

However, one of the attachments to the report mentioned in the preceding paragraph (*Northern Territory Economic Development and the Commonwealth*) did provide a rather more balanced perspective on the impact of Commonwealth spending. Stanley and Knapman (1992) considered that agriculture, mining and manufacturing would have to grow very strongly in order for the Northern Territory economy to substantially diversify, adding to income and employment. Their analysis concluded that the public sector, other services, defence and tourism had the best prospects for achieving these benefits.

Despite the analysis in the Stanley and Knapman report, it is still generally true that public and political debate on northern economic development issues tends to underestimate the economic importance of government spending, and underestimates or ignores the role of Aboriginal people in the economy of the region. This is probably due to the wishful thinking that has accompanied the concept of 'northern development' in Australia and elsewhere (Jull 1991). Justice Berger's title for his 1977 report on the Mackenzie Valley Pipeline Inquiry in Canada, *Northern Frontier Northern Homeland*, neatly captured the essence of the different approaches to northern development. His view was that there are basically two philosophies impacting on the northern development debate. Hence the title of this book, which suggests that these two philosophies result in Aboriginal people being treated as both 'visible' and 'invisible', depending on the issue at hand.
On the one hand, there is the well-established opinion that large-scale industrial development will bring the benefits of employment opportunities to all northerners... The proponents of the philosophy concede that large-scale industrial development, both in the North and other frontiers, has not always led to the employment of large numbers of native people or to their overall economic advantage... [it therefore] turns our attention towards ensuring that native people take their place at the industrial frontier, and it has led to a consideration of manpower delivery systems... On the other hand, there is a philosophy of northern development that emphasizes the importance of the native economy and the renewable resources sector and the wishes of the native people themselves... It is skeptical of the advantages to native people of large-scale industrial development and it urges us to strengthen the native economy and the renewable resource sector... (Berger 1977, vol 1, 4).

Politicians all over Australia are fond of having their photographs taken at the opening of a new mining or manufacturing project, even if the project is highly capital intensive, and therefore has a relatively limited impact on local or regional employment, is reliant on imports, and is foreign owned. One only has to look in the history books to see the records of the grand openings of the Ord River Dam near Kununurra, or the Sheratons in Darwin, Alice Springs and Yulara (Ayers Rock Resort), or the mineral projects at Gove and Weipa. Small scale service activities usually will not convince enough voters that 'development' is occurring, even though small businesses account for a very large proportion of the Australian workforce.

It is important to keep in mind that northern Australia is politically divided by the boundaries of two States and a Territory, as well as local governments. While at times statistical data on the 'economy' of north Queensland, the Kimberley region, or the Northern Territory may be useful for a particular purpose (and some data of this type is used in this book), the presentation of data in this form can often give a misleading impression of the nature of the economic unit being considered. For example, Northern Territory politicians talk about the 'economy' of the Northern Territory. It is often overlooked that the population of the Northern Territory is only 175,000, less than some of the local government areas in Sydney. The 'economy' of the Northern Territory is, as this chapter has suggested, largely based on spending by governments, which itself is predominantly based on a transfer of taxation revenue from other parts of Australia. The key economic and financial linkages of the major non-government economic activities in the Northern Territory, particularly the large mining projects, are not with the 'economy' of the Northern Territory. The linkages of these projects are primarily with
their customers in other countries and their owners and financiers in other parts of Australia and overseas. The same applies to the large projects on Cape York Peninsula and in the Kimberleys.

Quite apart from the problems inherent in using the term 'the economy of northern Australia', the political boundaries, including the local government boundaries, bear little relationship to ecological, environmental and geographical boundaries. Land use and land management are key issues in northern Australia, and effective decision making often means that the existing political boundaries should be ignored. For example, the development of the McArthur River mine in the Northern Territory could have environmental implications for the land and people living in the Gulf country of Queensland. Inter-state cooperation over such matters in the past has had very mixed results, as the poor record of the management of the Murray-Darling Basin attests.

Similarly, the political units in northern Australia bear little relationship to Aboriginal social and cultural boundaries. ATSIC at least has tried to accommodate such boundaries in defining the areas of the regional councils and the zones. However, while the Central Australian Zone, for example, does include Aboriginal people living in Western Australia, South Australia and the Northern Territory, there is no evidence that ATSIC uses the zone boundaries for administrative or financial purposes. For example, ATSIC has established State Advisory Committees comprising the chairpersons of the regional councils and the Commissioners in each of the States and Territories, to make decisions with respect to some ATSIC spending for that State or Territory. The Commissioner for the Central Australian Zone is required to attend three separate SAC meetings. The 'economy' of Aboriginal society clearly crosses the State and Territory boundaries in some parts of Australia. For many Aboriginal people the existing political boundaries, including ATSIC's boundaries, are irrelevant, except when they are required to deal with an office of a government department of authority in a particular State or Territory which is hundreds of kilometres from where they live.

As subsequent chapters will show, some of the recent developments in northern Australia will challenge, and indeed already are challenging, many of the previous conceptions of northern development. Discussions about Aboriginal self government raise serious questions about the legitimacy of existing political institutions in northern Australia. Incorporating Aboriginal social and cultural values into land and coastal
management regimes, whether these are existing regimes or developing regimes, will challenge the notion that only non-Aboriginal scientific and cultural values should be taken into account by policy-makers. But apart from the changes occurring in northern Australia, there are developments elsewhere that impact on the future of these parts of Australia. World commodity markets are forcing readjustments on Australian resource-based industries, and many regional areas of Australia are experiencing almost irreversible economic decline. World financial markets are requiring readjustments to the priorities of Australian governments, which is placing even greater pressure on government spending.

But as the national debate following the High Court's decision in the Mabo case has demonstrated, a whole range of issues associated with the Aboriginal population of Australia will require national as well as regional and local solutions. Land tenure in some parts of Australia, the rights of holders of native title, the future development of Aboriginal political structures, are issues that create both uncertainties and opportunities. For the opportunities to be taken by both Aboriginal and non-Aboriginal people, some of the issues raised in this book will need to be confronted. What is certain is that while many non-Aboriginal people might have hoped that Aboriginal people would remain 'invisible', locked away on their traditional lands in remote parts of Australia, economically, financially, socially and culturally, Aboriginal people are going to become an increasingly 'visible' part of the northern Australian development agenda.
CHAPTER 3
ABORIGINAL PEOPLE AND
THE PASTORAL INDUSTRY

Although many of the early European explorers regarded the rangeland areas of Australia as being without value, or waste lands, towards the end of the nineteenth century the opportunities for profitable grazing of these lands became more widely recognised. For example, Forrest's positive reports on the potential of the Kimberley region for pastoral activities after his expeditions in 1876–79 encouraged Forrester and pastoralists from Victoria, Queensland and New South Wales to colonise the Kimberleys in the early 1880s (Kimberley Pastoral Industry Inquiry 1985, 11). A critically important factor in the subsequent profitability of many pastoral stations was the use of unpaid Aboriginal labour and the exploitation of Aboriginal knowledge of the country, particularly the location of water sources.

Dr Nugget Coombs has argued that the first phase of the battle between Aborigines and the settlers for the control of resources was concerned with the expansion of land for pastoral purposes. Some writers have described the spread of pastoral activities in the first hundred years of the non-Aboriginal occupation of Australia as 'anarchic' (Barr & Cary 1992, 279). In the south and east of Australia, the victory, apparently at least, was with the European settlers, but in northern Australia:

In the face of defeat Aborigines in effect offered a compromise: to share the right of occupation and to accept the role of unpaid but supported workforce (Coombs 1991, 4).

Coombs suggests that many Aboriginal people became virtually invisible:

They camped on distant parts of pastoral leases and Crown Lands practically ignored by all other than the occasional itinerant prospector or 'dogger'. They camped on the fringes of towns or in some areas were brought into missions or government institutionalised settlements, or crowded into city ghettos. These marginal environments ensured their virtual invisibility and that they could be ignored by the non-Aboriginal population, the great majority of whom was unlikely to meet or to have met with an Aboriginal person, family or community (Coombs 1991, 5).
Many of these Aboriginal people are still struggling for excisions on some of the enormous pastoral stations of the Northern Territory and Western Australia. These excisions often occupy only a few square kilometres, which is why Justice Maurice was moved to describe the excisions process as 'niggardly' (Aboriginal Land Commissioner 1991b, viii). Despite the small areas of many of the excisions, negotiations between the pastoralists, the land councils and the Northern Territory Government have usually taken many years to resolve. Many have still not been resolved. The problem for the Aboriginal people waiting for somewhere to live is that governments generally refuse to put in any infrastructure until the title to the land has been transferred to Aboriginal interests. While the Northern Territory Government at least has guidelines for the provision of infrastructure to such communities, the Western Australian Government will generally only spend money on infrastructure and services for excision communities if it is provided by the Commonwealth Government. In Queensland some of the shire councils have actively attempted to prevent outstation development by using their land use and planning powers.

Despite the fact that the overwhelming majority of pastoral leases in northern Australia are owned by non-Aboriginal interests, often by non-Australian interests, purchases of pastoral land by, or on behalf of, Aboriginal interests usually result in a flurry of criticism from politicians and non-Aboriginal pastoralists. The debate about the industry, and the criticism of purchases of pastoral leases by Aboriginal people, often gives the impression that the entire national economy is threatened. The rural industries are important to the Australian economy, particularly for exports, but their significance can be overstated. The pastoral industry is not the major contributor to the national economy, or even the economy of, for example, the Northern Territory, that some of its supporters would contend. For example, the value of the Northern Territory pastoral industry’s production in 1991 was $91 million. The industry accounted for only about 2.2 per cent of the Northern Territory’s Gross Domestic Product in 1990-91 (Northern Territory Government 1992b, 37). The gross value of the Western Australian industry in 1991-92 was $178 million, with the pastoral leases in the Kimberley region accounting for less than one quarter of the State total (Western Australian Department of State Development 1992). Despite the huge areas of land covered by pastoral leases (952,000 square kilometres), the industry accounts for less than 5 per cent of the total value of agricultural production in the State.
The Northern Territory Valuer-General estimated that the unimproved land value of the 234 pastoral leases in 1991 was $125.7 million (Northern Territory News, 1 June 1992). Even though pastoral leases encompass more than half the land area of the Northern Territory, which itself is about one-sixth the area of Australia, the valuation represents only 0.2 per cent of the value of rural land in Australia, as valued in 1988 (Commonwealth Grants Commission 1991, 234). In the Kimberley region the pastoral industry is 'only a residual user of land' (Kimberley Pastoral Industry Inquiry 1985, v). The Western Australian Government collected only $281,810 in rent from the 99 leases in the Kimberley region in 1991–92 (Pastoral Board 1991, 3).

In many parts of northern Australia there is considerable uncertainty over land use, and the former ascendancy of the pastoral industry is being strongly challenged. Purchases of pastoral leases by Aboriginal interests, and land claims by Aboriginal people with strong traditional links to the land, are only part of the reason for this uncertainty. As Holmes has argued, there are also strong competing claims for nature preservation, recreation and tourism, and a variety of other localised development opportunities (Holmes 1992, 5). In the economically most marginal parts of northern Australia pastoralism is retreating. Indeed, in many parts of Australia country towns and entire regions are declining as agricultural and pastoral activities contract. The forces at work are complex, including the legacy of two centuries of exploiting the land beyond its ecologically sustainable capacity (witness the increasing outbreaks of blue-green algae in many of the inland river systems), and the vagaries of international markets. However, in northern Australia, and particularly the Northern Territory, it is Aboriginal purchases of land that tend to receive the greatest degree of prominence when land use issues arise.

The controversy over pastoral lease purchases by Aboriginal interests in the Northern Territory increased at the end of 1991 following the approval by the Minister for Aboriginal and Torres Strait Islander Affairs for the use of Aboriginals Benefit Trust Account (ABTA) funds to purchase a number of leases. Northern Territory Government Ministers and Country-Liberal Party members of the Legislative Assembly vehemently criticised the purchases, the land claims process, and the Land Councils. The Minister for Lands and Housing argued that the purchases were 'quickly eroding the Territory estate', and that there was 'a loss of valuable land to our pastoral industry'. The Minister argued that Aboriginal-owned properties were generally stocked well below their
estimated carrying capacity (Ortmann 1991a), ignoring the fact that most of the leases when purchased from non-Aboriginal interests either had no cattle or very low numbers of cattle.

Joining in the chorus of criticism was the President of the Northern Territory Cattlemen's Association, who referred to the non-viability of Aboriginal-owned pastoral leases, without any mention of the dozens of unviable non-Aboriginal pastoral leases. In fact, the average cash income of pastoral properties in the Northern Territory in 1991–92 was only $17,700, and this has been projected to fall to $4,600 in 1992–93. Properties around Alice Springs and the north-west of the Northern Territory recorded cash income losses (Fisher, Lembit & Oliver 1992, 7). However, the President of the Association also argued that the land claims over pastoral leases were:

divisive, highly discriminatory against non-Aboriginal pastoralists and is plainly paternalistic on behalf of governments towards Aborigines. It is a pity the Prime Minister has not recognised this issue as one increasingly dividing Australians in his 'One Nation' speeches (Underwood 1992, 18).

The criticism of pastoral lease purchases by or on behalf of Aboriginal interests, inevitably raises the question of who assesses the value of such purchases, and how this assessment is undertaken. The critics of pastoral land purchases by Aboriginal interests are expressing views based on a particular set of values, values which place a very high priority on the use of the land for 'productive' purposes. That is, the use of the land for pastoral and other commercial purposes. ATSIC's Office of Evaluation and Audit completed an evaluation of the land acquisition program of the Commonwealth Government, and suggested that priorities other than the maximisation of the pastoral potential of the land have been satisfied by the program. The Office noted that the policy of acquiring land was largely based on the restoration of social power within Aboriginal society. But economic objectives of the program were also important.

Its origins were based on a belief that Aboriginaels could replace non-Aboriginal land-holders and gain economic power through using rural land as an economic resource. The use of public funds for this purpose was justified in terms of the financial opportunities land would provide and the lessened need for dependence on government by the Aboriginal Community (Aboriginal and Torres Strait Islander Commission 1992b, 1).
The experience of Aboriginal people living on pastoral land that had been purchased was reviewed. ATSIC found that:

- land ownership had met the communities' initial expectations for increased employment;

- ownership had failed to provide an independent income as the economic performance of the properties was below initial expectations;

- economic activity was not of central importance for most of the communities;

- there was a high satisfaction with the movement of families to the remote properties, considerable satisfaction with the level of harmony achieved, and high satisfaction with the establishment of outstations, the protection of significant areas of land and with culturally appropriate schooling;

- in general, the land-owning communities of longer than ten years' status placed the greatest value on the social gains which have arisen from ownership;

- the emphasis of most people now living on the properties was on establishing a community with facilities which will encourage permanent populations (Aboriginal and Torres Strait Islander Commission 1992b, 2).

ATSIC did note that there were some differences between the expectations of younger and older people living on many of these properties. ATSIC noted that there was increasing emphasis being given to the economic viability of purchases in recent years (mainly by ATSIC itself), and that the achievement of these goals was primarily the responsibility of the younger men. This was despite the fact that most of the properties purchased were 'marginal, run-down and badly degraded'. Further, despite the emphasis on the potential employment benefits of the purchases,

the potential to generate any employment has either been absent, negligible or gained at an excessive capital cost per job. The cyclical vicissitudes of most of the primary industries in which Aboriginal communities now operate works against success in the employment area (Aboriginal and Torres Strait Islander Commission 1992b, 28).
Finally, in a rare note of self criticism, the Office concluded:

ATSIC still appears to find it difficult to accept that activities which may contribute very little to economic viability could be the most important for the community as a whole (Aboriginal and Torres Strait Islander Commission 1992b, 30).

One of the Aboriginal Land Commissioners was also prompted to comment on the use of land by Aboriginal people. In his Report on the Amanbidji Land Claim, Justice Olney stated that although the recognition of traditional ownership and the granting of the land to a land trust was obviously important for the claimants,

However, in commercial terms the conversion of the title from pastoral leasehold to Aboriginal freehold would deprive the land of any commercial value. This would mean that the land could not be used as security for the future financing of the cattle operation or any other business the claimants may wish to conduct. It would also mean that a degree of control over the property would pass from those presently in control of the company to the NLC (Aboriginal Land Commissioner 1992, 60–61).

These comments, when reported in the Northern Territory News (4 November, 17 November 1992), were used as a basis to attack the Aboriginal Land Rights (Northern Territory) Act, the land councils, and the spiritual and cultural attachments of Aboriginal people to land. Unfortunately the newspaper omitted Justice Olney's comments later in his report:

There seems little doubt that whatever form of title the land is held under, the present use of the land will continue and it is not possible to say, in the absence of evidence, that one form of title is more likely to ensure current usage than the other. There is no evidence to suggest that the granting of the claim area to a land trust would have any effect at all on the existing or proposed pattern of land usage in the region (Aboriginal Land Commissioner 1992, 70).

It is not entirely clear why Justice Olney commented on the commercial aspects of the claim. He seems to have underestimated the difficulties many Aboriginal people and Aboriginal organisations have had in accessing commercial finance. Some of the views expressed in the report have clearly provided support for the critics of Aboriginal land claims, and reinforced the view that traditional Aboriginal land owners in the Northern Territory are 'controlled' by the land councils. The lack of commercial value of Aboriginal land is more a reflection of the
inadequacies of the financial markets and the productive capacity of the land than of Aboriginal people. Aboriginal land in the Northern Territory and Queensland can be leased, for example, to commercial interests such as a cattle company, or as national parks (Uluru, Kakadu and Nitmiluk National Parks), or for tourist purposes. Such leases can generate considerable financial and other benefits for Aboriginal people. There is no inherent reason why leases to run a pastoral enterprise on Aboriginal land should not have a market value, and could not be used to finance the ongoing operations of the pastoral business.

More generally, although Aboriginal interests have been criticised for purchasing pastoral land, the deficiencies in the Northern Territory Government’s administration of pastoral land have been overlooked. Some of these deficiencies were acknowledged in a discussion paper presented by the Conservation Commission of the Northern Territory (1990) to the Soil Conservation Advisory Council. The Commission pointed out that since the Government owned the land and only leased it to pastoralists, it needed to take some responsibility for ensuring that the land is used in a sustainable manner. The paper noted that minimum stocking rates were outdated, covenants requiring land clearing for pasture improvement and cropping did not mention the need for land resource appraisal, and covenants relating to fencing and watering points required no land resource consideration.

Many pastoral lessees have been allowed to hold their leases without complying with some of the lease covenants. Although it can be argued that stocking covenants were set at unrealistically high levels, there has also been another motive behind the Northern Territory Government’s actions. If a pastoral lease is forfeited, as happened with the Cox River pastoral lease, and reverts to unalienated Crown land, then the land becomes available for claim under the Aboriginal Land Rights (Northern Territory) Act (quite apart from whether it reverts to 'native title' as a consequence of the High Court's Mabo decision). It is highly likely that if the Northern Territory Government were to have rigorously enforced lease covenants in the past, many pastoral leases would have been forfeited, and would now be either under claim or Aboriginal owned.

Perhaps one of the most absurd aspects of this whole debate, which illustrates the double standards of the Northern Territory Government, was that one month after his criticism of purchases of pastoral leases by Aboriginal interests in the Legislative Assembly, the then Minister for
Lands and Housing introduced the Pastoral Land Bill into the Legislative Assembly. The bill, as the Minister explained, was intended to:

introduce a new pastoral land administration system with the primary emphasis on land care and the inclusion of an effective pastoral land monitoring system... the current system does not reflect the rapid changes in attitude which have occurred in the general community and in the pastoral industry in recent years, is inwardly focussed on the development of the pastoral property infrastructure and herd numbers... (Ortmann 1991b, 3494).

It seems that the Minister must have had a 'rapid change' of attitude. It is the same Minister who had previously criticised Aboriginal pastoral lease owners for under-stocking their leases. The Minister did not once mention that the estimated carrying capacity of these properties may have been overestimated, and that the entire system of pastoral regulation based on herd numbers was to be changed within a year. Very few of the properties purchased by Aboriginal interests had any maintenance work carried out on them for years by the previous owners.

The Minister also neglected to mention that many of the leases that have been purchased by, or on behalf of, Aboriginal interests in the Northern Territory (a similar situation applies in the Kimberleys), are very marginal operations. Many of the properties are physically isolated, include rugged and inaccessible terrain, are characterised by low levels of maintenance, and need high levels of investment to function as profitable enterprises. It is only relatively recently that a number of more viable cattle operations have come under Aboriginal control. It could be argued that the purchases by Aboriginal interests of run-down and degraded leases enabled the previous owners to leave the industry, sometimes with a small capital gain. Justice Maurice noted that pastoral property prices often reflect only the value of the cattle and sometimes the value of improvements, 'with the residual value of the lease itself at or near zero' (Aboriginal Land Commissioner 1991b, viii).

When Aboriginal interests purchased Fitzroy pastoral lease (west of Katherine) in 1991, no cattle were included in the purchase. There was only a small herd on Elsey Station, near Mataranka, when the company which owned the lease was purchased by Aboriginal interests. Mistake Creek Station, near the Western Australian border south of Kununurra, had quite a large herd when it was purchased, and some of these cattle have subsequently been sold to finance the on-going operations of the business.
One of the other stations purchased in 1991, Muckaty pastoral lease (south of Tennant Creek), carried no stock when it was purchased at auction by Aboriginal interests for less than half the price paid by the previous owners. The lease had been purchased by two Japanese businessmen in 1988. In May 1989 the *Northern Territory News* (11 May 1989) carried a front page headline that the businessmen were proposing to build a 'futuristic city' on the land. The land was, according to the newspaper, proposed to become the site of the multi-function polis. A year or so later this proposal was scaled down to a mere $20 million 'dude ranch' resort with a golf course and hotel complex. It was stated that the project would generate more than $3 million a year for Tennant Creek. At the time, the member for Barkly suggested that there was barely enough water for 3,000 cattle, let alone a golf course and a new city (*Northern Territory News* 13 February 1991). The land has now been claimed under the land rights legislation, and rehabilitation work was planned by the new Aboriginal owners.

The Select Committee into Land Conservation of the Legislative Assembly in Western Australia examined the viability of the pastoral industry, and in a discussion paper the Committee commented on the performance of the industry in the Kimberley region:

Cattle leases in the Kimberley are large and generally poorly developed. Considerable capital is required to develop leases to the extent needed to provide improved control of cattle and adoption of improved animal husbandry techniques to increase per head productivity. In addition, transport and processing costs are high, while the quality and hence the value of cattle produced is low. A problem further tending to reduce the profit margins of Kimberley pastoral enterprises are the high prices paid for leases which partly reflects the extent of corporate ownership of leases; the presence of speculators in the cattle industry and the generally unrealistic expectations of new pastoralists to develop Kimberley stations while underestimating the financial requirements to do so (Select Committee into Land Conservation 1991, 78).

In Western Australia, legislation to change the tenure conditions of pastoral leases was introduced in the Legislative Assembly on 2 June 1992. The Land Amendment (Pastoral Leases) Bill is broadly similar to the recently enacted *Pastoral Land Act* in the Northern Territory, in that it introduces perpetual freehold and rangeland management principles into pastoral lease administration. According to the Minister for the Environment, the bill also provides 'an improved right of access for Aboriginal people' onto pastoral lease lands similar to the situation in the Northern Territory. These provisions have been criticised by some
pastoral interests. The Minister also noted that in 1990–91 the Government's total rental income from the 582 pastoral leases, which cover almost 40 per cent of Western Australia, was only $496,000 (Parliamentary Debates, Legislative Assembly, 3 June 1992, 3264, 3269). During the Minister's second reading speech, he noted that even though the land is leased for pastoral purposes, it is publicly owned land. The rentals were not based on the value of the land, but on the estimated carrying capacity of the land.

However, it should be noted that rates are also levied by the shire councils on the unimproved value of pastoral properties in Western Australia, and these often exceed the rent payments. In the four Shires in the Kimberley region (Broome, Halls Creek, Derby-West Kimberley, Wyndham-East Kimberley) the Pastoral Board rents levied on properties in 1990–91 was $277,573 (an average of $2,574 per lease), and the council rates amounted to $350,514 ($3,398 per lease). The Kimberley properties accounted for 58 per cent of all pastoral lease rents in the State, and almost 48 per cent of the rates levied on all pastoral properties (Select Committee into Land Conservation 1991, 100).

There must be serious doubts as to whether State and Territory governments have been receiving an adequate return for the leasing of this land for pastoral purposes. A similar situation applied in the Northern Territory prior to the enactment of the Pastoral Land Act. In 1988–89 rental income from pastoral leases was $408,815 (Hockey 1990). The Minister for Lands and Housing stated that pastoral lease rental income in 1992–93 will be about $1.2 million, and administration costs are budgeted to be $560,000 (Legislative Assembly, 29 September 1992). The Northern Territory is not covered by a system of shires, and therefore council rates are not levied on pastoral properties. Despite the increases in rents following the passage of the Pastoral Land Act, payments by lessees to the Northern Territory Government are still well below those paid to governments in Western Australia. But this situation is not confined to the Northern Territory and Western Australia. In New South Wales, the 1,600 graziers in the Western Land Division pay only about $2 million a year in rent, for 42 per cent of the land area of the State. In 1990 the expenditure of the Western Lands Commission, which administers the leases, was almost double the rental income from the leases (Pickard 1992).
Clearly the low pastoral lease rentals, and the lack of a council rating system for pastoral properties in the Northern Territory, represent a form of subsidy to the pastoral industry, in effect a transfer of 'taxpayers' funds' to pastoral interests. The low rentals have assisted non-Aboriginal interests, and often non-Australian interests, to continue their occupation of huge areas of Australia, and to maintain a land use which often has deleterious environmental impacts. The Western Australian Farmers' Federation, however, claimed that the low rentals promote land conservation by reducing the financial burdens on pastoralists (Select Committee into Land Conservation 1991, 99). But, as many Aboriginal people would be aware, the pastoral industry has played a significant role in thwarting their attempts to regain access and title to their traditional lands. This was commented on by Justice Maurice in his *Report on the Warumungu Land Claim*. He noted that the pastoralists paid about $11,000 a year in rent to occupy most of the Warumungu territory, the equivalent of renting two or three modest homes in Tennant Creek. On the other hand, the Northern Territory Government's legal costs in opposing the claim, he suggested, must have amounted to 'several hundreds of thousands, possibly millions of dollars' (Aboriginal Land Commissioner 1991b, viii).

An important issue that will need to be clarified following the High Court's decision in the *Mabo* case is whether the granting of pastoral leases by State and Territory governments extinguishes native title, or is inconsistent with native title. Each State and Territory has different legislation governing pastoral leases. But in the Northern Territory, South Australia and Western Australia there are pastoral leases containing certain reservations for continued Aboriginal access to pastoral land for food or ceremonial purposes. Brennan has argued:

Though the Northern Territory crown lands legislation extends the benefit of the reservation not only to traditional owners but also to Aborigines actually inhabiting the leased land, this extension of itself need not work an extinguishment of native title. While native title may be extinguished within two kilometres of a homestead, it arguably exists on all other areas of pastoral leases in the Northern Territory (Brennan 1992, 10).
The Aboriginal Reconciliation Unit pointed out that to the extent that a pastoral lease allows for ongoing traditional usage, there is a possibility that

native title may have survived to coexist with such interests. Australian law recognises that different interests may exist in the same land at the same time (Aboriginal Reconciliation Unit 1992, 4).

It is quite possible that the present arrangements for obtaining excisions for living areas on pastoral leases in Western Australia and the Northern Territory may be overtaken by legal and other developments based on assertions of native title by particular groups of Aboriginal people. An interesting issue will be the response of governments, and ATSIC in particular, to requests for infrastructure funding from Aboriginal people who now assert that they hold native title, even though they may be living on pastoral leases.
CHAPTER 4

ABORIGINAL PEOPLE AND THE MINING INDUSTRY

It is frequently asserted that traditional Aboriginal land owners are opposed to mining development on their land. A recent issue of Business Review Weekly had a cover with a map of Australia with a large slice removed from it, with a headline which screamed in bold letters:

ABORIGINAL TAKEOVER: Mineral Explorers Frozen Out

The accompanying article was an extraordinarily one-sided attack on Aboriginal land rights and Aboriginal social and cultural values. The simple message from the article was that there is an inevitable conflict between the ownership of land by Aboriginal people and exploration and mining. For example:

The intractable problem appears to lie with Aboriginal groups that hold spiritual and cultural claims to vast tracts of this country. This has been made even more difficult by the practice of many Aboriginal groups of rarely specifying the location of sites that have specific spiritual or cultural significance, and relying instead on listing vast areas of land that surround the sites they want to preserve (Treadgold 1992, 50).

A particular focus of the mining industry's criticism is the land rights legislation in the Northern Territory. Under pressure from the mining industry the Aboriginal Land Rights (Northern Territory) Act has been amended a number of times. The most comprehensive amendments to the mining provisions of the legislation were in 1987. Despite the success of the industry in having the Act changed, criticism of the operations of the mining provisions and of the two major Northern Territory Land Councils has continued. The industry has been strongly backed by the Northern Territory Government. For example, in a speech in October 1992 at the opening of new facilities of the Woodcutters Mine near Batchelor, the Chief Minister once again launched into a tirade about the land rights legislation and 'southern hostility to northern development'. Predictably, the Chief Minister called for the Aboriginal Land Rights (Northern Territory) Act to be transferred to the Northern
Territory Government, a proposal which has continually been rejected by Aboriginal people in the Northern Territory. Mr Perron also called for the abandonment of 'Labor's ludicrous and schizophrenic three-mine uranium policy' (Perron 1992). The Chief Minister seems to have overlooked the fact that the company which operates the Ranger Uranium Mine in Kakadu National Park reduced its workforce by 148 in 1991–92 and is selling 30 per cent less Ranger uranium concentrate than a decade ago. The company in fact met approximately 40 per cent of its contractual commitments with concentrate purchased in other countries (Energy Resources of Australia Ltd, 1992). Even if the Commonwealth policy on uranium mining were to change, there is no guarantee that new mines would be opened, and even if they were, the deposits in the Northern Territory may not be the first to be exploited.

The decision by the Commonwealth Government at the end of 1991 to prevent mining at Coronation Hill, based primarily on Aboriginal social and cultural grounds, further enraged sections of the mining industry, and led to calls from some companies and some industry groups for unrestricted access to Aboriginal and other land, such as national parks and conservation areas. The impact of the industry's campaigns on politicians seems to be reflected in the speed with which the proposed $220 million McArthur River lead-silver-zinc mining project in the Gulf Region of the Northern Territory was given government environmental approval in August 1992. This was only one month after the company submitted its environmental impact statement. The project partners announced in November 1992 that the mine would proceed. This was the first major project to be approved following the announcement of the 'fast-tracking' procedures in the Prime Minister's One Nation Statement. The second project given government approval to proceed was the $43 million investment by Zapopan NL to develop a gold deposit at Mt Todd, north of Katherine, in mid-October 1992.

When the Commonwealth announced in 1989 that the Industry Commission would undertake an inquiry into mining and minerals processing, many in the industry and government expected that the Commission would recommend substantial changes to the Aboriginal Land Rights (Northern Territory) Act. One of the terms of reference related specifically to access to land. In its submission to the Commission, the Australian Mining Industry Council (AMIC) argued that the 'veto powers' should be removed and a set of non-discriminatory access provisions should be established with simpler administration;
negotiations should incorporate earlier participation by traditional Aboriginal land owners; and Aboriginal land should be made available for exploration on a similar basis to other land, subject to appropriate protection of Aboriginal social, cultural and spiritual interests. The general flavour of AMIC's submission can be seen from the following quote:

Since the late 1960s the industry has witnessed a steady encroachment over vacant Crown land and leasehold, particularly for the purposes of creating new conservation areas and for the allocation of land to Aborigines. With exploration and mining effectively prohibited in national parks and conservation reserves, and with the granting of the right to Aboriginal landowners to veto exploration or mining access, the industry now faces a situation where over 20 per cent of the Australian land mass is effectively sterilised from exploration or mining (Australian Mining Industry Council 1990, 34–35).

AMIC has been producing statistics and maps for a number of years which allegedly show the extent of land access restrictions to justify the above comment. AMIC continually uses the words 'locked up' to describe land that it argues is closed to exploration and mining, particularly when the Council is referring to Aboriginal land. For many in the industry, land that is not producing something that can be valued is by definition not being properly used. Hunting and fishing by Aboriginal people on this land, despite its undoubted importance for the Aboriginal economy, is held to be a less than acceptable land use.

Unfortunately, some of the information prepared by AMIC was reproduced by the Ecologically Sustainable Development Working Group on Mining in its Final Report. In an Appendix to the Report, the Group indicates that access by mineral exploration and mining companies to Aboriginal land in all States and Territories can be classified as 'substantially restricted'. The Report quotes the mining industry's figures that only about ten per cent of applications for exploration and mining tenements on Aboriginal land, where traditional Aboriginal land owners make the decision about granting or withholding consent to an application, are successful. While many of the recommendations of the Working Group are similar to those of the Industry Commission, it is relevant to note that there were no Aboriginal representatives on the Working Group.

The question that needs to be asked about the assertions of the mining industry regarding land access is: to what extent are these assertions
influenced by ideological considerations, or to what extent do they reflect commercial considerations? Some people associated with the mining industry clearly have a strong ideological framework to support their views, as is demonstrated in chapter 5. But the criticisms by some sections of the industry about access to Aboriginal land are more strongly motivated by commercial considerations. That is, some mining companies, for commercial reasons, object to the terms and conditions being proposed by the major Land Councils in the Northern Territory. Many mining companies would not wish to see these terms and conditions replicated elsewhere in Australia. The calls for unrestricted access to Aboriginal land are in many cases essentially designed to reduce the costs of access to that land. That is, the mining industry is seeking to obtain an improvement in its commercial position, so that negotiated royalties and other conditions will either be less onerous or non-existent.

Not all of the companies and individuals in the industry adopt the same hard line attitude as AMIC. One of the most successful mining companies has been North Flinders Mines Ltd, which conducts gold mining and exploration activity over an area of 8,000 square kilometres of Aboriginal land in central Australia. It is one of the largest gold mining companies in Australia, with operating revenue of $74 million in 1991-92. In a speech to a mining conference in September 1992, the Chief Executive of the company, Mr Stewart, was critical of some provisions of the land rights legislation (mainly the uncertainties over negotiated payments), but highlighted a number of key issues:

Sadly — within some segments of the mining industry — there appears to be little understanding of the interests of Aboriginal people and too few people appear willing to make an effort to find out what the Aboriginal interests in the land really are... The problem with many mining companies is that they assume they know what the Aboriginal people want, without discussing it with the people concerned... When most explorers or miners begin negotiations, they like to go away and discuss the matter with their advisers. The Aboriginal people are no different. We have our lawyers, they have their advisers — the Central Land Council (Stewart 1991).

Although the Industry Commission did recommend a number of changes to the Aboriginal Land Rights (Northern Territory) Act in its final report, the Commission generally accepted the view that traditional Aboriginal land owners should be able to decide whether they want exploration and
mining on their land. On the issue of whether the Act was undermining the industry in the Northern Territory, the Commission concluded:

The holding of land rights may lead to smaller levels of mining (and more particularly exploration) activity in the Territory, relative to those which would have occurred. However, provided Aboriginal landowners face appropriate incentives, it would be wrong to conclude from this that land and sub-surface resources were not being devoted to their socially optimal use (Industry Commission 1991, vol 3, 67).

This is hardly an overwhelming endorsement of the views of those who argue that Aboriginal land rights legislation in the Northern Territory is destroying the exploration and mining industry. It hardly justifies the decision of the Queensland Government, when it drafted the Aboriginal Land Act 1991, not to give the Aboriginal land owners control over exploration and mining on their land, nor the decision of the Western Australia Government in the mid-1980s not to introduce any Aboriginal land rights legislation because it might have impeded resource development. But despite the conclusions of the Commission there is still pressure to amend the Northern Territory land rights legislation to further reduce the degree of control over development of the traditional Aboriginal land owners. Presumably the Commonwealth Government would need to consider possible amendments to the legislation in the context of the High Court's decision in the Mabo case.

The AMIC submission, and the Industry Commission report, were written before the High Court's historic decision, and there is now a considerable degree of uncertainty as to whether 'vacant Crown land' is in fact 'Crown Land' any longer. Approximately half of Western Australia was vacant Crown land prior to the Mabo case, and claims to 'native title' by Aboriginal people in many parts of Australia will undoubtedly be made over the next few years. The implications for the exploration and mining industry are impossible to predict at this stage. One of the High Court judges, Justice Brennan, for example, suggested that 'authorities to prospect for minerals', or land set aside as national parks, may not extinguish native title (Brennan 1992, 51).

Aboriginal people are not inherently opposed to commercial development on their land, as the evidence from the Northern Territory demonstrates. For example, two mining leases were granted by the Central Land Council in 1990–91, and exploration agreements cover more than 35,000 square kilometres of land in the Land Council's region (Central Land
Council 1991, 35–6). The Northern Territory Department of Mines and Energy quoted Land Council figures that Exploration Licences or EL Applications exist over 53 per cent of the Aboriginal land in the Northern Territory (Department of Mines and Energy 1991, 34). There are numerous tourist developments on Aboriginal land, sometimes directly involving Aboriginal people, the most recently established being the Kings Canyon Frontier Lodge in the Watarrka National Park in central Australia. But, as Aboriginal people have repeatedly stressed, development must be on their terms and at a pace that they determine. Further, as O'Faircheallaigh explains, a negative attitude towards the mining industry on the part of many traditional Aboriginal land owners would be entirely understandable, since:

an unwillingness to abandon traditional pursuits may represent entirely rational behaviour in purely economic terms. Mineral exploration activities are often temporary and do not lead to the establishment of mines or oil fields; the mineral resources of a particular region are finite; and mineral markets are notoriously unstable. For these reasons there is no guarantee that mineral exploitation will provide a source of livelihood in the longer term, and it is entirely rational for indigenous people to try and keep their existing economic and social structures intact (O'Faircheallaigh 1991, 232).

In Queensland and Western Australia mineral exploration and mining is still occurring without any significant involvement of, and certainly very little negotiation with, Aboriginal people. The debacle over the Marandoo iron ore project in Western Australia is one recent example. The concern over mining by many Aboriginal people is clearly expressed in The Crocodile Hole Report, prepared by the Kimberley Land Council and Waringarri Resource Centre (1991), as well as the participants at a workshop on Aboriginal land issues held at Yarrabah in north Queensland in August 1992, and at the Surviving Columbus conference organised by the North Australia Research Unit, the Central and Northern Land Councils and the Island Coordinating Council, held in Darwin in September 1992.

Aboriginal people have never really had effective rights to negotiate with non-Aboriginal interests, except in parts of the Northern Territory and only since the mid-1970s. Many Aboriginal people have felt, and continue to feel, threatened by non-Aboriginal interests. For the people who still feel threatened, or who have only recently obtained title to their land, it is understandable that they might take a different attitude to non-Aboriginal development proposals to those Aboriginal people who have
been in a stronger position for some time. For example, Aboriginal people in Arnhem Land, who effectively were never dispossessed of their land, will in all likelihood take a different approach to commercial development on their land to Aboriginal people who have been through a ten year land claim and have only just begun to adjust to having their land returned. In Western Australia and Queensland, where many Aboriginal people have suffered badly at the hands of the mining industry, and where they have no effective control over their land and sacred sites, it is understandable that they might be hostile to many commercial development projects.

Even though traditional Aboriginal land owners in the Northern Territory have a high degree of control over developments on their land, there is still very considerable pressure on these people to open their land to exploitation by outside interests. The two major land councils in the Northern Territory spend considerable amounts of time and money consulting traditional Aboriginal land owners about exploration and mining proposals, roadworks, and other infrastructure developments on Aboriginal land. While proposals from mining companies tend to receive the most attention, other apparently more innocent proposals can have quite significant long-term impacts. For example, proposals for upgrading roads on or near Aboriginal land, which will often be welcomed by many Aboriginal people, may facilitate easier access for non-Aboriginal people to areas that are sensitive to Aboriginal people. Some areas of Aboriginal land in the Northern Territory are already subject to virtually uncontrolled entry by non-Aboriginal people without the permission of the traditional Aboriginal land owners.

Similarly, the financial arrangements for some mining projects, particularly the new gold mines in central Australia, are also creating internal pressures within parts of Aboriginal society. While the long-term impacts of these projects are difficult to gauge, the short term financial benefits are often readily identifiable. For people with very low incomes, even small royalty, rental or lease payments may make a considerable difference. Some mining companies are deliberately distorting the extent of the potential financial benefits from mining to encourage some traditional Aboriginal land owners to agree to exploration and possibly mining on their land. The staff of the land councils can advise the traditional owners about these matters, but ultimately traditional Aboriginal land owners have to make decisions about the use of their land themselves. It is clear that making these decisions is a very difficult
experience for many Aboriginal people, and the stresses on many of these people are increasing quite dramatically. The consequences of these pressures, and the other stresses of life in Aboriginal communities, are of course all too obvious in the alcohol problems, the violence and the high mortality rates.
CHAPTER 5

THE MINING INDUSTRY AND THE 'NATIONAL INTEREST'

What is often forgotten in the debates about exploration and mining activity is that the mining industry also embodies certain forms of cultural values. All forms of human activity embody cultural values. Every human group has a set of cultural values, and it is really a question of the priorities that each group, or individual, gives to these values. However, the debates about the relationship between mining and Aboriginal people seem to imply that only Aboriginal people have cultural values, and that mining and exploration represent something divorced from 'culture'. The impression given by many industry representatives is that mining is more important than 'cultural' pursuits. The industry, particularly through AMIC, has systematically attempted to create the strong impression that the benefits from mining are more important than Aboriginal cultural and social values.

The mining industry, and to a lesser extent some of the other resource-exploiting industries in Australia, have to a large extent been successful in creating an identification in the mind of many people in the Australian community between that industry's commercial interests and the 'national interest'. Jull has suggested that the industry is comprised of the 'most diehard romantics of all' (Jull 1991, 43). He suggests that despite the importance of the industry in Canada, both historically and in the present day context, the mining lobby in that country is not taken seriously when it talks about socio-political change. The Canadian industry often acts as though it is performing in a 'Wild West Show' rather than making serious contributions to national debate about indigenous and constitutional issues (Jull 1992b, 7-8). The mining industry has undoubtedly been an important force in Australian development, but this should not mean that its interests are paramount to those of other groups in the community, or that its priorities for land use should necessarily take precedence over other groups' priorities. At the moment, there is a general presumption amongst many key policy-makers that in fact this should be the case. In Western Australia and Queensland the industry's access to land has never seriously been challenged, nor has it on pastoral land in the Northern Territory. Considerable areas of the existing Aboriginal land have
already been subject to exploration and mining, and nearly all of the major mineral projects in the Northern Territory are on Aboriginal land.

Almost without exception, when land use decisions are being made that involve the mining industry, the industry and its proponents claim: 'this project will generate 'x' millions of dollars of exports and 'y' numbers of jobs'. If the project is not given government, or land owner approval, all of these benefits will be jeopardised, according to the industry. However, Coombs (1992) has questioned the magnitude of the benefits to Australia that are supposedly generated by the mining industry. He notes that when the industry talks about the export revenue the industry generates, or a particular proposed project will potentially generate, its neglects to mention the foreign exchange and other costs of its activities. For example, considerable, but unquantified, amounts of foreign exchange are necessary to purchase supplies of capital goods, technology rights, payments for commercial and professional services, debt servicing and payments of dividends to foreign shareholders. These payments are quantifiable, but are never disclosed by the industry. Coombs (1992, 51) pointed out that the industry neglects to mention that:

every kilogram of minerals consumed or exported reduces Australia's capital assets; that when a mine is exhausted our children will be the poorer; that some new capital assets may have been created from its proceeds but it is unlikely that they will be predominantly in Australia, and even less likely that they will be in the region from which the minerals came.

The most recent serious analysis of the economic benefits of a mining project was undertaken by the Resource Assessment Commission in relation to the Coronation Hill project. The mineral deposit is in Stage Three of Kakadu National Park, which was included on the World Heritage Register in December 1992. The Commission concluded that even though the mine was likely to produce economic benefits, and could have contributed to the economy of the Northern Territory, these benefits were relatively insignificant in the context of the Australian economy. However, the economic analysis provided only a limited insight into the net foreign exchange benefits of the project (Resource Assessment Commission 1992). Knapman and Stanley have subsequently re-worked some of the data used by the Commission, and concluded that in fact the project was not economically efficient once the environmental costs of the proposed mine were taken into account. Their conclusion was that
there was no trade-off between social and economic benefits since the economic benefits were negative (Knapman & Stanley 1992).

In the Western Australian report for the Royal Commission into Aboriginal Deaths in Custody, Commissioner Dodson provided an overview of the role of the mining industry in marginalising Aboriginal people. On the matter of the 'national interest', he noted:

What the industry lobby's arguments systematically refuse to acknowledge is that it may also be in the national interest to address the outstanding claims of Aboriginal people resulting from the compulsory acquisition of all their property as a result of colonial conquest and occupation (Dodson 1991, 670).

It is interesting that the Industry Commission in its report on mining and mineral processing moved a long way towards accepting the position of the two main land councils in the Northern Territory. Normally, criticism of the Aboriginal Land Rights (Northern Territory) Act concentrates on the number of exploration applications being delayed, or the alleged detrimental impacts on levels of exploration and mining activity. This has been the consistent position of the Australian Mining Industry Council, the Northern Territory Chamber of Mines and the Northern Territory Government. However, the Industry Commission, which one would have thought would normally adopt a similar approach, in fact agreed that:

the real test of the workability of the Aboriginal Land Rights (Northern Territory) Act is not necessarily the amount of land under exploration, or the number of mines on Aboriginal land in the Northern Territory, but rather the extent to which Aboriginal landowners are able to freely exercise their ability to withhold or grant consent for exploration and mining (Industry Commission 1991, vol 1, 17).

It is not surprising that the critics of land rights legislation have ignored this conclusion.

One of the industry's most prominent spokespersons and the Managing Director of one of Australia's largest mining companies has strongly criticised Dr Coombs for his views on the economic contribution of the mining industry. Mr Morgan reiterated many of the extravagant assertions from his previous writings. Incredibly, he reaffirmed his belief in the concept of terra nullius, claiming:
The doctrine of *terra nullius* did not mean that no-one inhabited the country. It meant that those who did inhabit it were at such a primitive state of development that no treaty with them was possible (Morgan 1992b).

This, he claimed, was a political and legal statement, not a moral judgement. Unfortunately for Mr Morgan, within a month of the publication of that article the Australian High Court had struck down the concept of *terra nullius*. Justice Brennan argued in his decision in the case:

The theory that the indigenous inhabitants of a 'settled' colony had no proprietary interest in the land thus depended on a discriminatory denigration of indigenous inhabitants, their social organization and customs. As the basis of the theory is false in fact and unacceptable in our society... (Brennan 1992, 27).

However, undeterred, Mr Morgan has repeated some of his earlier statements, and developed his conspiracy arguments further. On the nature of Aboriginal society, he asserted, contrary to many of the findings of the High Court judges, that:

The Aborigines had no agriculture nor did they graze animals. Their few utensils, weapons and ornaments were crude. They had no written language, no sense of time or history, no common language... Aborigines possessed, if they possessed at all, only the most primitive social organisation, only the most rudimentary social structures, and a culture which did not allow them to form a political structure beyond the immediate kinship group (Morgan 1992a).

He argued that a separate sovereign state for Aboriginal people 'has been a settled and constant ambition of communists and Bolshevik left generally' in Australia for more than 50 years. However, he also suggested that the *Mabo* decision had effectively recognised Aboriginal law, but was critical of the High Court itself because it is 'answerable to no one except, in the final analysis, the Australian people! His view is that the 'law of property is now in a state of disarray', and that a future Coalition government should either repeal, or substantially amend, the *Racial Discrimination Act* to overcome these problems.

Mr Morgan is correct in the sense that the full ramifications of the *Mabo* High Court decision for the mining industry, and property law generally, are uncertain. As the Central and Northern Land Councils argued in their submissions to the Industry Commission, despite the problems with the
land rights legislation, the Act does set out clearly the responsibilities of
the land councils, traditional Aboriginal land owners, and the exploration
applicants. An administrative timetable places time limits on the
consultation and negotiation processes. But what will be the situation
facing the mining industry in Western Australia or Queensland following
the Mabo decision? Justice Brennan, for example, stated that native title
may not be extinguished by the granting by State and Territory
governments of authorities to prospect for minerals. Who owns the
subsurface mineral and petroleum resources on land that is held under
native title? Although mining legislation in each of the States contain
general provisions stating that minerals are the property of the Crown,
Brennan notes that at common law minerals were owned by the land
holder. But,

such general provisions [of the States' mining legislation] with express
exceptions make it clear that even if native title carried with it the incident
of ownership and control of minerals, that incident has been extinguished
and native title does not carry with it any ownership or control of minerals
other than that granted by mining legislation (Brennan 1992, 11-12).

However, a paper released by the Aboriginal Reconciliation Unit in the
Department of the Prime Minister and Cabinet makes a distinction
between the situation of existing mineral leases and future mining
activities on land that is held under native title.

It is unlikely that any possible sub-surface native title rights would have
survived in relation to existing mineral leases but, more generally, the
decision leaves open the question of whether native title may entail some
rights, either surface or sub-surface, that will impinge on future
exploration and mining activities (Aboriginal Reconciliation Unit 1992,
4).

This raises a number of further points. How, and with whom, does a
company wishing to undertake certain activities on land that is held under
native title, negotiate access? What is the applicability of State mining
legislation to land that is held under native title? The consultations
announced by the Prime Minister in late October 1992 will hopefully be
the beginning of the resolution of some of these issues (Prime Minister

The mining industry in Western Australia during the early 1980s waged a
vicious campaign against the introduction of land rights legislation in that
State. The result has been further acrimony between some groups of
Aboriginal people and some mining companies in parts of the State. A number of large projects in the northern areas of the State, notably at Marandoo and Yakabindie, have received national attention, allegedly because Aboriginal groups and conservation groups have been preventing development. The irony might be that the mining industry, which campaigned so hard against land rights legislation, now finds itself in an even more uncertain position precisely because of the absence of land rights legislation and some form of land council structures.

It may be wishful thinking, but one could only hope that the progressive and far-sighted sections of the industry might work to find a negotiated solution to this very complex matter. Offering to provide more employment opportunities for Aboriginal people in the industry, worthwhile as that may be as an objective, is really avoiding the issue. If the industry is serious about representing the 'national interest', then it has an obligation to assist the country as a whole to resolve these problems.

Perhaps some of these issues might be resolved through the so-called reconciliation process, initiated by the Commonwealth Government. The Council for Aboriginal Reconciliation has established two Committees to deal with relations between pastoral and mining interests and Aboriginal people. The Rural Committee will 'make plans for cooperative action to bring about reconciliation' in the pastoral industry in the Northern Territory, and the Mining Committee will 'bring miners and Aboriginal people together to talk about ways of improving consultation and understanding' between the mining industry and Aboriginal people in Western Australia (Council for Aboriginal Reconciliation 1992, 4–5).
CHAPTER 6

THE INVISIBLE PEOPLE: ABORIGINAL PEOPLE AND REGIONAL DEVELOPMENT PLANS

There appears to be an increasing tendency for governments to talk about the need for regional planning. There are a number of recent examples in northern Australia. For example, the Kimberley Region Plan Study Report was prepared by the Western Australian Government. The Northern Territory Department of Lands and Housing prepared the Gulf Region Land Use and Development Study, and the Department of Industries and Development played an important role in preparing the Barkly Region Economic Development Study and the Katherine Region Economic Development Strategy. The Department is presently drafting a report for the Alice Springs region. The Queensland Government announced in early 1990 that it intended to spend millions of dollars preparing a Cape York Peninsula Land Use Strategy.

Holmes has provided a critique of a number of these reports, and makes the very important point that:

> a primary goal of strategic planning should be to secure a cooperative engagement of Aboriginal and non-Aboriginal interests... it can only be concluded, certainly in the Kimberley and Gulf cases, that there has been a lack of vision, involving a monumental failure to recognise the pivotal role which participatory coordinative regional planning could play in ensuring the engagement of Aboriginal interests (Holmes 1992, 3).

The extraordinary feature of these reports is their limited consideration of the role of Aboriginal people. In all of the regions, Aboriginal people are a very significant proportion of the population: 57 per cent in the Gulf region, 43 per cent in the Kimberley, 36 per cent in the Barkly region, and 32 per cent in the Katherine region. However, in all of the areas the land ownership picture is very mixed, although Aboriginal ownership of the land is not insignificant. How the High Court's Mabo decision changes the situation as regards land ownership in these areas remains to be seen.

The Gulf Region Land Use and Development Study begins its discussion of the history and cultural values of the region with the 'Indonesian
voyagers' and the Macassan trepangers in the 1600s. There is no
discussion of Aboriginal history, and very limited discussion of
Aboriginal social and cultural values. Cursory references are made to
Aboriginal people in some parts of the report. Part of one page deals with
Aboriginal land use issues, and concludes:

It is important that Aboriginal aspirations be considered in any land use
proposals in the Gulf and that every effort be made to preserve the unique
cultural values associated with the land (Department of Lands and
Housing 1991, 48).

Further,

Improvement in Aboriginal living conditions and participation in all
forms of economic development should be encouraged (Department of
Lands and Housing 1991, 90).

Most of the land in the Gulf region is covered by pastoral leases. There
are only a few areas of Aboriginal land in the region, including land that
was subject to the Garawa/Mugularrangu (Robinson River), Nicholson
River (Waanyi/Garawa), and the Borroloola land claims. The Study
proposes that a number of new parks and reserves be established,
including part of Robinson River and part of the Waanyi/Garawa Land
Trust (Nicholson River). Most of the coastline, some of which is
Aboriginal land under the Aboriginal Land Rights (Northern Territory)
Act, is regarded as having international and national environmental
significance.

Although the Northern Territory Government has negotiated management
arrangements with the traditional Aboriginal land owners of North Island
in the Sir Edward Pellew Group of islands in the Gulf of Carpentaria, the
negotiations took more than a decade to conclude. The Gulf Study is
limited in its consideration of Aboriginal involvement in the management
of ecologically and culturally important areas in the region, and proposes
few serious strategies for progressing the situation. The quote above talks
about Aboriginal aspirations being 'considered', whereas some of the
proposed parks will require negotiations with the traditional Aboriginal
land owners. This type of attitude is not surprising, given the Northern
Territory Government's hostility to the joint management arrangements at
Uluru and Kakadu National Parks, and its decade-long opposition to the
land claim over the area that now includes Nitmiluk (Katherine Gorge)
National Park. In general, the Government has refused to contemplate
joint management-type arrangements until it has no other option. Even
when traditional Aboriginal land owners have initiated discussions over new national parks or conservation reserves for land that is already Aboriginal land (including parts of Arnhem Land), the Northern Territory Government’s intransigent attitude on some issues has prevented much progress. The Government’s insistence on a high degree of ministerial control under the proposed management arrangements is one such issue.

The Barkly Economic Development Study was drafted by the Department of Industries and Development, and subsequently endorsed by the Barkly Region Economic Development Committee. The Committee was comprised of a range of government and non-government representatives from the region, including representatives of some Aboriginal organisations. The Study devotes one paragraph to the Warumungu people, and nearly two pages to the history of mining and pastoralism in the region. While the strategy document does include some discussion of possible economic development opportunities involving Aboriginal people, particularly tourism, much of the emphasis is on Aboriginal culture as a tourist ‘drawcard’. Somewhat surprisingly, however, the Study does note that the contribution of Aboriginal people to the economy is well recognised. No quantification of this contribution is included in the report, and it is not clear who in fact recognises the contribution.

Justice Maurice, in his Report on the Warumungu Land Claim, described the Warumungu people as 'a flourishing nation in the ordinary sense' at the beginning of the twentieth century (Aboriginal Land Commissioner 1991b, vii). The Land Claim was originally lodged in 1978, and the Land Commissioner recommended that a large area of land be granted to the traditional Aboriginal land owners in 1988. However the detriment issues (affecting the interests of non-Aboriginal people) associated with the granting of the land have still not been fully resolved. The land claim has been a source of considerable uncertainty in the region for more than a decade, but it receives scant attention in the Barkly report. While it is to some extent understandable that an economic development strategy document will focus on practical possibilities, the lack of resolution of the Warumungu land claim has been a significant constraint on many Aboriginal people in and around Tennant Creek taking any initiatives to improve their own economic situation. It is unrealistic to expect people who are struggling for their land, who are extremely concerned about the protection of sacred sites, who have been shifted from one place to another, and who have been systematically harassed and abused, could
seriously formulate economic development strategies. For many of these people, survival has been a major achievement.

The Jawoyn people in and around Katherine were in a similar situation until their claim to Nitmiluk (Katherine Gorge) was finalised, and the national park arrangements began to be implemented. The Katherine Region Economic Development Study, in its overview of the history of the region, dispenses with the Jawoyn people in one paragraph. Most of the history section is concerned with the period since the explorer Leichhardt's expedition in 1844. Aboriginal economic issues are treated in a similar way to the Barkly study, with the Katherine study almost suggesting a printed tea-towel and plastic boomerang-led recovery for the region:

There is hardly a single souvenir outlet anywhere in Australia which does not sell Aboriginal artefacts or items incorporating Aboriginal designs — and the origin of many of these articles is the Territory, particularly areas such as Ngukurr in the Katherine Region (Katherine Regional Economic Development Committee 1992, 28).

The Study does comment on the Coronation Hill project, and not surprisingly suggests that Australia 'cannot afford to stop the development of profitable mining operations' such as this project. Further, the Study supports ending the supposed 'monopoly' the Land Councils have over negotiations with mining companies, and argues that traditional Aboriginal land owners should be free to negotiate agreements directly with mining companies. The Study neglects to mention the fact that the traditional Aboriginal land owners have agreed to exploration in other areas of land in the region.

The long-running Jawoyn land claim, which bitterly divided the town of Katherine and which resulted in a severe deterioration in relations between Aboriginal and non-Aboriginal people, is not mentioned. During the debate on the Nitmiluk (Katherine Gorge) National Park Bill, the Minister for Primary Industry and Fisheries, referred to the divisiveness of the land claim, and congratulated one of the people who had 'spent a great deal of his money opposing the land claim' (Northern Territory Parliamentary Record, 16 May 1989, 6056). These attitudes persist in Katherine, as a drive out to the National Park past a number of private blocks with their mocking 'sacred sites' signs will attest.
The Study refers to the establishment of an Aboriginal cultural centre in Katherine, which should have a positive impact on tourism, about the only growth industry in the region apart from the defence force build-up. While a detailed proposal for the centre was submitted to the then Minister for Lands and Housing more than one year ago, on 10 September 1992 the Minister (Mr Ortmann) wrote to the residents of East Katherine asking whether they preferred the particular site to be used for an Aboriginal cultural centre or a shopping centre and cinema complex. No firm proposal for the latter was prepared, and the proposed developer was also not named. One can only conclude that such a cynical exercise was designed to worsen race relations in the town. It is difficult to see how it could contribute to improving the position of Aboriginal people in the local economy.

Both studies recognise, albeit very briefly, the Aboriginal contribution to the economy of each of the regions. While the encouragement of small Aboriginal enterprises may produce some benefits, as the studies indicate, the larger scale flows of funds into the region for Aboriginal people are social security and CDEP payments, government grants for the provision of housing and infrastructure in Aboriginal communities, and other funding for the delivery of services to Aboriginal people. For example, according to data supplied by the ATSIC Finance Branch, ATSIC spending in the Katherine region (the area included by the Mulgun and Victoria River Regional Councils) was $25.6 million in 1991–92. This included $14.96 million of CDEP wages, on-costs and support costs. Spending in the area of the Yapakurlangu Regional Council (which includes Tennant Creek) was $8.43 million in 1991–92, including $3.69 million of CDEP wages, on-costs and support costs. In both regions housing and community infrastructure are major expenditure items.

In addition, calculations from data supplied by the Department of Social Security suggest that in 1991–92 Aboriginal people living in the Katherine region received approximately $5.6 million in pensions and family payments, about 40 per cent of the total such payments ($13.89 million) in the region. In the Tennant Creek region Aboriginal people received about $1.8 million of pensions and family payments in the same year, out of a total of about $4.53 million of such payments to all people in the region.
Table 1: Some Estimates of the Aboriginal Contribution to the Katherine Regional Economy, 1991–92

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<tbody>
<tr>
<td>ATSIC expenditure</td>
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<tr>
<td>CDEP expenditure</td>
<td>14.96</td>
</tr>
<tr>
<td>Other expenditure</td>
<td>10.63</td>
</tr>
<tr>
<td>Total</td>
<td>25.59</td>
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| Social Security Payments to Aboriginal People |     |
| Pension and family payments                  | 5.6 |
| Job Start Allowance and Newstart Allowance   | 4.3 |
| Total                                         | 9.9 |

| Total | 35.49 |

Source: ATSIC Finance Branch; author's calculations from information supplied by Department of Social Security.

Payments to Aboriginal people of Job Start and Newstart Allowances are more difficult to calculate, because unlike pensions and family payments the number of people receiving such payments is more unstable. It is harder to average figures over a year given the number of people commencing or ceasing to receive such benefits. However, based on the information supplied by the Department of Social Security, it has been calculated that the total level of payments in the Northern Territory to Aboriginal people was about $41 million in 1991–92. For the Katherine region, the figure was $4.3 million. Adding these figures together, payments to Aboriginal people for CDEP, pensions, family payments, and unemployment benefits amounted to almost $25 million in 1991–92 in the Katherine region.

Clearly the spending of these funds in each of the major towns has a significant economic impact. An illustration of how individual businesses are dependent on spending by Aboriginal people was reported in the Sunday Territorian on 23 February 1992:

A row has erupted in Borroloola over social security cheques. Several businesses are complaining that Malandari Store has grabbed a near monopoly of business by redirecting social security cheques to itself to pay accounts. Len Barnes, who runs a bulk supermarket, said previously
all social security cheques went to the Post Office agency in the township to be collected. The money was then spent in the various stores around town. But with the near-monopoly enjoyed by Malandari, Mr Barnes said: 'A lot of people are beginning to get hurt. It is affecting the whole business community here'.

Another example was in Alice Springs following the announcement that Aboriginal interests had purchased a share in the Peter Kittle Toyota dealership. The Centralian Advocate (17 November 1992) reported that the:

Northern Territory Motor Trade Association vice president Alex Bohner said he had been approached by a number of Alice Springs car yard dealers who feared Aboriginal organisations would now take all their business to Peter Kittle.

One way of increasing the level of economic activity in these local and regional economies would be to increase the size of these payments to Aboriginal people. As CDEP is presently structured, the maximum wage payment is generally limited by the rates for the Job Search Allowance and Newstart Allowance, although some people do receive higher payments depending on their hours worked at particular times. This ensures that many Aboriginal people will remain at or below the poverty line, even though many of the workers under CDEP are performing local government-type services. By accepting that CDEP has become a substitute funding program for local government services in many areas, some governments have been able to avoid most of their responsibilities for the delivery of citizenship services to Aboriginal people. In some communities CDEP funding has effectively been used to prop up incompetent shire council administrations. The economic impact is to maintain the incomes of Aboriginal people at relatively low levels, thereby restricting economic activity in the regions where they, and other people, live.

The reality is that very few Aboriginal people will be employed in their own businesses, and only relatively small numbers will either wish to work, or have sufficient skills to work, in mainstream occupations. But employment generated in Aboriginal organisations, and in the businesses dependent on Aboriginal spending power, are far more significant. A study of central Australia found that the Aboriginal organisations were the largest employers of Aboriginal people in Alice Springs, and one of the largest employers of all people in the region (Crough, Howitt & Pritchard 1989, 65). Instead of attacking Aboriginal people for
undermining the economy, or for their dependence on 'taxpayers' dollars, business and other non-Aboriginal interests in some of these towns and communities should be working on strategies to increase the flow of Aboriginal funds into the region. Certainly supporting the Federal Opposition's plans to reduce Aboriginal affairs spending by $100 million would not seem to be a sensible strategy. Small, economically-precarious regions like the Barkly and Katherine regions are heavily dependent on flows of funds from elsewhere in Australia. In many local and regional economies a range of services, both government and private, cannot be supported without these inflows of external funding. A key part of an economic development strategy for such regions should be designed around maximising these flows. The strategy has to go much further than the promotion of Aboriginal culture as a tourism drawcard.

Although some of the proposals in the strategy reports might provide increased income to some people, the options for providing income support for the bulk of the population living in the more remote parts of Australia are an important issue. This is a particular challenge for the Commonwealth Government, both because it is responsible for the bulk of social security payments, and it is responsible for the Aboriginal Land Rights (Northern Territory) Act, which has enabled many Aboriginal people to live on, or near, their traditional country. The decentralised nature of the Aboriginal population not only increases the costs of service delivery, but also considerably limits the opportunities for Aboriginal people to increase their incomes. A number of Canadian writers have examined this issue, and the report The North and Canada's International Relations, published by the Canadian Arctic Resources Committee, noted that there were real risks in relying on conventional economic development strategies for areas like northern Australia.

Unless new economic prospects emerge, it seems likely that Canada will have to accept the probability that a reasonable standard of living in such extreme northern areas will, for most people, involve continuing and high subsidies of various kinds.

There would be nothing new about high and continuing subsidy. It has been accepted by implication in the extent of a variety of government programmes developed over the past 30 years to meet arctic realities. What could be new is the perception that this is not a transitional or unexpected situation. It is simply a fact of life if a growing resident native population is to continue to live in what is today considered to be a decent manner in some of the harshest and most difficult conditions on earth.
Acceptance of that arctic reality could make it possible to devise methods of support and assistance that would contribute to, rather than undermine, the sense of self-reliance and independence that is vitally important for people in meeting the challenges of the Far North (Robertson et al 1988, 21).

The Kimberley Region Plan Study Report is equally deficient as regards its treatment of Aboriginal people, who not only comprise a significant section of the population but are increasingly large owners of pastoral leases as well. This is despite the fact that the Report states that 'the greatest resource of any area is its people'. About the only serious recommendation to come from this report is the need to establish a Kimberley Regional Coordinating Committee, which will have a token regional representative of Aboriginal people. This report can be compared with The Crocodile Hole Report and the response of the Kimberley Land Council following consultations with Aboriginal people in the region about the Royal Commission into Aboriginal Deaths in Custody. As the KLC indicated:

It is of concern that, of these three reports [Kimberley Regional Plan Study, Crocodile Hole Report, Land of Promises], the one most likely to influence state government policy on important issues such as land use and resource development is likely to be the Kimberley Regional Plan Study, into which there has been least Aboriginal input, and which does not address in any meaningful way the diverse and distinct Aboriginal interests in future development (Kimberley Land Council 1992, 29).

The Crocodile Hole Report, which was produced after a meeting, near the Ragan community south of Kununurra, of about five hundred Aboriginal people from all parts of the Kimberley region, includes detailed recommendations on the pastoral industry, local government, water resources, Aboriginal control and management of national parks, health, education, mining and tourism. In contrast, the treatment of Aboriginal people and Aboriginal issues in the government reports highlights one of the important points made by Commissioner Dodson in his Western Australia report for the Royal Commission into Aboriginal Deaths in Custody:

Of central importance to my discussion in relation to exclusion from the labour market, is the argument that the specific concerns of Aboriginal people cannot be separated from the concerns of regional development. Essentially, I am of the view that Aboriginal participation in regional development is fundamental to achieving locally sustainable economies in rural and remote Australia, not an optional extra to be considered as a
welfare issue once regional plans are in place. Aboriginal people are an integral component of regional economies (Dodson 1991, 525).

Commissioner Dodson refers to the 'taxi economy', where payments to Aboriginal people from the government, particularly social security payments, end up supporting many local non-Aboriginal business people. He concluded:

In sum, it is apparent that in areas where Aboriginal people are dependent on modes of transport, other than those which they can provide themselves, that dependency is exploited, and Aboriginal people are socially and economically marginalised while others (in this instance, certain taxi drivers) seek to gain (Dodson 1991, 699).

This is a very important point, and could perhaps lead to some changes in the way data is presented about Aboriginal affairs spending. For example, information is available from ATSIC on how much spending is allocated on behalf of a particular community, say for housing and community infrastructure. The implication of the figures is that the funds are spent in the community, whereas in many cases the money is actually paid to non-Aboriginal contractors who do not live in the community, and who do not acquire any of the building materials in the community. The money may be spent on the community (providing houses or other infrastructure), but it is not spent in the community. Even if the money is paid to an Aboriginal council or housing association in the community, it is highly likely that the funds will leave the community almost as quickly as they arrive.

While it is almost impossible to ignore the importance of Aboriginal people to many regions of Australia, either in population terms, or economically, or because of their land holdings, the clear attitude in the reports discussed above is that Aboriginal issues are marginal to the main issues. It is almost as though Aboriginal people do not exist, and if they do, only begrudging reference is made to them. If any consideration is given to Aboriginal issues, these issues are regarded as social, not economic problems.

The actual or potential contribution of Aboriginal people and Aboriginal organisations to many local and regional economies is almost completely ignored. The previously mentioned study of central Australia (Crough, Howitt & Pritchard 1989) suggested how large this contribution might be in other parts of Australia. Despite high rates of unemployment and relatively low personal incomes, Aboriginal people and their
organisations were estimated to account for about one-third of the regional economy of central Australia. The measured income of Aboriginal people, Aboriginal organisations and enterprises, and government spending on Aboriginal affairs programs was estimated to be about $184 million in 1987–88. Table 2 provides further details from this research. It should be noted that some of the figures in this table are included in more than one category. For example, part of the income of the central Australian Aboriginal organisations is also included in the category 'grants and subsidies based on Aboriginality', and part of the wage payments in the Aboriginal bureaucracy category is also included in the 'earned income' category. The total takes account of the overlapping categories.

Further, the Aboriginal population of central Australia is increasing and has a very much lower rate of inter-state migration than the non-Aboriginal population. It could be argued that Aboriginal people are the stable long term base of the central Australian economy, both economically and demographically (Crough, Howitt & Pritchard 1989). A similar study of the 'Aboriginal economy' of the Kimberley region will be undertaken during in the first half of 1993.

The central Australian study highlighted the involvement of Aboriginal interests in a wide range of economic activities. For example, there are three Aboriginal-owned airlines in central Australia, servicing communities in the Northern Territory, South Australia and Western Australia. The largest shopping centre building in Alice Springs, Yeperenye, is owned by Aboriginal interests, as is the commercial television station Imparja and Australia's largest Aboriginal media organisation, the Central Australian Aboriginal Media Association (CAAMA). One of the largest tourist projects in central Australia, the Kings Canyon Frontier Lodge in the Watarrka National Park, involved an investment of $15 million on behalf of the Central Aboriginal Investment Trust, a charitable trust established on behalf of central Australian Aboriginal people. One of the fuel dealerships in Alice Springs is owned by the Ngaanyatjarra people in Western Australia, and this dealership, apart from its retail activities in Alice Springs, provides fuel distribution services to the communities in the Ngaanyatjarra homelands.
Table 2: Estimates of the Aboriginal Economic Contribution to Central Australia, 1987–88

<table>
<thead>
<tr>
<th>Item</th>
<th>$000</th>
</tr>
</thead>
<tbody>
<tr>
<td>Income of Aboriginal organisations</td>
<td>31,548</td>
</tr>
<tr>
<td>Grants and subsidies based on Aboriginality</td>
<td>46,374</td>
</tr>
<tr>
<td>Citizenship Entitlements</td>
<td></td>
</tr>
<tr>
<td>Department of Social Security</td>
<td>26,929</td>
</tr>
<tr>
<td>CDEP scheme payments</td>
<td>16,601</td>
</tr>
<tr>
<td>Local Government Grants</td>
<td>4,096</td>
</tr>
<tr>
<td>Mainstream Department Spending</td>
<td>55,572</td>
</tr>
<tr>
<td>Total</td>
<td>103,198</td>
</tr>
<tr>
<td>'Earned Income'</td>
<td>31,181</td>
</tr>
<tr>
<td>Administration Costs of Aboriginal Bureaucracy</td>
<td>2,188</td>
</tr>
<tr>
<td>Net Total</td>
<td>183,857</td>
</tr>
</tbody>
</table>

Source: Crough, Howitt & Pritchard (1989)

In the Top End, Aboriginal people from five Arnhem Land communities own the Arnhemland Progress Association, which operates community stores in the Northern Territory and Western Australia. It had a turnover of nearly $12 million in 1991–92, and achieved a net operating profit of $582,000. Northern Consultants and Associates Pty Ltd is an Aboriginal-owned enterprise that provides architectural consulting, planning, project management and research services to Aboriginal communities. Aboriginal people are also involved in numerous tourist projects, forestry, fishing and pearling joint ventures, and real estate investment. The major hotel complexes in Kakadu National Park are owned by Aboriginal associations.

In the Kimberleys, Aboriginal interests not only own 18 pastoral leases, but also a range of other enterprises, including an investment in the Crossing Inn in Fitzroy Crossing, numerous tourist projects, caravan parks, commercial real estate, roadhouses, and a network of radio stations. The Kununurra-Waringarri Aboriginal Corporation has announced that it was planning to establish a community store in
Kununurra, based on the fact that it cashes up to $40,000 in cheques a month, and places $3,000–5,000 in ration orders with non-Aboriginal businesses in the town. The organisation managed about $2.75 million of its own funding and on behalf of 30 communities in 1990–91 (Kununurra-Waringarri Aboriginal Corporation 1992, 21).

Arthur has provided estimates of funding allocations to Aboriginal people in Western Australia. The total spending by the Commonwealth and Western Australian Governments in 1990–91 were estimated at $238 million, of which Commonwealth spending totalled $202 million. Arthur classified about $111 million of this spending as 'economic', which included spending on education, labour and employment programs, and CDEP. About 85 per cent of ATSIC’s spending ($89 million) was in the remote areas of Western Australia (Arthur 1991).

The unwillingness of most non-Aboriginal Australians, and all of the country’s governments, to recognise the economic importance of Aboriginal people in many parts of Australia is not surprising. After all, it has taken the Australian courts more than two centuries to formally recognise that Aboriginal people not only lived in Australia before the arrival of non-Aboriginal people, but actually, from a common law perspective, owned the land as well. If the concept as patently absurd as terra nullius, which has been an extremely important ideological concept for non-Aboriginal Australia, can survive two hundred years, there is little reason to expect that the contribution of Aboriginal people to the economic development of Australia will be readily acknowledged. There is increasing evidence of the indispensable role Aboriginal people played in the economic development of Australia, including their contributions to the exploration of the continent by non-Aboriginal people, the contribution their labour made to the development and expansion of certain industries, particularly pastoralism, and as native police. This is quite apart from the wealth that has been generated from the land that Aboriginal people had taken away from them.

However, it should not be assumed from the foregoing discussion that in many situations Aboriginal people are experiencing financial difficulties. While clearly Aboriginal people, as a group, do contribute significantly to many local and regional economies, large numbers of individual Aboriginal people have very low personal incomes and are effectively marginalised from the workforce and many other formal economic activities. The fact that about 20,000 Aboriginal people are being paid
wages under the Community Development Employment Projects scheme by ATSIC, which in many cases are less than their unemployment benefits (for a variety of reasons), demonstrates how low are the incomes of many individual Aboriginal people. For Aboriginal people in remote areas, the costs of goods in the community stores and fuel are often at least 50 per cent higher than in the major urban areas.

It is important to note that Commissioner Johnston in his *National Report* of the Royal Commission into Aboriginal Deaths in Custody, did recommend that further research be undertaken into:

The particular economic circumstances of Aboriginal people in discrete geographical areas, in order to:

i. determine the contribution which Aboriginal people make to the local or regional economy;

ii. identify the sources of and amounts of funding which might be available to them; and

iii. facilitate realistic economic planning by Aboriginal people which is consistent both with the prevailing economic circumstances and with their aspirations and lifestyle (Johnston 1991, vol 4, 447).

Unfortunately, it appears that only a minimal amount of this type of research will be undertaken. While the ATSIC Regional Council plans could incorporate this type of research, in many cases it is unlikely that this will happen. Many of the regional plans are being prepared hastily by consultants who have little experience with these issues, and much of the process seems to be driven by a planning agenda that is primarily concerned with external accountability (to Parliament) and meeting bureaucratic performance indicators. The resource limitations and demands on the regional councils and the regional offices of ATSIC will reduce the usefulness of the regional plans, and many will bear little resemblance to the outcomes suggested by the Royal Commission.

So what would such regional studies, as recommended by Commissioner Johnston, encompass? Some of the data that could be included in such studies has been discussed in this chapter, and others will be discussed in later chapters. But to summarise, a study which was examining the flows of income and funding associated with Aboriginal people and Aboriginal
organisations in a region could include the following (and some of the sources of such data):

- wages and salaries earned by Aboriginal people (obtainable from Australian Bureau of Statistics Census data, or individual Aboriginal organisations);

- social security payments to Aboriginal people (Department of Social Security);

- CDEP payments (ATSIC);

- incomes of Aboriginal organisations (Aboriginal organisations, ATSIC, DEET, other government funding bodies);

- incomes of Aboriginal land councils and traditional Aboriginal land owners in the Northern Territory (Aboriginals Benefit Trust Account, Land Council Annual Reports);

- income of Aboriginal local governing bodies (Aboriginal councils, departments/offices of local government, local government grants commissions);

- funding of Aboriginal enterprises (individual enterprises, ATSIC, DEET);

- spending by Commonwealth government departments and authorities on Aboriginal programs and services (ATSIC, individual Commonwealth departments and authorities);

- spending by State and Territory government departments on Aboriginal programs and services (individual departments and authorities);

- funding of State and Territory governments for Aboriginal affairs spending (Commonwealth Grants Commission, budget papers);

- spending by local councils on Aboriginal programs and services (local councils).
The Census is an important source of data about Aboriginal people across Australia, and information is available for ATSIC regional council areas, local government areas, on a State and Territory basis, and even for relatively small areas. In other cases, of course, the data may be collected, but is deemed to be confidential. In other cases government departments and authorities will need to be accessed in different places to obtain regional or local data, or may have to be requested to specifically compile such data.

Although these sources of information can provide details of incomes of Aboriginal people, communities and organisations, or the funding levels for particular government programs, the information in itself does not always clearly show how Aboriginal people contribute economically to a local or regional economy. This requires more detailed analysis, and often the estimates will be very approximate. Information on the total regional economy will need to be examined, such as is contained in some of the reports mentioned in this and subsequent chapters, or from the Australian Bureau of Statistics. For example, some estimates of taxation payments by Aboriginal people can be obtained from Aboriginal organisations, or from community stores, but it may be difficult to generalise over a larger group of people or to an entire region. The point is, however, that much of the information necessary for such research is available, and much of the research can be undertaken by Aboriginal people and the staff of Aboriginal organisations.
CHAPTER 7
THE INVISIBLE PEOPLE:
ABORIGINAL PEOPLE AND THE
NORTHERN AUSTRALIAN ECONOMIC
DEVELOPMENT STRATEGY

In January 1991 the Centre for Applied Economic Research and Analysis (CAERA) at James Cook University in Townsville was commissioned by the Commonwealth Government to formulate an economic development strategy for northern Australia. The report was completed in July 1992. The terms of reference do not specifically refer to Aboriginal people, nor do they refer to the Government's social justice priorities. Social justice issues will be the subject of a further report by the North Australia Social Justice Task Force. An Interim Report of the Task Force was published in September 1992. This report is discussed in chapter 8.

Once again, the distinction between economic development and social justice considerations is not only maintained, but reinforced by a Commonwealth Government report, although the report does acknowledge that the goal of economic growth cannot be entirely divorced from other development goals, 'especially the goals of levels of living' (Harris 1992, 69). This type of approach was criticised by Commissioner Dodson in his report on the situation in Western Australian for the Royal Commission into Aboriginal Deaths in Custody. That is, how, in relation to Aboriginal people, economic development issues, social justice, and regional political and cultural issues are transformed into welfare issues (Dodson 1991, 534). For example, in the main CAERA report the Aboriginal population of the Kimberley is dispensed with in the following terms:

It is not within the terms of reference of this study to investigate and report on matters more properly deemed to be social considerations, concerned with welfare and levels of living rather than with economic growth as such. However, that concentration on social factors can both encourage and inhibit economic growth should be realised, and it should be noted that these factors are significant in the Kimberley region where the regional labour force has inherent deficiencies for production in a market economy (Harris 1992, 59).
According to the CAERA report, the Aboriginal population of the Kimberley region is 'not incorporated into the economic system of the region'. This is similar to the statement by the Northern Territory Chief Minister (Legislative Assembly, 26 November 1992) that it is 'not sustainable for the Territory to have a large percentage of its population as non or partial-participants'. What is the economic system of the region if it does not include the income of Aboriginal people and Aboriginal organisations, the spending by governments on Aboriginal programs and services, the income generated by Aboriginal-owned businesses, and the taxation payments made by Aboriginal people and their organisations?

The report seems to contend that 'social based programs' do not stimulate economic growth (Harris 1992, 62). What then happens as a result of the spending on infrastructure for Aboriginal communities? ATSIC's spending in the Northern Territory in 1991–92 (including administrative expenditure), for example, amounted to $116.2 million, of which about $23 million was spent on housing and community infrastructure. Spending on Aboriginal community infrastructure, and defence housing expenditure, have largely been responsible for supporting a number of building businesses who would otherwise be experiencing major difficulties due to the recession. Although it is difficult to be precise, ATSIC's spending on housing and rental accommodation in the Northern Territory ($13.7 million), and the Northern Territory Housing Commission's expenditure on Aboriginal housing and infrastructure ($28.6 million), appear to have accounted for approximately half of the value of residential building activity ($80.4 million) in 1990–91 (Australian Bureau of Statistics 1992a).

The other main component of ATSIC's spending is on CDEP, a large proportion of which represents wages paid to Aboriginal people who are working in more than 30 of the large Northern Territory communities. Total payments, including on-costs and support costs in the Northern Territory in 1991–92, were $45.8 million. To obtain a broad picture of the extent to which the spending of payments by individual Aboriginal people contributes to economic activity in the Northern Territory, information on social security payments needs to be analysed.

Accurate information on social security payments to Aboriginal people in northern Australia is difficult to obtain, partly because of problems with the identification of Aboriginality in the information collected by the Department of Social Security. However, data supplied by the
Department indicate that total social security payments in the Northern Territory in 1991–92 were at least $220 million, and that Aboriginal benefit recipients accounted for approximately 45 per cent of the total payments. This was comprised of approximately $41 million in unemployment benefits (Job Start and New Start Allowances), $43 million in pensions, and $13 million of family payments. All of these payments, of course, are financial benefits that any Australian citizen is entitled to receive.

Total retail turnover in 1991–92 in the Northern Territory was $985 million (Australian Bureau of Statistics 1992c). When the social security payments to Aboriginal people of approximately $100 million are added to the CDEP 'wage' payments of $33 million, this would suggest that the spending of these payments by Aboriginal people alone represented about 13.5 per cent of total retail turnover in the Northern Territory. Of course, this only provides one indication of part of the income of Aboriginal people in the Northern Territory. To the social security payments need to be added wages earned by those Aboriginal people who are working other than for CDEP wages, royalty and other payments negotiated by the land councils, and the like. For example, wage, salary and allowance payments by the Central and Northern Land Councils amounted to $5.79 million in 1990–91, a significant proportion of which were paid to Aboriginal employees.

Clearly when Aboriginal people spend their money, whether it is privately derived or from government social security payments, it does have a significant impact on economic activity. As was previously mentioned, the organisation which operates community stores in the Top End and Western Australia, the Arnhemland Progress Association, had a turnover of almost $12 million in 1991–92. There is no significant difference in the economic impact of this spending to the spending by non-Aboriginal people in Woolworths in Darwin or Alice Springs. Unfortunately, these basic economic concepts seem to have eluded the author of the CAERA report, although Harris does note that in parts of northern Australia social considerations are more important than national economic considerations, and that the regional benefit needs to be recognised (Harris 1992, 92).
The CAERA report is extraordinary in its reiteration of the tired old ‘development-anti-development’ conception of northern Australia. It even refers to ‘threats’ to development, which primarily:

emanate from the strength of pressure groups of various kinds which exert political pressure to achieve their ends (Harris 1992, 32)

With no hint of qualification, the report suggests that these threats include the ‘locking up of large areas of land’ (without specifying who precisely is doing the ‘locking up’ and how they are doing the ‘locking up’). Other factors that need to be taken into account, according to Harris, are:

the general opposition of the conservation movement to mineral development in the Northern Territory... [and] the general impact of Commonwealth policies regarding the natural environment, heritage, land access and land use (Harris 1992, 47).

There is a striking similarity in the tone of some of the CAERA reports and Our Northern Potential, which was prepared as a strategy document by the Federal Liberal and National Parties (1992). According to the political parties’ paper, the ‘vast resources’ of the north will finally be developed to their full potential. Partly, this will be done by reviewing the Aboriginal Land Rights (Northern Territory) Act to facilitate mining and exploration, and the ‘veto’ over exploration and mining presently held by traditional Aboriginal land owners will be removed. The perspectives and thinking in these documents have been around for a long time in northern Australia, as suggested by the words of Banjo Paterson, written at the end of the last century:

Far in the north of Australia lies a little-known land, a vast half-finished sort of region, wherein Nature has been apparently practising how to make better places... To sum up, the Northern Territory is a vast, wild land, full of huge possibilities, but, up to now, a colossal failure. She has leagues and leagues of magnificent country — with no water. Miles and miles of splendidly watered country — where the grass is sour, rank, and worthless. Mines with rich ore — that it doesn’t pay to treat. Quantities of precious stones — that have no value. The pastoral industry and the mines are not paying, and the pearling, which does, is getting too much into Jap hands... Some day it will be civilised and spoil; but up to the present it has triumphantly overthrown all who have attempted to improve it (Paterson 1991, 212, 215).
An attachment to the main CAERA report, *Northern Territory Economic Development and the Commonwealth*, does specifically address the 'Aboriginal influence on development' (in three and a quarter pages). At least it does recognise that:

The size of the Aboriginal population, its location, its regional economic importance, its control over land, and the distinct nature of development which takes place in Aboriginal communities, mean that economic development in the NT necessarily has an Aboriginal character to it in a way which is not found elsewhere in Australia (Stanley & Knapman 1992, 36).

That said, the Northern Territory report provides only limited discussion of the operations of the land rights legislation, the payment of royalties from mining activity, and formal and informal economic activities involving Aboriginal people. Much of the discussion of strategies for Northern Territory economic development is based on the Northern Territory Government's own documents. At least the report does recognise the importance of the high level of Commonwealth funding of the Northern Territory. However, the limitations of this part of the report are probably largely due to the time and resource limitations imposed on the consultants, and the constraints imposed by the terms of reference.

It would have been interesting to have seen a more substantive discussion of the economic implications of the land rights legislation in the Northern Territory, since some of the income flows associated with the legislation have been quite substantial. For example, the revenue (royalty equivalents transferred from the Commonwealth's Consolidated Revenue Fund) of the ABTA in 1991–92 was $34 million, and the total royalty equivalent income since the Act was proclaimed is approaching $300 million. In addition, the Central Land Council negotiated royalties on behalf of traditional Aboriginal land owners in 1991–92 amounting to $3.06 million. Information for negotiated income of the Northern Land Council is not publicly available. These negotiated funds are largely net additions to the economy of the Northern Territory, and generate employment and further income in the Northern Territory. Even the money spent on the administrative costs of the land councils generates approximately 160 full-time jobs.

There is one very strong impression that most of the CAERA reports present: that economic and social issues are separate. Policies for economic growth and economic development in northern Australia, and
social policy, require separate responses. While there are clearly some policy issues which can be separated, any analyses of the situation of Aboriginal people need to take account of a wide range of interactions Aboriginal people have with the economy of northern Australia.

As previous chapters have shown, although there is no doubt that many Aboriginal people are highly dependent on government payments for income support, many are also engaged, directly and indirectly, in a range of economic activities. These activities are both formal and informal, and include arts and crafts (which can generate considerable income), hunting, fishing and gathering activities, and ceremonies. A number of examples of Aboriginal-owned businesses have already been given. These businesses generate income, employment (for both Aboriginal and non-Aboriginal people), and in the case of pastoral leases may be able to contribute to a more sustainable pattern of land use.

It also appears that there is increasing interest by Aboriginal people in greater involvement in formal economic activity and business enterprises. Many of these enterprises are already established, some have failed, some have succeeded. Increasingly, it appears that Aboriginal interests are seeking to use the leverage of land ownership for strategic investment purposes. This is certainly the case in parts of the Kimberley region, probably because of the absence of land rights legislation. Surely an economic strategy for northern Australia for the Commonwealth Government might have addressed some of these issues in detail. Further, as ATSIC's report on the National Housing Strategy noted,

It is of little value improving the physical and environmental conditions without improving the socio-economic situation of the Aboriginal and Torres Strait Islander people. With unimproved socio-economic status, any improved physical and environmental conditions will deteriorate fast (Aboriginal and Torres Strait Islander Commission 1992c, 24-5).

After reading the CAERA reports, one can only ask the question: what was the point? Some valuable statistical information has been collected, although it is unfortunate that the authors of the reports had to use the 1986 data and did not have access to the 1991 Census data. Two further reports will be forthcoming in the near future: one by the Australian Science and Technology Council (ASTEC) on Research and Technology in Tropical Australia; the other a 'social justice strategy' for northern Australia. There are limited references to Aboriginal people in the terms of reference of the ASTEC study, with the primary emphasis being on the
contribution of research and development to the economic development of the region. A number of symposia are being held to give people in northern Australian an opportunity to comment on 'what they believe is required to develop their region' (Australian Science and Technology Council 1992). Past experience suggests that much of the scientific and technological research is concerned with issues of interest to large companies and governments. Very rarely is research directed at increasing the capacity of Aboriginal people to improve the productivity of their own resources.

One particularly notable exception is the research being undertaken in Uluru National Park by the CSIRO Division of Wildlife and Ecology in conjunction with the traditional Aboriginal land owners. As the researchers suggested:

The application of ecological investigation to environmental management is hampered by the short-term nature of research. Nowhere is this limitation more pronounced than in Australian deserts... The longer term perspective provided by Aboriginal people is therefore critically important, and the integration of traditional knowledge and ecological research has much to offer in the field of better and more efficient land management (Reid, Baker, Morton & Mutitjulu Community 1992, 249).

The distinction between economic development and social welfare programs was raised a number of times during the very lengthy Senate debates on the Aboriginal and Torres Strait Islander Commission Bill. Senator Coulter referred to the Aboriginal Development Commission proposal that the social welfare and economic development functions in the Aboriginal affairs portfolio be kept separate (31 August 1989, 740). The Opposition parties in the Senate were particularly keen to keep these functions separated, and Liberal Senator Baume approvingly quoted the accounting firm KPMG-Peat Marwick Hungerfords which had suggested that social welfare objectives would dominate ATSIC's activities 'to the detriment of economic self-sufficiency objectives' (6 October 1989, 1842). Senator Tate, for the Government, argued that in fact what the Opposition were 'confusing was economic development with commercial development' (6 October 1989, 1843).

In the context of ATSIC, and Aboriginal affairs more generally, the maintenance of this distinction is an extremely important issue. If one wants to maintain the distinction between the economic development and social welfare programs, then it seems to be the case that ATSIC has tended to emphasise the latter in its programs. It was noted in chapter 3
that this applies to much of ATSIC's land acquisition program. There are very few of the former Aboriginal Development Commission enterprise staff remaining in ATSIC, and there is very little commercial expertise remaining in the Commission. While the ATSIC Development Corporation has a responsibility to support Aboriginal commercial developments, it is somewhat limited by its relatively small capital base.

The distinction maintained by some political parties and politicians between economic and social programs reinforces the double standards of the treatment of Aboriginal people by governments. While social welfare and economic development are seen to be separated by policy-makers, then Aboriginal people will remain as scapegoats for using 'taxpayers' funds', and their own attempts to link the two together to achieve a greater degree of control in their local and regional economies, will be thwarted. A program such as CDEP has the capacity to assist Aboriginal people to achieve some of these objectives, but unfortunately while it is tied to the levels of unemployment benefit payments, and is not adequately supported administratively and strategically, its impact will be marginal.

The debate over the effects of the Aboriginal Land Rights (Northern Territory) Act is interesting in the context of the distinction continually made between economic development and social welfare programs. At the time the legislation was proposed, its impact on improving the financial position on traditional Aboriginal land owners was not given much emphasis. Altman has argued that Aboriginal people in Tasmania have a far higher economic status than Aboriginal people in the Northern Territory, and that therefore increases in land holdings 'will not be the solution to Aboriginal economic disadvantage' (Altman 1991, 165). Clearly the legislation is limited in what it can achieve. The beneficial impacts of the legislation have also been undermined by the increasing litigation associated with land claims, the delays in granting of land, and the continual opposition to land claims by the Northern Territory Government. But it also should be remembered that the legislation was only proclaimed in 1977, and that many Aboriginal people have had to wait more than a decade to receive title to their land. Many will never receive title under the legislation, and their only option may be the pursuit of claims to native title. The consequences of a century of dispossession on the economic base of Aboriginal society will not be undone in 15 years.
Over time, however, the role of land as a strategic resource is likely to become more widely recognised. There are already signs of this happening, both in the Northern Territory and the Kimberley region, although in the latter area the land is primarily still under pastoral lease. The two large Northern Territory land councils are increasingly turning their attention to the relationship between Aboriginal land, community and economic development issues. There is some evidence that as some individual traditional Aboriginal land owners, and groups of land owners, become more secure in the knowledge that they have a high degree of control over their land, and some improvements in physical infrastructure begin to occur, that they are more interested in certain types of commercial and other development on their land. With land council advice and assistance, the land owners are trying to produce a workable model of development which integrates social, cultural, economic and environmental issues.

The problem that many Aboriginal people face is that ATSIC is giving increasing emphasis to the commercial viability of projects it funds. Very few projects have to date been able to achieve real commercial viability, which is not unexpected, particularly in the more remote areas of Australia. Very few businesses, whether they are run by Aboriginal or non-Aboriginal people, and particularly small businesses, are commercially successful. The policy attitude of ATSIC partly reflects the amendments to its own legislation in the Senate. But many Aboriginal people have argued that it is also partly reflects the thinking of the public servants who were retained from the former Department of Aboriginal Affairs. It also partly reflects the obsession about external accountability and financial control that is a hallmark of the present era in Aboriginal affairs, and public administration more generally.

'Economic independence', and a move away from 'welfare dependence' is the primary objective of the Aboriginal Employment Development Policy (Commonwealth of Australia 1987, III). In fact, one of the former Ministers of Aboriginal Affairs, Mr Holding, not only emphasised 'economic independence', but also 'economic self sufficiency' (Holding 1987, 17). There is nothing particularly new about this aspect of policy. For example, the Liberal-Country Party Government of Prime Minister McMahon announced in January 1972 that one of the objectives of its policy was to increase the 'economic independence' of Aboriginal people (Department of the Interior 1972, 66). While many Aboriginal people would hope to achieve greater economic self sufficiency, for considerable
numbers of Aboriginal people in remote areas of Australia this is unlikely to occur. Even when informal activities such as hunting and fishing are taken into account, the realities of life in remote areas reduce the opportunities for increased incomes for Aboriginal people. Non-Aboriginal Australians in remote areas of Australia are rarely economically self-sufficient, in a broad sense, as the information in chapter 11 demonstrates. For example, government services in most remote parts of Australia are subsidised by taxation revenue collected elsewhere in the country. How could anyone expect the overwhelming majority of Aboriginal people living in these areas to achieve full economic independence?

Further, there is evidence that some of the policies aimed at achieving economic independence have largely resulted in a recirculation of the existing income within many Aboriginal communities. For example, expenditure on CDEP is the largest single 'economic initiatives' program of ATSIC, and while the scheme undoubtedly has benefited many communities, it is still based on very low levels of income for most individual Aboriginal people. When enterprises established under the scheme generate income from outside of the community, then there is clearly a net addition to the income of the total community. But many of the projects do not result in net additions to community income, since much of the work undertaken under the schemes is for the provision of local government services. When this occurs, the scheme may actually be undermining community income because governments are able to avoid their service delivery responsibilities.

The same situation can apply to the profits from community stores, that is, if the community store is profitable. While some organisations running community stores have the objectives of reducing welfare dependence and increasing Aboriginal economic self-sufficiency, in some cases most of the profits from the stores could more properly be regarded as a form of taxation on people living in the community. That is, profits in excess of those necessary for capital investment. The Arnhemland Progress Association, for example, distributed more than $156,000 in dividends to the community councils in 1991–92, and $132,000 in rent to the traditional Aboriginal land owners. Total operating profits for the year amounted to $582,000 (Arnhemland Progress Association 1992). These payments do provide income to traditional Aboriginal land owners and the councils, although the latter are supposed to use the funds for 'community purposes' to ensure that the Association is not liable for
income taxation on its profits. On the other hand the dividends are not net additions to the income of the total community. They are based on the profits of the stores, the turnover of which is based almost exclusively on the spending of social security payments, CDEP wages, and other private income.
CHAPTER 8

ABORIGINAL PEOPLE AND THE 'SOCIAL JUSTICE STRATEGY' FOR NORTHERN AUSTRALIA

In the past two years, the Commonwealth Government has published a budget related paper, Social Justice for Indigenous Australians, which provides information on Commonwealth spending on Aboriginal affairs programs and services. The papers includes some discussion under the heading 'Past dispossession and present disadvantage', but the main part of the papers provide details on how the $1,161 million of Commonwealth spending is allocated. Three departments and authorities accounted for most of this spending in 1991-92: ATSIC and its agencies (including Aboriginal Hostels Ltd and the ABTA) were responsible for $590 million of this expenditure, the Department of Employment, Education and Training for $390 million, and the Department of Health, Housing and Community Services for $143 million. Further details of the 'social justice' agenda of the government in relation to Aboriginal people is contained in a Position Paper prepared by ATSIC for the Council for Aboriginal Reconciliation, Reconciliation, Social Justice and ATSIC (Aboriginal and Torres Strait Islander Commission 1992d), and the ATSIC Program Performance Statements 1992-93, prepared for the Senate Estimates Committee (Commonwealth of Australia 1992c).

It is not exactly clear why the Government uses the term social justice to describe much of the spending documented in these papers. Many existing government programs in all of the portfolios are being relabelled under social justice categories, and it would not be unfair to suggest that this at least in part represents a change in rhetoric rather than a fundamental change in government priorities. Further, a considerable proportion of the spending detailed in these documents should more properly be categorised as citizenship entitlements. For example, education accounts for $277 million of the total Commonwealth spending on Aboriginal affairs, and one would have thought that spending on education services for Aboriginal people is nothing less than they could expect as Australian citizens. The suggestion from the Social Justice for Indigenous Australians paper is that the government is actually delivering
social justice, when in fact it is, in large part, only carrying out the functions that would be expected of a national government in a country as wealthy as Australia. It would be surprising if the Government did not spend money on the provision of education, housing, social security and welfare to all of its citizens.

The other interesting point about the budget-related paper is that it includes details for only $61 million of spending on social security and welfare. It does not include details of most of the social security payments to Aboriginal people, such as pensions, family payments and unemployment benefits. As some of the information in chapter 6 suggests, spending on providing social security benefits to Aboriginal people in the Northern Territory is at least $100 million annually. Since the Aboriginal population of the Northern Territory accounts for about 15 per cent of the total Australian Aboriginal population, then the national figure for social security spending could be more than $650 million.

More recently, the Commonwealth Government has released an Interim Report on the North Australia Social Justice Strategy. The Report was prepared by an interdepartmental committee; the Office of Northern Development, within the Department of the Prime Minister and Cabinet, is responsible for the development of the strategy. A range of issues affecting Aboriginal people are discussed in this report, although the report is mainly concerned with reiterating the virtues of existing government policy. The Interim Report is not really concerned with the development of a social justice strategy, but about improving service delivery:

The overall aim of the NASJS [North Australia Social Justice Strategy] is to ensure the better delivery of needed services for northern Australians. A strategic response is needed to help services respond better to the different circumstances and changing needs of North Australia, to reduce the feeling of isolation and to underpin economic development. Such a strategy must include innovative approaches designed to make essentially metropolitan oriented programs more adaptable to non-metropolitan needs (North Australia Social Justice Task Force 1992, 2).

It really is misleading to refer to the work of the Task Force as developing a social justice strategy for northern Australia, if the Interim Report is any guide to the future work of the Task Force. The initial push for the formation of the Task Force came from a number of Labor Party members of Parliament in northern Australia, mainly from north and western Queensland, who were concerned about poor service delivery to
their constituents. The Interim Report is primarily concerned to explain what the Commonwealth Government is already doing, and to promote further consultation with client groups. It indicates that:

the major social justice arguments put forward by people in remote northern Australia is that there should be a fair return of resources to them in the form of infrastructure and services (North Australia Social Justice Task Force 1992, 4).

While no one would suggest that improving service delivery is not an admirable objective, it is only part of a social justice strategy. While many Aboriginal people would agree that they should have a 'fair return of resources', it is clear that their concerns go much further. The Crocodile Hole Report, for example, contains recommendations based on wide-ranging consultations and discussions with Aboriginal people in the Kimberley region. The implementation of many of these recommendations would represent a move towards social justice. Very few of these recommendations are about more efficient service delivery, with the key issues being greater Aboriginal control over land and development in the region. A problem for many Aboriginal people in northern Australia is not getting better service delivery, but getting some service delivery. The lack of services, or the very poor quality of services and facilities in many Aboriginal communities, has been very well documented, most recently by the reports of the National Housing and Community Infrastructure Needs Survey prepared for ATSIC (Australian Construction Services 1992).

As chapter 8 showed, the North Australia Economic Development Strategy, prepared by the Centre for Applied Economic Research and Analysis for the Commonwealth Government, explicitly separated social and economic issues. The Task Force states that it wants to 'more soundly link social, economic and environmental strategies'. Unfortunately, because much of the Interim Report's emphasis is on service delivery, it is hard to see how this will be done. The most likely prospect is that the rhetoric will be more consistent.

Chapter 12 discusses the problematic relationship between Aboriginal people and local government. The problems Aboriginal people experience in getting even the most basic services from local government have been widely documented, particularly by the Royal Commission into Aboriginal Deaths in Custody. One would have thought that a social justice strategy might have addressed in detail how Aboriginal people
might be able to improve their access to their citizenship entitlements from local government. The section on local government in the Interim Report is very inadequate, and leaves little scope for any significant proposals.

The Task Force report emphasises that there needs to be more consultation by governments with people living in northern Australia. One of the clear messages to have come from Aboriginal people in recent years is that they are tired of being consulted about government programs and services. In most cases, Aboriginal people do not feel that they had any control over the design of these services. What many Aboriginal people are demanding is that they be given control over service delivery and other important matters affecting them. Perhaps one of the most eloquent statements of the way many Aboriginal people feel came from the central Australian community of Papunya:

We the community at Papunya feel that there is more at issue than simply the power supply to people's houses. To us the problem is much more and involves the issue of power being given to the people themselves ... Whatever the intentions of people involved in the establishing and running of this settlement may have been, the effect over time has been to give us a feeling of powerlessness over our own lives. If our people were given proper information and allowed to make their own decisions we feel this situation would not have occurred (Papunya Community Council 1992).

A social justice strategy that impacts on Aboriginal people should include mechanisms that change the balance in the power relationship between Aboriginal and non-Aboriginal people, more in favour of Aboriginal people. Commissioner Johnston in the chapter on Self Determination of his National Report for the Royal Commission into Aboriginal Deaths in Custody highlighted how the lives of Aboriginal people have been controlled by others, often in the minutest detail. While the Commissioner noted that Aboriginal people have widely different views on some of these issues, at its core self determination means Aboriginal people gaining control over the decision-making processes affecting themselves (Johnston 1991, vol 2, 501). As many Aboriginal people have insisted, it means shifting the nature of the relationship between Aboriginal and non-Aboriginal people from consultation to negotiation. The historical evidence to date suggests that such a change will not come easily.
The Northern Territory Chief Minister's statement, announcing a new Minister for Aboriginal Development in the Legislative Assembly in November 1992, illustrates how many governments are either unwilling or incapable of listening to what many Aboriginal people have been saying, and have not been able to comprehend the reasoning behind some of the recommendations of the Royal Commission. The Chief Minister thinks that self determination means a community council or other Aboriginal organisation carrying out the essential service functions in a community that were previously carried out by government departments and agencies. This obviously provides for a greater degree of responsibility for service delivery, but in itself it does not necessarily give greater degree of control to Aboriginal people. The control of the overall policy framework, funding decisions, and other issues such as the type of technology utilised, remain largely in the hands of the existing government departments and agencies. A similar situation seems to be developing with the devolution process in schools, where responsibility for certain decisions are given to the school administration and the local community, but control over the policy and funding is being further concentrated in the central administration.

The Commonwealth Government legislated for a more fundamental change in the power relationship in the mid 1970s. The Aboriginal Land Rights (Northern Territory) Act requires negotiation between traditional Aboriginal land owners, land councils, and others wishing to enter or use Aboriginal land. One of the problems is that although the land owners have a high degree of control over land use and many other development matters, the legislation has not been used to achieve greater control over service delivery. However, there are emerging signs that the two major land councils in the Northern Territory, and some of the traditional Aboriginal land owners, are beginning to link the issues more closely together. In Western Australia, where there is no land rights legislation, and Queensland where there is inadequate legislation, the structural bargaining power of Aboriginal people is still very weak.

The High Court decision in the Mabo case will lead to changes in the position of Aboriginal people in other parts of Australia, particularly Western Australia and the northern areas of Queensland, although precisely what its impact will be is still uncertain. However, as was suggested in chapter 5, the legal position with respect to access to land that is held under native title is as yet undefined. There is a strong possibility that the decision will result in a structural improvement, over
time, in the bargaining power of some Aboriginal people who will be recognised as holding native title. Not only did the High Court recognise that native title exists, but that Aboriginal law is still intact in parts of Australia. How Aboriginal law interacts with non-Aboriginal law, such as mining legislation, will need to be determined, and this is likely to occur through other court cases, but hopefully, also through a process of negotiation with the holders of native title.

The North Australia Social Justice Task Force report does not address the question of land rights and issues associated with the use of land in northern Australia in any detail. It does not address in any meaningful way how Aboriginal communities and Aboriginal organisations might achieve a greater degree of control over all aspects of service delivery, and how they might obtain more direct access to the funding for Aboriginal programs and services. The report does briefly refer to the intergovernmental financial relationship between the Commonwealth, State and Territory governments. This issue is dealt with in more detail in chapter 11. However, the Task Force suggests that the Commonwealth Government's recognition of the problems of access to services is illustrated by the way it allocates funding to each of the States and Territories. Queensland, Western Australia and the Northern Territory receive significantly high per capita allocations of General Revenue Assistance from the Commonwealth because of disabilities these governments face, including remoteness, the social and economic characteristics of their populations, and limited taxation revenue bases compared with New South Wales and Victoria (see Table 5). An important element in this financial relationship is overlooked by the Task Force report. That is, just because these governments receive higher per capita payments, there is no guarantee that the levels of service delivery within the State or Territory will actually be equalised. The funding is untied, and the priorities for spending these funds are determined by each of the State and Territory governments.

If the Commonwealth Government is serious about social justice for indigenous Australians, then it needs to consider whether the present pattern of intergovernmental financial relationships results in a 'fair return of resources' to all Australians living in northern Australia. Certainly many Aboriginal people do not believe that this is the case. Some have suggested that the present system is in fact reinforcing the present patterns of inequality. The historical role of the State and Territory Governments in Aboriginal affairs has been very uneven. In the
development of its social justice strategy for northern Australia, the Office of Northern Development could initiate discussion on alternatives to the present intergovernmental financial arrangements that might result in greater Aboriginal control over decision-making and service delivery.

Some Aboriginal people and Aboriginal organisations have already started developing their own views on these issues. The relationships between social justice, land rights and Aboriginal self government are being discussed quite openly by Aboriginal people from a range of communities in northern Australia. The High Court decision in the *Mabo* case is an increasingly important catalyst in this discussion. How the Commonwealth Government, in particular, responds to this decision, will have a major bearing on social justice for Aboriginal people in Australia. In late October 1992 the Commonwealth Government announced that it would initiate a series of consultations with the State and Territory Governments, Aboriginal interests, and mining and pastoral interests. Two reports of the consultations will be prepared, with a final report in September 1993. In addition, the ATSIC Commissioners have been considering a proposal to organise a conference to discuss Aboriginal self government and constitutional issues in the Northern Territory. The conference, which will be held in the first half of 1993, is likely to discuss the nature of Aboriginal self government, the appropriate forms of recognition of Aboriginal customary law, the status of Aboriginal people living in the larger cities, towns and on pastoral properties, and the future role of the land councils.

Ultimately, it will be necessary to demonstrate to the broader Australian population that a social justice strategy that addresses many of the concerns of Aboriginal people is also in the country's best interests. The mining industry has convinced many people that the industry's interests and the national interest are identical. Continuing dissent, conflict and poor race relations are not something that any country should be proud of, particularly given the increasing international focus on issues affecting indigenous peoples. The Council for Aboriginal Reconciliation has indicated its intention to deal with some of these issues, although its profile is so low at the moment that it is almost invisible, and its work unnoticed. Social justice for Aboriginal people will not be achieved by pretending that the problems can be solved by everyone being nice to each other. What is needed is a thorough national debate about the nature of the relationship between Aboriginal and non-Aboriginal people today, and historically.
But there is an interesting twist to the debate about social justice for Aboriginal people living in northern Australia. Some Aboriginal people in the eastern States have argued that too many resources are being directed at Aboriginal people in northern Australia, and that Aboriginal people in northern Australia have benefited disproportionately from government legislation for land rights. Some of the ATSIC Commissioners from these States have argued that ATSIC should base its future funding on the numbers of Aboriginal people living in each State and Territory. If a form of per capita funding were to be introduced, funding in parts of northern Australia, notably the Kimberley region and the Northern Territory, would decline substantially. According to the first counts from the 1991 Census, more than 52 per cent of the Aboriginal population live in Queensland and New South Wales, compared with about 30 per cent in the Northern Territory and Western Australia.

Partly in response to these concerns, and partly in response to the accountability requirements of the Commonwealth Parliament, ATSIC has attempted to quantify the levels of disadvantage of the Aboriginal population in different parts of Australia. The Office of Evaluation and Audit has published a paper which attempts to construct an index of socio-economic disadvantage, based on data from the 1976 and 1986 Censuses. The index takes into account factors such as birth and mortality rates, labour force participation rates, adult literacy rates, and community infrastructure indicators. The paper found that while the Aboriginal population showed a 12 per cent improvement in its socio-economic status, the gap relative to the total Australian population widened during the period. The regional councils calculated to have the most disadvantaged populations were in the ATSIC Central Australian Zone (Papunya, Impiyara, Arltarpiita), the Western Australian North Zone (Kutjungka, Yarleyel, Bandaral Ngadu), Palm Island/Yarrabah Regional Council and Wakka/Wakka Wadj/Wadj/Wadja Regional Council in eastern Queensland, and the Daly River Regional Council in the Northern Territory (Khalidi 1992).

ATSIC has also attempted to incorporate other, more recent, measures of disadvantage into its funding deliberations. ATSIC contracted Australian Construction Services to conduct a national survey of the housing and community infrastructure needs of Aboriginal people, and a number of preliminary reports were presented to ATSIC in August 1992. Nationally, the survey found that the estimated costs of providing housing
to Aboriginal people, repairing existing houses, and upgrading roads in Aboriginal communities, amounted to $1,853 million. Almost 50 per cent of this expenditure was required in communities in the Northern Territory and Western Australia (Australian Construction Services 1992).

ATSIC Finance Branch has undertaken calculations using various methods of distributing funds nationally. Included in the calculations were funds for allocation by regional councils, State and Territory grants, multi-regional programs, and CDEP oncosts and support funding. CDEP wages funding was not included because it is an income support payment. A summary of the calculations is presented in Table 3. ATSIC assessed that on the existing distribution of funds, the Aboriginal population of New South Wales accounts for about 26 per cent of the national Aboriginal population, but in 1992–93 will only receive 13.2 per cent of ATSIC program funds ($477 per capita). For the Northern Territory the figures are 14.9 per cent of the Aboriginal population and 21.9 per cent of ATSIC program funding ($1,461 per capita), and Western Australia 15.5 per cent of population and 23 per cent of funding ($1,484 per capita).

Table 3: Funding Distribution Alternatives for ATSIC Expenditure, Based on 1992–93 Expenditure

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<td>Per Cent</td>
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<tr>
<td>New South Wales</td>
<td>27.5</td>
<td>13.2</td>
<td>12.7</td>
<td>24.6</td>
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<tr>
<td>Victoria/Tasmania</td>
<td>9.8</td>
<td>6.1</td>
<td>2.0</td>
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</tr>
<tr>
<td>Queensland</td>
<td>26.0</td>
<td>24.7</td>
<td>29.5</td>
<td>26.0</td>
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<tr>
<td>South Australia</td>
<td>6.2</td>
<td>11.0</td>
<td>5.9</td>
<td>8.4</td>
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<tr>
<td>Western Australia</td>
<td>15.5</td>
<td>23.2</td>
<td>17.9</td>
<td>16.3</td>
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<tr>
<td>Northern Territory</td>
<td>14.9</td>
<td>21.9</td>
<td>32.0</td>
<td>17.0</td>
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Source: Aboriginal and Torres Strait Islander Commission (1992a)
If the information from the Housing and Community Infrastructure Survey is used to demonstrate needs, and this criteria is used to allocate the ATSIC funding, then the share of the Northern Territory would rise from 21.9 per cent to 32 per cent (column 3), Western Australia would fall from 23 per cent to 17.9 per cent, and New South Wales would fall from 13.2 per cent to 12.7 per cent. If the index of socio-economic disadvantage, calculated by Khalidi, is used to distribute the funds (column 4), the share for each State and Territory is not much different from its population share. The overall conclusion, which is very preliminary, is that there may be a case for ATSIC to redirect some of its funding away from South Australia and Western Australia to New South Wales and the Northern Territory (Aboriginal and Torres Strait Islander Commission 1992a).

One of the points to emerge from the discussion of ATSIC's funding priorities is that there is no consensus in the Aboriginal population about funding priorities. For example, the New South Wales State Advisory Committee of ATSIC at its meeting on 2–4 November 1992 resolved that the existing distribution of funds is inequitable, and recommended that:

- the allocation of ATSIC funds to New South Wales should be increased from $477 per capita to $747 per capita, 75 per cent of the national per capita average, in 1993–94; or
- New South Wales should receive an allocation of 18.96 per cent of ATSIC funds; or
- a mix of historical and funding by population formulae be applied.

Given the diversity of the Aboriginal population, arguments over the most appropriate methods of distributing funds is not unexpected. While many people in northern Australian may think that they are disadvantaged, and there is evidence to suggest that relative to other parts of Australia this is the case, there is no general agreement that more funding should be provided for programs and services to the Aboriginal population in these areas. In some respects, as is discussed in chapter 11, this debate amongst policy-makers in Aboriginal affairs has its parallels in the debates regarding the appropriate distribution of Commonwealth funds through the processes of the Commonwealth Grants Commission. Some politicians and other interest groups are arguing for a change in the distribution of these funds, so that the Queensland, Western Australia and the Northern Territory governments do not benefit to the extent that they do now.
While ATSIC and the Commonwealth Grants Commission valiantly attempt to find measures that will provide more accurate measures of State and Territory, or local and regional socio-economic status, it is likely that there will still be disagreements over the appropriateness of each measure. The way that the funds are distributed will always have to incorporate a wide variety of factors, some of which can be measured and some of which will never be measured. The problem is that at the national level, there is an increasing emphasis being given to the measurement and quantification. This is reflected in many of the papers included in the publication of the Department of the Prime Minister and Cabinet, *Access and Equity Evaluation Research 1992*. The Commonwealth Parliament, and government departments and agencies, are spending considerable amounts of time and money collecting and analysing data in order to justify spending priorities. It is not clear that the effort is really worth it, nor that it will not be just another passing phase in public administration.

To give an example, as was noted above, the preliminary estimate by Australian Construction Services of the housing and road funding needs of the Aboriginal population was $1,853 million. This does not include the funding required for water and sewerage services, and electricity supplies. In 1992-93 ATSIC's expenditure on housing and community infrastructure will be $185 million. There will be a further $90 million of Commonwealth spending on Aboriginal housing under the Commonwealth-State Housing Agreement. To these figures need to be added the spending by State and Territory governments. Even with the increased funds allocated under the National Aboriginal Health Strategy over the next five years, the existing funding levels are having only a relatively small impact on the infrastructure backlog in Aboriginal communities. Further, it is well known that the existing housing stock is deteriorating rapidly in some parts of Australia, and that the Aboriginal population growth rate is still above that of the non-Aboriginal population. The situation unfortunately, is that the present funding requirements are so large that wherever the funds are spent they are likely to have a beneficial impact. Khalidi found that the relative position of Aboriginal people deteriorated in the period 1976–86, and as a result of the present recession the situation facing Aboriginal people could well have worsened. Further, while some parts of northern Australia experience severe disadvantages, in other parts of Australia Aboriginal people are still relatively disadvantaged. Given this information, it does not seem really necessary to be so absolutely precise in providing
measures for the distribution of existing funds. At least the *Housing and Community Infrastructure Needs Survey* does provide information of how much additional spending will be necessary to alleviate some of the problems.
CHAPTER 9

TAXPAYERS' DOLLARS:
DON'T ABORIGINAL PEOPLE PAY TAX?

Australian political debate is increasingly dominated by government financial accountability issues. This is perhaps not surprising, given the financial debacles of many of the State and Territory governments during the late 1980s. It is also partly a response to the extraordinary increase in the coverage given to economic and financial issues by sections of the media. The recession, and its impact on Commonwealth and State budgets, is a further contributing factor.

Spending on Aboriginal affairs has fared well in the past few years, mainly due to the funding allocated to implement many of the recommendations of the Royal Commission into Aboriginal Deaths in Custody, and the increasing emphasis being given to the Community Development Employment Projects (CDEP) scheme. Commonwealth spending on Aboriginal affairs in 1991–92 amounted to $1,161 million, of which about $205 million was spent on the CDEP scheme (Commonwealth of Australia 1992d, 31–32). These figures do not include spending by State and Territory governments on programs and services for Aboriginal people. In 1992–93 ATSIC's appropriation increased by 34 per cent, or $216 million, including $44.3 million for the implementation of the National Aboriginal Health Strategy and $59.7 million in response to the recommendations of the Royal Commission into Aboriginal Deaths in Custody (Commonwealth of Australia 1992c, 23).

Although the financial response to the recommendations of the Royal Commission has been substantive, Aboriginal people are still subject to a great deal of criticism, both directly and indirectly, for the supposedly generous treatment they receive from governments. Commissioner Dodson drew attention to research carried out in the mid-1980s, which concluded:

The attitude situation in white Australia is quite monstrous; the problem is not that white Australians have little sympathy for or appreciation of the plight of Aborigines; rather the problem is that white Australia
actually regard Aborigines as over privileged, in receipt of overly generous government handouts, and living on the benefit of undeserved concessions (quoted in Dodson 1991, 437).

Many of the country’s political and industry leaders seem to go out of their way to perpetuate these misconceptions. Hugh Morgan, from Western Mining Corporation, whose views on terra nullius were noted previously, has argued that there are two sets of laws in Australia, one for Aboriginal people, and one for the rest, and that this had become 'repugnant to Western society', and that it would result in 'two sovereignties' in Australia (Morgan 1992b). It is surprising that Mr Morgan, who is a seasoned international traveller, seems not to have made himself aware of developments in indigenous affairs in some of the other developed countries. The United States has recognised the sovereignty of Indian tribes since the middle of the nineteenth century, and all of the Canadian governments recently agreed to provide constitutional recognition for the inherent right to self-government of Canadian indigenous people, although the referendum which would have constitutionally entrenched this right was defeated in late October 1992.

Views similar to those of Mr Morgan were expressed a number of times during the debate in the Queensland Legislative Assembly on the Aboriginal Land Bill in 1991, although these views were almost exclusively expressed by members of the Queensland National Party. Of course, while this Party is no longer in government, its legacy in many Aboriginal communities remains, and the Party is still effective at influencing public attitudes in many non-urban areas of the State. The present Labor Government in Queensland has attempted to introduce reforms through legislation and reform of the public service at senior levels. However, structural change at the Aboriginal community level has not proceeded very far, and has been hampered by a lack of experience and resistance to innovation. An example of these views are the comments of the National Party member for Carnarvon (Legislative Assembly, 30 May 1991, 8240):

I challenge the Government to show its commitment by implementing equal rights for both whites and blacks. It should not introduce legislation that treats Aborigines as something different from human beings, or legislation that treats Aborigines as being over and above average white citizens... I am speaking for hundreds of thousands of Queenslanders in the community who are absolutely sick and tired of what they see, namely, Aborigines apparently being given special attention, special rights and special privileges.
Edmunds, in her study of community attitudes in Roebourne in Western Australia, *They Get Heaps*, pointed out that many non-Aboriginal people in the town believed that Aboriginal people had special, privileged access to government funding. Apart from the fact that many non-Aboriginal Australians in remote areas have significant access to special government programs and funding, she also noted that the reason why Aborigines seemed to have greater access to government funding was because they 'were more incorporated into the state'. By being more incorporated into the state, the funding process acts as another level of monitoring and surveillance of Aboriginal people (Edmunds 1989, 88–89).

The high level of dependence on government funding is a reflection of a number of factors, one of which is the long term inter-generational poverty of large numbers of Aboriginal people. The material poverty of many Aboriginal people today is largely a result of their dispossession, massive social and cultural disruption, and marginalisation in the past. It is also because most Aboriginal people do not regard money primarily as a means of investment (Dagmar 1990, 109). Even those Aboriginal groups which have secured title to land under the land rights legislation in the Northern Territory have only done so in the past fifteen years. Access to social security benefits by Aboriginal people in some parts of Australia did not occur until the late 1970s. The reduced access to private resources reduces their ability to privately-provide services for themselves. For many Aboriginal people, if they are to obtain access to services, they have virtually no option other than to seek government support. Government spending on Aboriginal housing programs is a good example. While a significant proportion of the non-Aboriginal population earn sufficient income, or have access to other private resources, to purchase their own homes, this option is available for only a relatively small number of Aboriginal people.

Ministers of the Northern Territory Government have a particular fondness for criticising Aboriginal people and Aboriginal organisations for their 'waste' of 'Territory taxpayers' dollars'. A couple of examples illustrate the general tenor of their arguments. The then Minister for Lands and Housing in the Legislative Assembly (8 October 1991, 2587), when talking about purchases of pastoral leases by Aboriginal interests, argued that:
part of the money spent on these land purchases is taxpayers' money... if Aboriginal Territorians want to spend the bulk of their money on land, how can they then turn around to taxpayers and ask them to fund housing and health initiatives?

A former minister in the Northern Territory Government, Mr McCarthy, took the argument further in a debate about the introduction of power and water charges in remote Aboriginal communities. The following are extracts from what was one of the most extraordinary speeches one would ever read from a politician about the most poorest and most marginalised group of Australian citizens:

I would like to raise the point of household incomes. We talk about the disadvantaged Aboriginal. In many ways, Aboriginal people in remote communities, as are all people in remote communities all over Australia and the world, are disadvantaged in some way. However, let us talk about household incomes of Aboriginal people. A survey carried out at Borroloola 3 years ago found quite clearly that household incomes for Aboriginals in the township of Borroloola were considerably higher than the household incomes of the white community. If that were to be extrapolated across the Northern Territory, and probably even across Australia today, we would find that that is not unique (Legislative Assembly, 26 February 1992, 3721).

At least the statement was qualified by his begrudging acknowledgment that:

It may be related to the fact that a large number of people on unemployment benefits all live in the 1 house.

Mr McCarthy could do well to read the reports of the Royal Commission into Aboriginal Deaths in Custody. As Commissioner Dodson explained:

Significantly, like Aboriginal people in most parts of this country, Aborigines in Western Australia have been more concerned with survival than with developing strategies to combat economic inequality and to pursue economic development (Dodson 1991, 420).

Mr McCarthy continued his comments with a quite disgraceful attack on Aboriginal people:

The one major factor lacking in the mix of requirements at present is a commitment on the part of Aboriginal people. Certainly, there are committed Aboriginal people, but the vast majority of Aboriginal people are not committed to change, are not committed to development, and are not committed to education and are not committed to improving their own
lot. In fact, I would say that almost any Aboriginal community in the Territory would be a vastly better place if the people had a commitment to keep it tidy, a commitment to go fishing and a commitment to planting gardens.

More recently, in a statement to the Legislative Assembly (26 November 1992) the Chief Minister talked about the drain on the Government’s financial resources of the $300 million spent on Aboriginal programs and services, which would soon mean that the Government ‘will be unable to meet our commitment to the rest of our constituency’. The Chief Minister also referred to the point made by Mr McCarthy about the lack of responsibility in many Aboriginal communities. Statements such as these continue to undermine much of the work of the Council for Aboriginal Reconciliation, since they reinforce the views of a segment of the population that has worked to undermine and denigrate the efforts of many Aboriginal people who have been seeking to take greater control of their lives.

Commissioner Johnston recommended that this issue was of sufficient importance that further research needed to be carried out. It has generally been assumed that because of their low incomes many Aboriginal people have few interactions with the Australian taxation system. However, some research undertaken on the issue suggests otherwise (for details see Crough & Pritchard, 1991). Quite a large number of Aboriginal people are too poor to pay very much in income taxation. But other forms of taxation, such as sales taxes, fuel taxes and mining withholding taxation do affect the income levels of many Aboriginal people and Aboriginal organisations.

For example in the Northern Territory, mining withholding taxation is levied on some of the payments from the ABTA, on payments of negotiated royalties by mining companies to Aboriginal communities affected by mining, and on rental and lease payments by the Department of Mines and Energy. The levying of this tax has been criticised a number of times, partly because the payments from the ABTA do not go to individual Aboriginal people, and the tax is levied on statutory organisations (the land councils). The taxation payments amounted to $2.1 million in 1991–92. Apart from the mining withholding taxation levied on payments from the ABTA to the land councils, the Central Land Council’s staff of approximately 90 employees paid $653,000 in income taxation in 1991–92, and the land council paid $182,000 in payroll tax.
A survey of the payments from five Arnhem Land communities of the Northern Territory tobacco licence fee, which during the year under consideration was levied at a rate of 50 per cent on the wholesale price of cigarettes and tobacco products, was carried out, and the total fee payments were found to amount to $457,679 in 1990–91. Given that there are more than fifty larger Aboriginal communities, and the very high incidence of smoking amongst the Aboriginal population, the Territory-wide payments by Aboriginal people must be very substantial indeed (total payments in 1990–91 were about $18 million).

Various types of petroleum taxation are levied by each of the State, Territory and Commonwealth governments, and these taxes significantly increase the cost of fuel to the consumer. Fuel prices are of course important for the entire Australian economy, but particularly for people living in remote areas, since there is little or no access to public transport (which is generally subsidised in the major urban areas). More than two-thirds of the Aboriginal population of the Northern Territory live outside of the main urban areas, and the Aboriginal population in the Kimberley region is becoming increasingly more decentralised. Some of the implications for Aboriginal people living in very remote areas were outlined, somewhat surprisingly, by the National Party member for Somerset in Queensland, Mr Gunn:

Aborigines and Islanders living in remote areas are disadvantaged in many, many ways. The cost of fuel is astronomical. In most areas it costs about $1 a litre. Those people pay Federal Government sales tax on the landed article, which means that they pay sales tax on the freight that they have already paid. Food prices are double what one would expect to pay in Brisbane. Air services are erratic and extremely expensive (Legislative Assembly, 30 May 1991, 8231).

Aboriginal people have a vital interest in the performance of the taxation system, both because of the direct impact of this system on them as individuals, and more broadly because Australia's taxation revenue base provides the resources for government spending on Aboriginal people. The cuts in income tax rates in recent years have undoubtedly benefited many Australians, but the revenue effects of the cuts have put considerable pressure on government spending.

It should also be remembered that an important part of the taxation system is comprised of tax expenditures. These include tax deductions for personal superannuation. These generally benefit higher income individuals and companies, and are normally not accessed by lower
income Australians. Tax expenditures associated with home ownership, superannuation, and share ownership cost billions of dollars in foregone revenue each year, and are important in enabling the accumulation of wealth by Australian people fortunate enough to take advantage of the concessions. While levels of spending on Aboriginal people, and other low income Australians, are subject to detailed scrutiny, tax expenditures generally are not subject to this degree of scrutiny.

A further point relates to the high degree of 'welfare dependence' experienced by Aboriginal people. Some of the quotes above not only highlight the issue of the use of so-called 'taxpayers' funds', but also blame Aboriginal people for their own situation. In Mr McCarthy's and the Chief Minister's view, it is because Aboriginal people 'lack commitment'. It is quite common to hear comments that Aboriginal people are welfare dependent, as though it is their fault. Justice Maurice commented on this in the Foreword to his Report on the Warumungu Land Claim that:

the country as a whole has profited, and continues to profit, from the dispossession of these people and the use to which we put their lands. It is not simply a question of rectifying the wrongs of the past, as if the consequences of those wrongs had long ago been worked through: the simple truth is that they have not, yet as a nation we continue to enjoy the benefits from them. Nor is it any answer to point to the moneys which may have been wasted on 'welfare', for the recipients neither sought the conditions which occasioned this beneficence, nor designed the programs which have been so disastrously inefficient (Aboriginal Land Commissioner 1991b, x–ix).

By portraying Aboriginal people as welfare dependent, it is then relatively easy to marginalise them from discussions about economic development and regional planning. This was precisely the point made by Commissioner Dodson in relation to many Aboriginal people in Western Australia (Dodson 1991, 490–492).

This stereotyping of Aboriginal people was also criticised by Commissioner Johnston in his National Report of the Royal Commission. Unfortunately, it suits the Northern Territory Government's political agenda to further reinforce these types of views amongst certain sections of the population. When combined with the incompetence of the Labor Party opposition at times, the strategy has worked to keep the Country-Liberal Party in power for almost 15 years since Self Government, and even if the Government says that it is committed to implementing nearly
all of the recommendations of the Royal Commission, why should it change its *political* message now? The comments of Justice Wootten in his report on the Alice Springs dam proposal about the 'cynical and unhelpful exploitation' of the situation by the Northern Territory Government could equally well be applied to this issue (Wootten 1992, 102).
CHAPTER 10

THE MABO HIGH COURT CASE:
HOW MUCH IS AUSTRALIA WORTH?

One of the points raised in the quote in the previous chapter from Justice Maurice is that Australians benefit from the dispossession of Aboriginal people and the use of their lands. Justice Brennan in his decision in the Mabo case pointed out that:

Aborigines were dispossessed of their land parcel by parcel, to make way for expanding colonial settlement. Their dispossession underwrote the development of the nation (Brennan 1992, 50).

Some would argue that the relatively high levels of per capita spending by some governments (mainly the Commonwealth Government) on Aboriginal programs and services is in part payment of compensation for this past dispossession. The payment of royalty equivalents from the Consolidated Revenue Fund into the ABTA under the provisions of the Aboriginal Land Rights (Northern Territory) Act 1976 could also be seen as a form of compensation payment. The arrangements under the New South Wales Aboriginal Land Rights Act 1983 for the payment of a percentage of land tax revenue to the New South Wales Aboriginal Land Council could also be regarded as a form of compensation. Further, some Aboriginal people and Aboriginal organisations do benefit from some provisions of the taxation system.

Of course, many Aboriginal people would not regard these arrangements as being acceptable by way of compensation. For some, these payments represent citizenship entitlements, and should not be regarded as special Aboriginal entitlements. Government spending on Aboriginal programs and services should be seen in the same light as the provision of government services to other Australian citizens. For others, the payments do not properly compensate Aboriginal people for the dispossession of their land, and nothing short of a negotiated treaty will be acceptable.

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One of the issues raised by a number of judges in the High Court’s decision in the *Mabo* case was whether Aboriginal people were entitled to compensation for the dispossession of their land. It should be noted, however, that the issues of compensation and sovereignty, were not specifically raised by the Torres Strait Islander plaintiffs. The judges agreed that Australian governments had the power to extinguish native title, but there were differing opinions as to whether compensation was payable if title was extinguished. On the whole, the judges were not discussing compensation in relation to past dispossession, but actions by governments in the future. Justices Deane, Gaudron and Toohey referred to the 'just terms' provisions of the Australian Constitution. The judges make it very clear that native title is not something that has been created by the High Court or by governments. It represents a legal right that is inherent, but has generally been unrecognised until now, in the Australian legal system based on the common law. Justices Deane and Gaudron concluded:

> There are, however, some important constraints on the legislative power of the Commonwealth, State or Territory Parliaments to extinguish or diminish common law native titles which survive in this country. In so far as the Commonwealth is concerned, there is the requirement of s 51 (xxxii) of the Constitution that a law with respect to the acquisition of property provide 'just terms'. Our conclusion that rights under common law native title are true legal rights which are recognised and protected by the law would, we think, have the consequence that any legislative extinguishment of those rights would constitute an expropriation of property, to the benefit of the underlying estate, for the purposes of s 51 (xxxii) (Deane & Gaudron 1992, 84).

The purpose of this chapter is not to discuss the legal aspects of the judges’ decision, and particularly, in the context of possible negotiations over some form of treaty between Aboriginal and non-Aboriginal Australians, whether compensation would apply retrospectively for lands already expropriated. There is some suggestion in the decision of Justice Toohey in relation to the 'fiduciary duty' of the Crown towards Aboriginal people that such a relationship may have existed at the time the non-Aboriginal occupation of Australia began. By fiduciary duty, Justice Toohey was suggesting that:

> governments will take care when making decisions which are potentially detrimental to aboriginal rights (Toohey 1992, 157).
This means, according to Justice Toohey, that the:

obligation of the Crown in the present case is to ensure that traditional title is not impaired or destroyed without the consent of or otherwise contrary to the interests of the titleholders (Toohey 1992, 160).

It can be assumed, as did a number of the judges in the *Mabo* case, that all of Australia was 'owned' by Aboriginal people at the time of non-Aboriginal occupation. How much of Australia is now held under native title is yet to be determined. But what is the value of the land that Aboriginal people have lost over the past two hundred years, particularly Aboriginal people living in the east coast States where the bulk of the Australian population is concentrated? What is the value of the Australian continent?

The reason for asking such a question is not flippant, since this type of calculation might be the starting point for the financial aspects of negotiations over some form of treaty in Australia. For example, the recently concluded agreement (treaty) between the Inuit people and the Federal Government of Canada, that will lead to the establishment of the self-governing territory of Nunavut, provides fee simple title to the Inuit of approximately 350,000 square kilometres of land (an area larger than Victoria and Tasmania combined), of which 36,000 square kilometres will include title to sub-surface resources; the right of representation on new institutions to manage land, water and wildlife; and to evaluate and mitigate the impacts of resource development; a share of the royalties from oil, gas and mineral development; marine and terrestrial wildlife harvesting rights; and the payment by the Government to the Inuit of $C1,148 million over a 14 year period (Fenge 1992; Jull 1992a).

If some form of financial agreement, or agreements, were to be negotiated in Australia with Aboriginal people, where could the negotiations begin? Perhaps with estimates of the value of land in Australia. In a report published by the Commonwealth Grants Commission (1991), estimates of the value of land in Australia were presented. The estimates, presented in Table 4, show that in 1988 the unimproved capital value of the land in Australia was $471,530 million. Residential land in New South Wales and Victoria accounted for half of the total, and the value of all land in these States accounted for almost three quarters of the total value. The Northern Territory was valued at $1,753 million, although the Aboriginal land held under the *Aboriginal Land Rights (Northern Territory)* Act is not included in these figures.
(with the exception of some of the land in the larger communities). Presumably this is because the Aboriginal land is inalienable, and hence is assumed to have no market value. The approach is, however, vaguely reminiscent of an earlier period when this land was regarded as 'waste land'.

Table 4: Estimated Value of Land in Australia, 1 July 1988

<table>
<thead>
<tr>
<th></th>
<th>Residential</th>
<th>Commercial/Industrial</th>
<th>Rural</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>New South Wales</td>
<td>158,159</td>
<td>43,779</td>
<td>22,549</td>
<td>224,487</td>
</tr>
<tr>
<td>Victoria</td>
<td>78,743</td>
<td>29,868</td>
<td>14,961</td>
<td>123,572</td>
</tr>
<tr>
<td>Queensland</td>
<td>33,236</td>
<td>8,464</td>
<td>7,209</td>
<td>48,909</td>
</tr>
<tr>
<td>Western Australia</td>
<td>22,127</td>
<td>6,210</td>
<td>6,579</td>
<td>34,916</td>
</tr>
<tr>
<td>South Australia</td>
<td>16,745</td>
<td>3,940</td>
<td>6,988</td>
<td>27,672</td>
</tr>
<tr>
<td>Tasmania</td>
<td>2,487</td>
<td>655</td>
<td>1,613</td>
<td>5,115</td>
</tr>
<tr>
<td>Northern Territory</td>
<td>1,023</td>
<td>506</td>
<td>225</td>
<td>1,753</td>
</tr>
<tr>
<td>ACT</td>
<td>3,703</td>
<td>1,383</td>
<td>20</td>
<td>5,106</td>
</tr>
<tr>
<td>Total</td>
<td>316,223</td>
<td>94,805</td>
<td>60,144</td>
<td>471,530</td>
</tr>
</tbody>
</table>


Apart from the value of the land itself, there is the income produced from the land, directly through activities such as mining and agriculture, and indirectly from the assets (factories, offices, shopping centres etc) constructed on the land. Australia's Gross Domestic Product in 1990–91 was $377,114 million.

To put these very large figures into some perspective, in chapter 8 figures on total Commonwealth spending on Aboriginal affairs were provided. In 1991–92 total spending amounted to $1,161 million. It is interesting that while the Commonwealth Government recognises Aboriginal people as the most disadvantaged group of Australians, and is proud of the level of spending on Aboriginal programs and services, this seems to be the limits of social justice. The budget-related paper in which this
information is contained briefly refers to the Mabo case, but it falls short of accepting Aboriginal people as the traditional owners of much, and many Aboriginal people would say all, of Australia.

The spending of $1.161 million to provide social justice to Aboriginal people represents about 0.25 per cent of the value of all of the land in Australia in 1988, and about 0.3 per cent of the Gross Domestic Product of Australia in 1990–91. Even if the spending by State and Territory governments is added to the Commonwealth spending, the proportions would still be only about half of one per cent. The spending on Aboriginal programs and services represented about 1.24 per cent of total Commonwealth revenue in 1991–92. Aboriginal people could probably quite rightfully ask whether these expenditures, much of which are a form of citizenship entitlements, represent adequate rent from the Commonwealth Government for the use and occupation by non-Aboriginal interests of their traditional lands.

There are of course other aspects of the land question that can be considered. While the value of the land and the income that it can produce are important, it is also true that trading in land itself has been an extremely important source of capital and wealth formation in Australia. Lines, in his book Taming the Great South Land, provides numerous examples of such speculation. By the end of 1839, two-thirds of the alienated land in the colony of South Australia was held by absentee owners, and trading in land became 'the colony's chief business'. When the Northern Territory was annexed to South Australia in 1863, thereby doubling the colony's land area, most of the leases over the land had been bought and sold within a short period of time, principally by investors who had never visited the Northern Territory, Many did not even live in Australia. A similar situation applied in the Kimberley region in the early 1880s (Lines 1991). Of course, much of the inner city housing in Sydney reflects the effects of waves of land speculation in the late eighteenth and early nineteenth century.

However, as was pointed out by a staff member of the Northern Land Council during the Economic Development hearings in Darwin of the Royal Commission into Aboriginal Deaths in Custody (1990, 76), while capital formation in Australia has been based on sub-dividing land and trading in land, this type of capital formation has been denied to Aboriginal people. While most Aboriginal people were being dispossessed of their land, the non-Aboriginal invaders were using the
land to both generate very substantial quantities of income and generate wealth. Over the generations, while non-Aboriginal people and interests have accumulated wealth, most Aboriginal people have remained impoverished and have been unable to accumulate sufficient wealth to lift themselves out of their predicament.

The low levels of capital accumulation by Aboriginal people have been used by some people in the Northern Territory, including a number of senior Government ministers, to argue that the form of title under the Aboriginal Land Rights (Northern Territory) Act is inappropriate. Their argument is that the inalienability of land under the Act prevents Aboriginal people from fully exploiting the commercial opportunities of their land. Justice Olney, in his Report on the Amanbidji Land Claim, provided support to these arguments, by questioning whether changing the title of the land from pastoral lease to inalienable freehold title would be in the best commercial interest of the claimants (Aboriginal Land Commissioner 1992, 60–61).

The implication of the statements by the critics of inalienable title is that if traditional Aboriginal land owners were able to sell all or part of their land, they would improve their financial position. The experience with indigenous people in other countries with respect to their land in such situations is appalling. For example, Berger summarised the situation in Chile, and observed that:

as a result of legislation passed during the regime of General Augusto Pinochet, the Indians of Chile have lost 99 percent of their land. The means used were diabolically simple. The Chilean Indians have for many years lived on reducciones indigenas, or Indian reserves. Pinochet had the Chilean Congress pass a law providing that if one — only one — Indian member of the reserve wished to have the reserve subdivided into individual lots, it had to be done. In little more than a decade that followed passage of the law in 1979, of 2,000 Indian reserves in the country, 1,980 have been or are being subdivided. These small holdings cannot be sold for twenty years, but they can be leased... they are quickly passing out of Indian control through long-term leases (Berger 1991, 99–100).

It is interesting that in the late 1960s the Northern Territory Legislative Council debated two bills which were concerned with the leasing of 160 acres (1 square mile) of the existing Aboriginal reserves to Aboriginal people. The Aboriginal Land Titles Bill and the Crown Lands (Amendment) Bill were intended to establish new procedures which would enable individual Aboriginal people, or groups of people, to apply
for leases over Aboriginal reserve land. The legislation was primarily intended to facilitate the establishment of agricultural and pastoral enterprises, and to enable the leasing of land for housing in the larger communities. However, it is clear from the comments by an Official Member of the Legislative Council and Director of Social Welfare, Mr Giese, (Legislative Council, 21 August 1968, 629) that there was 'considerable public suspicion about the cutting up of reserves' that would result if the legislation was passed.

For the last decade, the Northern Territory Government has put considerable efforts into persuading Aboriginal claimants in land claims not to accept inalienable freehold title under the Aboriginal Land Rights (Northern Territory) Act, and to accept Northern Territory freehold title. Quite often the 'persuasion' has taken the form of threats, explicitly or otherwise, to take legal action against the claim that would inevitably delay the granting of the land under the Commonwealth legislation. In some cases, the Government has been successful, and claimants have accepted a lesser form of title to avoid the prolonged litigation.

It is ironic that those arguing against inalienable title use economic arguments to support their case, and yet the experience in other countries when indigenous people do not have such title to their land has almost universally been further dispossession, marginalisation and impoverishment. It is not hard to see the strong hand of assimilation behind the present debate, which, as the Northern Territory Chief Minister has suggested, is the only option available for traditional Aboriginal people to improve their status. As the Member for Nightcliff argued in the Legislative Council in August 1966, critics of the Aboriginal Land Titles Bill did not need to worry about:

certain traditions of Aboriginal tribes in the particular area [since] their tribal attachment to particular places will gradually lessen... I have been here for forty years, and I have gone walkabout with them and I know something about tribal attachment to particular areas (Legislative Council, 17 August 1966, 716–717).
CHAPTER 11

WHERE DO TAXPAYERS' DOLLARS COME FROM?

COMMONWEALTH FUNDING OF THE
NORTHERN TERRITORY GOVERNMENT

While the Northern Territory Government is quick to talk of 'Territory taxpayers' funds' when it comes to Aboriginal programs and services, the Government is much more reluctant to openly discuss its financial relationship with the Commonwealth Government. In particular, it has been very reticent to disclose the full details of the funding assessments of the Commonwealth Grants Commission. Indeed, more often than not the Government attempts to create the impression that it is the Northern Territory (and sometimes northern Australia) which supports the rest of Australia, rather than the other way around.

The discussion in this chapter is primarily concerned with one part of the Commonwealth spending in the Northern Territory. As was noted in chapter 2, Commonwealth spending in the Northern Territory in 1991–92 included general purpose funding to the Northern Territory Government ($844 million), specific purpose grants to the Northern Territory Government ($248 million), funding for local government ($15 million), and the spending by Commonwealth departments and authorities (approximately $820 million). This chapter discusses the general revenue assistance funding of the Northern Territory Government.

The confusion which surrounds this issue was reflected in an editorial in the Northern Territory News (8 October 1992), which was commenting on the prospects for Aboriginal self government in the Northern Territory. The editorial suggested that Aboriginal leaders need to satisfy some 'fairly simple requirements for self government — for example economic self sufficiency'. In what way could it be said that the Northern Territory Government is economically and financially 'self sufficient'? As this section will demonstrate, the Government is more dependent on financial assistance from the Commonwealth Government than any other self governing entity in Australia.
The Commonwealth Grants Commission is a Commonwealth statutory body which was established in 1933 to report upon applications by the State and Territory governments to the Commonwealth Government for special assistance under section 96 of the Constitution. The Commission does not decide the actual size of the total payments to the States and Territories. This is decided by the Commonwealth at the Premiers' Conferences after discussions with the State Premiers and Territory Chief Ministers. The role of the Commission is to make recommendations on the distribution of grants between each of the States and Territories. To get an idea of the size of the payments that are annually assessed by the Commission, the General Revenue Assistance and Hospital Funding Grants to the States and Territories by the Commonwealth in 1992-93 will be $17,900 million. These payments are untied and are meant to assist these governments to meet their recurrent outlays.

While considerable criticism can be levelled at parts of the CAERA Economic Strategy for Northern Australia, at least one volume of the CAERA reports, Northern Territory Economic Development and the Commonwealth, does discuss some of these issues (Stanley & Knapman 1992). It notes that the assessments of the Commonwealth Grants Commission in relation to General Revenue Assistance are particularly important for the Northern Territory. The Northern Territory would be in a very precarious financial and economic position if Commonwealth grants were reduced to any significant extent. While the State governments raise about half of the money they need to provide services, the Northern Territory Government raises less than one fifth of what it needs, even though its taxes and charges are assessed by the Commission to be at (or even above) average levels. Commonwealth funding, and public sector spending (increasingly defence spending) in general, are the economic base of the Northern Territory, despite the decline in real terms in Commonwealth payments to the Northern Territory. While total expenditure by the Northern Territory Government in 1992-93 will for the first time exceed $2 billion, total Northern Territory Government taxation revenue is projected to be only $182 million (Northern Territory Government 1992a, 2). To enable the Northern Territory Government to spend more than $2 billion, a transfer of financial (taxation) resources from the rest of Australia is necessary.

This transfer occurs through the application, by the Commonwealth Grants Commission, of the principle of fiscal equalisation. It is an extremely important concept which plays a major part in the
intergovernmental financial arrangements of the Australian federal system. The principle is intended to ensure that the State and Territory governments have the financial capacity to deliver to their citizens a 'standard' range and quality of government services. There is, however, no guarantee that the level and quality of services will actually be equalised between individuals, or areas, within a State or Territory. Because the grants are untied, the priorities for the expenditure of these funds are determined by the State and Territory governments.

The principle of fiscal equalisation results in a transfer of Commonwealth taxation revenue from New South Wales and Victoria to the other States and Territories. This reflects the fact that Queensland, Western Australia and the Northern Territory have less well developed infrastructure, smaller and more dispersed populations, and narrower taxation revenue bases. There has been criticism of the principle of fiscal equalisation for many years, usually by politicians in New South Wales and Victoria. The national recession, and the high levels of unemployment in these States, have given more prominence to these funding distribution issues in the public debate. It is therefore not surprising that some of the ATSIC Commissioners from the eastern States are also arguing for a move towards a more equal per capita distribution of ATSIC funds, which would redirect funding from Western Australia, Queensland and the Northern Territory to New South Wales.

In 1991–92 the New South Wales Government received $824.54 of general revenue assistance from the Commonwealth for each person in the State, and Victoria $811.80, while the Northern Territory Government received $4,843.27. If every State and Territory Government were to receive Financial Assistance Grants from the Commonwealth on an equal per capita basis, the Northern Territory Government would have received only $132 million in 1992–93, instead of the $787 million it will receive. That is, $655 million is redistributed to the Northern Territory Government because of the application of the principle of horizontal fiscal equalisation. In the case of the Western Australian Government, $286 million is redistributed because of fiscal equalisation, and $371 million is redistributed to the Queensland Government (Commonwealth of Australia 1992b, 36).
Table 5: Commonwealth General Revenue Assistance to States and Territories, 1991–92

<table>
<thead>
<tr>
<th></th>
<th>$ million</th>
<th>$ per person</th>
</tr>
</thead>
<tbody>
<tr>
<td>New South Wales</td>
<td>4,898.4</td>
<td>824.54</td>
</tr>
<tr>
<td>Victoria</td>
<td>3,603.9</td>
<td>811.80</td>
</tr>
<tr>
<td>Queensland</td>
<td>3,253.3</td>
<td>1,084.47</td>
</tr>
<tr>
<td>Western Australia</td>
<td>1,887.9</td>
<td>1,143.77</td>
</tr>
<tr>
<td>South Australia</td>
<td>1,802.4</td>
<td>1,239.61</td>
</tr>
<tr>
<td>Northern Territory</td>
<td>812.7</td>
<td>4,843.27</td>
</tr>
<tr>
<td>Tasmania</td>
<td>659.7</td>
<td>1,406.01</td>
</tr>
<tr>
<td>ACT</td>
<td>460.4</td>
<td>1,572.94</td>
</tr>
</tbody>
</table>


The emphasis given by the Northern Territory Government to the expansion of the pastoral, mining and tourist industries disguises the fact that the public sector accounts for a larger proportion of the Northern Territory's economy than in the rest of Australia. The dependence of small (in population terms), remote jurisdictions of a large country on federal finance is not unusual. The Northern Territory Government, as it has successfully argued before the Commonwealth Grants Commission, requires additional Commonwealth funding because it has a narrow taxation revenue base and its population has certain social and economic characteristics which distinguish it from the States. The Government has consistently argued that the taxation base is more narrow because the land rights legislation undermines mineral development.

The social and economic characteristics of the Aboriginal population have a significant influence on the Commission's assessments. The influence shows up most clearly in the Northern Territory, even though numerically there are more Aboriginal people in each of the States of Queensland, Western Australia and New South Wales. Further, as a result of the high rates of Aboriginal unemployment, the costs of providing infrastructure in remote areas, and the impact of remoteness on service delivery, the Northern Territory Government receives a significantly higher level of per capita funding than the States. For example, in relation to the general revenue funding its receives for
education, the Northern Territory Government submission to the Commonwealth Grants Commission stated:

In the past the Commission has accepted the NT's claims that it experiences special needs in relation to the provision of primary education services to its Aboriginal population. It has accepted that the Territory has to provide primary education services in different ways to those provided in the States because of the remoteness, dispersal and cultural background of its Aboriginal population (Northern Territory Government 1991b, vol 1, 203).

The Western Australia Government submissions to the present Commonwealth Grants Commission review are interesting when compared with the submissions of the Northern Territory Government. The Western Australian Government is at least reasonably candid in stating that economic development priorities tend to take precedence over those of Aboriginal people in remote parts of the State:

The normal economic imperatives which cause the State to establish townships (i.e. to support economic developments) are not the imperatives which cause new Aboriginal communities to be established. The high costs of service delivery to remote Western Australian Aboriginal communities is a special cost that does not relate to costs which the State would normally accept in return for economic gain from resource development (Western Australian Government 1991, 284).

However, the Western Australia Government also pointed out that there have been different responses by each of the State and Territory governments to the growth of the 'homelands' movement:

For example, the Northern Territory has developed a clear policy of supplying a relatively high standard of service and infrastructure including roads and airstrips, as well as high standards of water, sewerage and power supplies. The other States provide less facilities and much lower levels of services than the Northern Territory (Western Australian Government 1991, 285).

The Western Australian Government at least acknowledges that its commitment to Aboriginal people in remote areas is less than the Northern Territory Government, a view that would be well known to people living in the remote parts of Western Australia. The growth of outstations is resulting in an increasingly decentralised Aboriginal population in Western Australia and the Northern Territory. This is increasing the cost of the present pattern of service delivery. Despite the above comments by the Western Australia Government, the Northern
Territory Government has made it very clear that the growth in the number of outstations is 'not a movement which the Northern Territory Government has sought to encourage in any way' (Northern Territory Government 1991b, vol 1, 195).

Despite the relatively high levels of per capita spending by the Northern Territory Government on the provision of services and programs to Aboriginal people, there are still very serious questions in relation to the Government's priorities. For example, if one is to query the use of 'taxpayers' funds', is it acceptable that the Northern Territory Government has spent more than $600 million on what it euphemistically calls 'tourism infrastructure support' (subsidies to the Sheraton Hotels in Darwin, Alice Springs and Yulara), much larger than its spending on the provision of infrastructure to remote Aboriginal communities?

What is very difficult to establish is how much of the Commonwealth general revenue assistance the Northern Territory Government receives is for spending on Aboriginal programs and services. A reading of the Government's submissions to the Commonwealth Grants Commission would suggest that a very significant proportion of the funding is directly and indirectly affected by the Aboriginal population. The difficulty is that the Commission's calculations are very complex, and are based on at least five years of expenditure and revenue information.

The Chief Minister (Legislative Assembly 26 November 1992) indicated that about $300 million of the budget is spent on 'specific Aboriginal programs'. However, the Chief Minister's statement is somewhat misleading since data supplied by the Government to ATSIC shows that $184 million of this spending was actually 'mainstream programs with particular relevance to Aboriginal people' (including $81 million of health spending). The spending on 'mainstream programs with a specific Aboriginal component' amounted to $102.8 million (health, community amenities and housing, and education). The 'Aboriginal specific programs' amounted to only $15.2 million (Smith 1992, 7). The spending on Aboriginal programs represented only 17 per cent of the total spending by the Northern Territory Government.

It is not clear why the Northern Territory Government is so keen to publicise these figures. While the Northern Territory Government's spending on Aboriginal programs and services is clearly well above that of the Western Australian Government, its spending is still well below
what would be expected given the economic and social disadvantages of the Aboriginal population, the proportion of the Northern Territory population accounted for by Aboriginal people, and the very high level of per capita funding the Government receives from the Commonwealth Government.

Further, just because the Northern Territory Government claims that it is spending a large amount of delivering services to Aboriginal people and Aboriginal communities, this is not to suggest that the present pattern of service delivery is appropriate. The Northern Territory Government has an explicit policy of mainstreaming service delivery to Aboriginal people. Many Aboriginal people, Aboriginal organisations, and Commissioner Johnston in his National Report for the Royal Commission into Aboriginal Deaths in Custody, have been critical of mainstreaming service delivery. There is evidence that mainstreaming is not only inappropriate, but may also be much less cost effective.

In fact, there is a strong suspicion amongst many Aboriginal people that the State and Northern Territory Governments use 'Aboriginal' funds to cross-subsidise other government programs and activities, or label some types of spending 'Aboriginal affairs' spending when in fact the funds are being spent elsewhere. ATSIC, for example, pointed out that much of the Queensland Government's alleged spending on infrastructure provision in Aboriginal communities was actually directed to 'supporting the administrative and bureaucratic structure' (Aboriginal and Torres Strait Islander Commission 1991, 25). The Deputy Chairperson of ATSIC, Sol Belllear, at a meeting of the Public Health Association of Australia on 30 September 1992, criticised the amounts of money being wasted on a 'myriad of committees and meetings' associated with the implementation of the National Aboriginal Health Strategy.

We have these meetings, we have State tripartite forums, we have Council of Aboriginal Health meetings, the health portfolio commissioners meetings, bureaucrats have theirs, ministers have theirs and the money's just going down the gurgler with all these meetings' (Koori Mail 7 October 1992).
CHAPTER 12

ABORIGINAL PEOPLE AND LOCAL GOVERNMENT

Perhaps one of the most obvious examples of Aboriginal people being treated as though they do not exist concerns the services provided, or more correctly, not provided, by local government. This issue has been highlighted a number of times, most recently by the Royal Commission into Aboriginal Deaths in Custody, and the Equal Opportunity Commission in Western Australia.

The problematic relationship between Aboriginal people and local government is of course not an issue that is confined to northern Australia. The difficulties experienced by the Aboriginal people living in the northern New South Wales community of Toomelah demonstrate that the activities of many local councils directly impinge on the day-to-day lives of Aboriginal people, often negatively. In a report published in November 1992, the New South Wales Ombudsman criticised the Moree Plains Shire Council for levying rates on a community to which it was providing no services, and the Office of Aboriginal Affairs for not resolving the rating problem. The Ombudsman found in relation to the Office that it is 'shameful their oblivion to the inconsistencies has allowed this discrimination against rural Aboriginal land councils over the years', and referred to the 'neglect of Aboriginal Administration' relating to the rating of Aboriginal land across New South Wales (New South Wales Ombudsman 1992, 61, 65). The Australian newspaper was prompted to comment in an editorial (20 November 1992) in the following terms:

By supporting the continuance of rate assessments against people who own neither title nor land in the squalid little rural settlement of Toomelah, the NSW Premier, Mr Fahey, is helping to perpetuate an outrage. Its 400 Aboriginal residents receive no services from their shire council and have no access to its civic amenities... The ombudsman's report calls into question the taxation and servicing of Aboriginal communities throughout NSW, which has relevance to similar communities nationwide.

For many Aboriginal people in Queensland and Western Australia local government was imposed without consultation, and often against the stated wishes of the local Aboriginal population. For example, in 1978 the Queensland Government decided to take over the management of the

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reserves of Aurukun and Mornington Island, even though the Aurukun 'community' had stated that it wanted to 'remain under the Administration of the Uniting Church of Australia' (Legislative Assembly, 26 April 1978, 653). In the same month that the Governor de-gazetted the former Aboriginal reserves the Queensland Legislative Assembly debated the Local Government (Aboriginal Lands) Bill. The legislation created the Aurukun and Mornington Shire Councils, and provided the new councils with 50 year leases over the areas of the former reserves. The Minister for Local Government, Mr Hinze, stated in the Legislative Assembly (26 April 1978, 648):

It is the determined wish of the Queensland Government to provide for model Aboriginal communities at these two centres... The legislation extends to Queensland's descendants of the 'First Australians' a degree of self-management and control not enjoyed by people of Aboriginal extraction anywhere in Australia.

Despite all of the high-sounding rhetoric from the Government at the time about self management, fifteen years later the Aurukun Shire Council, which was created without popular support, still does not receive a high level of support in the community. The history has been one of opposition from Aboriginal people and other organisations in the community, frequent financial crises, and external intervention to shore up its management and financial capacity. The continuing and frequent attacks on council property and vandalism have created a siege mentality on the part of the Shire administration. The administration of the council has used its planning and other local government powers to prevent the development of outstations, which might alleviate some of the problems in Aurukun. It is therefore not surprising that the result of the council's actions, supported by the Queensland Government, has been a continuation of the over-crowding, violence and uncontrolled drinking in the main community.

The local government situation in the Northern Territory is somewhat different since a large proportion of the Northern Territory is not incorporated within local government boundaries (shire's). However, the Government has been attempting to introduce a shire-type system that would apply to Aboriginal land. There are almost 50 Aboriginal local governing bodies which receive direct untied Commonwealth funding under the Local Government (Financial Assistance) Act. There organisations will receive almost $3 million in financial assistance grants in 1992-93, as well as almost $10 million in operational subsidies from
the Northern Territory Office of Local Government (OLG). In addition, 21 'minor communities' received grants from OLG. In 1992-93, the Aboriginal local governing bodies will also receive $4 million in untied Commonwealth local road funding. While this level of funding might appear quite substantial, there are still major inequities in the financial allocations in the Northern Territory. For example, the Northern Territory Government, through OLG, provides additional funding to councils which adopt its preferred model of local government, namely community government councils which are incorporated under the provisions of the Local Government Act.

Many Aboriginal councils in the Northern Territory are effectively forced to supplement the funding for their activities with CDEP funding. In Western Australia, many Aboriginal communities also use CDEP to provide local government services, in the absence of services from the shire council (or in some cases under contract with the council). This, as the Western Australian Equal Opportunity Commission suggested, reflected the 'neglected service responsibility' on the part of the State and local governments. In fact, the Commission suggested that some councils have deliberately not provided any services after they have become aware of Aboriginal communities purchasing plant and equipment with CDEP funds (Equal Opportunity Commission 1990, 27).

In Queensland there are 14 Aboriginal and 17 Torres Strait Islander Community Councils. Noel Pearson, from the Cape York Land Council, highlighted some of the problems confronting Aboriginal people living on Cape York Peninsula in relation to local government in evidence to the Electoral and Administrative Review Commission. His statement provides further evidence of the two sides of the treatment of Aboriginal people in northern Australia:

To put it simply: in those areas in which Aboriginal or Islander people could have constituted a majority, such as in Cook Shire, Carpentaria Shire and Torres Shire — the Shire was administered by an Administrator, thereby denying Aboriginal participation. In other areas where Aboriginal people constituted a minority and there was no threat that the Shire Council could be overtaken by blacks, there was no need for such measures. Aborigines could vote and even stand for office, with the Government and the white population secure in the knowledge that the Aborigines did not have the numbers to gain office (Electoral and Administrative Review Commission 1991, 369).
However, the Electoral and Administrative Review Commission was responsible, in its final report, for presenting a distorted picture of the financial position of the Aboriginal councils. Some of the information in the report also illustrates the extent to which CDEP is regarded as a legitimate supplement to local government funding. The report includes a table which shows the 20 shire councils with the highest level of specific purpose grants in Queensland in 1989–90. The Mornington Shire Council is shown to have the second highest level of specific purpose grants ($5.67 million), with the Brisbane City Council ranking highest. Aurukun Shire Council ranks fifth ($4.57 million), slightly less than the Gold Coast Shire Council. The two north Queensland councils rank first and second on a per capita basis for specific purpose grants. However the report does not disclose that most of these grants are the funds for the communities' CDEP schemes which are administered by the councils. A separate table shows that the Aurukun Council had the second lowest level of general purpose grants ($93,000), and the Mornington Shire Council had the lowest level of general purpose grants ($77,000) (Electoral and Administrative Review Commission 1991, vol 1, 39). Not only is CDEP funding included as though it were a normal source of local government finance, but by including CDEP payments as council income the financial situation of some of these communities is completely distorted.

A separate table in the Commission's report shows the sources of funds of Aboriginal and Island Councils. The total income of all of these councils in 1989–90 was $93.4 million, of which 60 per cent were ATSIC grants, including CDEP. However, the income included 'canteen sales' of $11.9 million, a significant proportion of which in some communities, notably Aurukun, represented sales of alcohol (Electoral and Administrative Review Commission 1991, vol 1, 39). This is not raised by the Commission. In fact, the information presented is double counting community (council) income, since the wage payments under CDEP are largely spent in the canteen. The income from sales of alcohol to people who are receiving 'wage payments' from an ATSIC grant should be included as council income.

In the shires which incorporate many of the remote parts of Queensland and Western Australia, Aboriginal people are a significant proportion of the population, if not a majority. The funding received by the local councils is, in part, based on both the size and certain characteristics of the population of the shire. However, there is widespread evidence of the
Aboriginal population of many shires not receiving any, or minimal, local
government services. Commissioner Johnston commented on this
'anomaly':

Thus, Aboriginal people are counted in the equation which determines the
level of funding received. However it is grossly unfair if, having been
provided with such funds, local government authorities allocate the funds
disproportionately to the benefit of non-Aboriginal people, and because
those funds are untied, the LGAs do not have to answer for this inequity

Quite often the only local government-type services Aboriginal people
receive are provided using Commonwealth funding. Fletcher has
provided considerable documentation of this situation in Western
Australia (1992b). The Western Australian Local Government Grants
Commission (1992) has also provided data which shows that nine shire
councils in the State will receive about $1.5 million in special projects
grants in 1992–93 for roads serving Aboriginal communities. Two-thirds
of this funding is from the Commonwealth Government. Presumably this
will be the only road works undertaken for Aboriginal communities in the
State by local government.

As chapter 11 discussed, in the case of the State and Territory
governments, the Commonwealth Grants Commission methodology
applies the principle of fiscal equalisation. The application of this
principle is intended to provide each State and Territory government with
the financial capacity to provide a level of services to the standard of all
of the States and Territories. A similar situation applies with respect to
the funding distributed by the local government grants commissions in
each State and Territory. Even though the funding to individual councils
may be heavily influenced by the Aboriginal population in the local
government areas, there is no mechanism to ensure that Aboriginal
people will receive the same, or indeed, any services. However, the
Western Australian Local Government Grants Commission was
examining whether to introduce a 'reduced disability factor' to take
account of some of the inequities.

Although this problem has been highlighted many times in the past, and
most recently by the Royal Commission into Aboriginal Deaths in
Custody, the governments' stated responses to these recommendations of
the Royal Commission are inadequate, and at times even misleading.
Recommendation No 200 referred to the need to ensure that Aboriginal
people within the boundaries of a local government authority received an equitable distribution of the funds. The Western Australia Government's response was that the Department of Local Government was proposing to conduct a research project to identify the level and nature of the provision of services by local government to Aboriginal communities. After the millions of dollars that were spent on the Royal Commission, one would have thought that further research was totally unnecessary. Even more cynically, the Queensland Government suggested that it the recommendation was principally a matter for the Commonwealth Government (Commonwealth of Australia 1992a, vol 2, 767–768).

Recommendation No 198 of the Royal Commission argued that Aboriginal people should not be discriminated against in the delivery of essential services because their low income levels reduced their ability to contribute to the provision of such services. The Queensland Government indicated that it was already providing a subsidy for electricity supplies to Aboriginal people in remote areas, while the Western Australia Government noted that the costs of essential services in remote communities were largely met by ATSIC! The Commonwealth noted that this issue was primarily a State and Territory government responsibility, but stated that it would seek to ensure that Aboriginal people are not disadvantaged because of their low levels of income (Commonwealth of Australia 1992, vol 2, 756–8). There is no indication how precisely the Commonwealth will achieve this objective, which surely is one of the key recommendations of the Royal Commission. As was noted in chapter 8, the Commonwealth's North Australia Social Justice Task Force seems not to have been able to advance this issue much further either.

Another recommendation of the Royal Commission (No 199), which was supported by all governments, stated that the funding for the delivery of local government services in Aboriginal communities should not be dependent upon the structure of the organisation which is adopted by Aboriginal communities for the delivery of such services. However, the Northern Territory Minister for Local Government has refused to recognise the Gulin Gulin Weemol Community Council, which was incorporated under the Commonwealth's Aboriginal Councils and Associations Act to provide services to the Bulman community in southern Arnhem Land, as a local governing body. The reason for the Minister's refusal is that the organisation is incorporated under the Commonwealth legislation rather than as a Community Government
under the Northern Territory’s Local Government Act (Northern Territory Legislative Assembly, 19 November 1992). The Aboriginal council cannot receive funding under the Local Government (Financial Assistance) Act until it is recognised as a local governing body. While the Commonwealth Minister for Local Government has written to the Northern Territory Minister to protest about his decision, the Northern Territory Government’s actions make a mockery of some of its responses to the recommendations of the Royal Commission.

The argument about forms of incorporation is not as important in Western Australia and Queensland, where a shire system of local councils exists. There is, however, the serious issue whether any form of local government (in its normally understood sense) is appropriate for Aboriginal people living in these remote areas. The delivery of services by the shire councils to their Aboriginal constituents is a key issue. One of the arguments advanced by many local government officials to defend the low levels of, or non-existent, service delivery to the Aboriginal population in their shires is that Aboriginal people do not pay council rates. For example, the Shire Clerk of Laverton Shire in Western Australia argued that the proposal to create a new Ngaanyatjarraku shire in part of the area of the Wiluna Shire should be opposed:

Because there would be no rating base, a new council’s dependency on federal and State funding inevitably would lead to a reduction of funds for other councils and an erosion of their services to residents (Sunday Times, 6 September 1992).

This comment exaggerates the relative importance of rates to local government, and of course ignores rate payments by individual Aboriginal land owners. Rates accounted for about 55 per cent of the total revenue of local councils in Western Australia in 1988–89, and only 25 per cent in the Shire of Laverton. For the shire councils in the Kimberley region the figure was less than 32 per cent (Australian Bureau of Statistics 1990). Many of the shires covering remote parts of Australia have weak revenue bases and relatively less rateable land within their boundaries. However, according to Fletcher (1992a), although Crown land and Aboriginal leaseholds are exempt from rates, Aboriginal communities in the Wiluna Shire (Ngaanyatjarra land) paid $19,669 in ex gratia rates in 1991–92, funded by grants from ATSIC.
The situation with respect to service delivery by the four shire councils in the Kimberleys is indicative of the situation across Australia, and also shows how the responses to the Royal Commission recommendations by governments, despite their high sounding rhetoric, have made little difference to the situation facing many Aboriginal people. In mid-1992 each of the shire councils (Halls Creek, Derby-West Kimberley, Wyndham-East Kimberley and Broome) passed virtually identical policies on the provision of services to Aboriginal excision communities on pastoral leases. This is a particularly important issue, even though the actual numbers of Aboriginal people associated with each excision or outstation may be relatively low. The outstation movement in northern Australia is an Aboriginal initiative, and compared with the policies of closer settlement of governments, has been outstandingly successful. The actions of the shire councils have been a significant part of government opposition to this form of resettlement of country by Aboriginal people.

The Shire of Halls Creek at its Ordinary Meeting on 25 June 1992 passed a policy which included the following:

That Council will not be responsible for the provision or maintenance of any services.

It is somewhat ironic that at the Ordinary Meeting of the Shire of Wyndham-East Kimberley on 17 October 1991 Kununurra, the minutes record that:

Councillors expressed their concern regarding communities which were established in remote outlying areas with no apparent means of supporting themselves, yet essential services were provided and the communities subsidised to keep them going.

The shire councillors, in their discussion of subsidisation, seem to have overlooked the massive amounts of money that were committed to the construction of the Ord River Dam and the irrigation area near Kununurra. The country is still waiting for a return on its investment of millions of dollars of 'taxpayers' funds' in this project.

The Regional Manager of ATSIC from Kununurra, who was present at the meeting, responded:

Regional councils were aware that there were communities which could not support themselves and there was a hardening attitude towards funding such communities.
At the Ordinary Meeting of the Shire of Wyndham-East Kimberley on 18 June 1992, the minutes record that the Council responded to an excision application on one of the pastoral leases in the following terms:

Due to the isolated location Council is unlikely to provide health services unless government funding is made available. Should the [name of Aboriginal corporation] pay rates for the proposed area then health services will be considered by Council.

The problem is that even when a community does pay rates, there is no guarantee that it will receive any services from the shire council. For example, the Mowanjum Aboriginal Corporation paid $13,000 in rates to the Shire Council of Derby-West Kimberley. ATSIC wrote to the Council stating that:

It is apparent that garbage services, access road maintenance, internal roads, storm water drainage, and street lighting at Mowanjum are being neglected, and that the Mowanjum Aboriginal Corporation is cross-subsidising other ratepayers in the Derby/West Kimberley Shire (Minutes of Finance and Services Committee meeting, 21 September 1992).

The Council's response was that ATSIC 'be advised of the principles of raising revenue by way of rates under the WA Local Government Act'.

Although many Aboriginal people may not be liable for rates because of the title of the land they are living on, their contribution to the economy of many of the more remote shires is still likely to be substantial. But it should be noted that a considerable number of Aboriginal organisations do pay rates. Added to this is the fact that many of the non-Aboriginal businesses which do pay rates and other government charges are dependent for much of their business on spending by Aboriginal people and Aboriginal organisations. In many towns in rural and remote parts of Australia the Aboriginal component of their population is increasing.
CHAPTER 13

ATSIC REGIONAL PLANNING OR
REGIONAL GOVERNMENT?

Many of the government regional planning documents discussed in
previous chapters have either underestimated or ignored the importance
of Aboriginal people to many local and regional economies. ATSIC
regional councils are presently preparing regional plans, which might
address this imbalance. According to section 94 of the Aboriginal and
Torres Strait Islander Commission Act, regional plans are intended to
improve the 'economic, social and cultural status' of Aboriginal people in
the region.

One of the major complaints of regional councillors is that they have been
responsible for allocating only a small proportion of ATSIC's budget. In
1991-92 the regional councils were responsible for allocating
approximately $80 million, less than 12 per cent of ATSIC's total
appropriation of $669 million. However, in 1992-93 the regional
councils will be responsible for the allocation of $155 million, 19 per cent
of ATSIC's total appropriation of $815 million (Commonwealth of
Australia 1992c, 23, 263). In the Northern Territory in 1991-92, the 12
regional councils were responsible for allocating about 14.5 per cent
($15.9 million) of total ATSIC program expenditure ($109.5 million). In
Western Australia the 15 regional councils were responsible for 18 per
cent ($20.8 million) of ATSIC's total State program expenditure ($115.7
million). The six regional councils in the Kimberley region were
responsible for allocating $8.4 million of expenditure, about 7 per cent of
total State program expenditure.

An important issue is how much notice the State and Territory
Governments, and indeed other Commonwealth departments and
authorities, will take of ATSIC regional plans when they are finalised in
mid-1993. The consultants for ATSIC who provided advice on the
processes and guidelines for the development of regional plans were
skeptical on this point, and suggested that the State Governments would
use the regional plans, at best, as a source of information for their own
policy development and planning initiatives. In Western Australia, the
consultants noted that it was questionable whether regional planning
would develop any momentum without some form of land rights (Coopers and Lybrand Consultants 1991). Given the difficulties that the State's own Aboriginal Affairs Planning Authority has in coordinating the activities of government departments and authorities, it seems highly unlikely that ATSIC regional plans will achieve a better result.

How seriously the State and Territory governments take account of ATSIC regional plans, and their service delivery responsibilities towards Aboriginal people, will be affected by the negotiations of the National Commitment to Improved Outcomes for Aboriginal Peoples and Torres Strait Islanders. This statement will be principally concerned with the provision of government services to Aboriginal people, and will be based on the report adopted by the Australian Aboriginal Affairs Council (AAAC), Achieving Greater Coordination of Aboriginal and Torres Strait Islander Programs and Services (1991). The statement will provide for the negotiation of bilateral Joint Responsibility Agreements between the Commonwealth and each of the State and Territory governments. However, ATSIC has been experiencing problems with a number of the State governments which have been unwilling to enter into inter-governmental agreements with ATSIC rather than the Commonwealth Minister for Aboriginal and Torres Strait Islander Affairs.

There is no doubt that the senior officials of ATSIC have placed very considerable emphasis on the implementation of the recommendations of the AAAC Report, despite criticism from a range of Aboriginal organisations and a number of ATSIC Commissioners. There is some evidence from the published decisions of the ATSIC Commissioners that they have taken account of some of the criticisms, particularly the need to emphasise the role of Aboriginal organisations in service delivery in any negotiated agreements.

One of the criticisms levelled at the AAAC Report is that it does not give sufficient support to the role of Aboriginal organisations in service delivery. The ATSIC Commissioners' decision (No 717) on the negotiation of the National Commitment states that governments should 'give effect to policies of self management and self-determination' for Aboriginal people, and Aboriginal community-controlled organisations should have a 'preferred role' in service delivery. How seriously these statements will be taken by the State and Territory governments in the implementation of policy is not certain at this stage, although in general
the State and Territory governments have a basic principle of mainstreaing service delivery to Aboriginal people (to the extent that they provide services). The Queensland Government has recently moved to further mainstream service delivery to Aboriginal and Torres Strait Islander people. The Department of Family Services and Aboriginal and Islander Affairs will reduce its role in direct service delivery, and will focus on 'coordination and planning'. Some of the Department’s former functions have been transferred to other departments. For example, the responsibility for the Aboriginal Housing Rental Program has been transferred to the Department of Housing, Local Government and Planning, and the responsibility for the supply of electricity to remote communities has been transferred to the Department of Resources Industries (Department of Family Services and Aboriginal and Islander Affairs 1992, 16, 18).

One of the recommendations of the National Report of the Royal Commission into Aboriginal Deaths in Custody was that Tangentyere Council, which services the Aboriginal town camps in Alice Springs, should be provided with a stable and adequate funding base to enable it to continue and to enhance its service delivery functions. The Northern Territory Government provided qualified support to this recommendation, although its full response is not included in the volumes of the government responses to the Royal Commission. Whatever its formal position may have been, in practice the Government has made it very clear that it intends to reduce, if not eliminate entirely, Tangentyere’s funding from the Office of Local Government. The Government’s intention is that the Alice Springs Council is the appropriate body to deliver services to all of the residents of Alice Springs.

Another criticism is that the implementation of the recommendations of the AAAC Report will reinforce the role of the State, Territory and local governments in the planning of service delivery. The ATSIC Commissioners, and the AAAC Report, argue that the Commonwealth does not have exclusive responsibility for Aboriginal affairs, and that the State and Territory governments have prime responsibility for the provision of government services to Aboriginal people. The AAAC Report envisages that all of the operational aspects of service delivery will be the responsibility of the State and Territory governments. The problem is that by controlling the operational aspects of service delivery, the State and Territory governments will in effect be determining 'policy'.
The implementation of the National Aboriginal Education Policy by the Northern Territory Government has produced widespread criticism from Aboriginal people and many communities, despite the fact that the Government has negotiated agreements with the Commonwealth which state how the policy will be implemented. The operational aspects of the program delivery are controlled by the Northern Territory Department of Education, and while these are supposed to be consistent with the bilateral agreement with the Commonwealth, in practice they are, in some respects, widely divergent. The control of curriculum development by staff in Darwin, rather than in the schools in the communities, is a major source of criticism from the community schools. From the outside, it appears that the Commonwealth has been very reluctant to intervene. Is there any reason to expect that the situation with respect to other Aboriginal affairs programs will be any different once the bilateral agreements have been negotiated?

In a recently published Centre for Aboriginal Economic Policy Research Discussion Paper, a visiting Canadian academic provided an interesting overview of regional development and indigenous people in northern Canada and the Northern Territory. Scott noted that in northern Australia and northern Canada public sector expenditure is the economic base of both the Aboriginal and non-Aboriginal population. At the moment, royalties, title to land and resources are not sufficient to provide a sufficient economic base to Aboriginal communities.

A key element of development strategy, then, must be for self-governing institutions to directly administer the highest possible proportion of resources from central government treasuries earmarked for Aboriginals. Ideally, this should in time result in improved ratios of Aboriginal employees in administration and social services, improved multipliers through enhanced enterprise development in Aboriginal communities, and increased effectiveness in creating and competing for new opportunities (Scott 1992, 21).

Scott raises a number of very important points:

Will momentum be stolen from regional self-government structures that already enjoy a measure of legitimacy with Aboriginal communities, or will the latter move effectively to secure their own agendas and representatives on the new regional councils? (Scott 1992, 31).

There is already evidence of existing Aboriginal organisations, which have achieved a high degree of credibility, and a reasonably impressive record of effective service delivery for their Aboriginal constituencies,
being undermined by the local regional council’s decisions and funding priorities. Many regional councillors believe that they have a mandate to undertake all planning and to coordinate all service delivery in their region. Some clearly feel threatened by some, if not all, of the existing Aboriginal organisations in the region. Staff in some regional offices of ATSIC are encouraging this type of thinking by regional councillors, although the motives are not necessarily to undermine the existing organisations.

On the other hand, some existing Aboriginal organisations and the people they service have anticipated such a possibility, and have moved to take control of the local ATSIC Regional Council. An example is the relationship between Marra Worra Worra Aboriginal Corporation, the outstation resource centre in Fitzroy Crossing, and the Bandaral Ngadu Regional Council which covers the Fitzroy Valley, the same area serviced by Marra Worra Worra. The executive of the resource centre was elected as the regional council.

The role of the staff of ATSIC, and its bureaucratic procedures, are issues which seem to have prompted the most critical comments about ATSIC by Aboriginal people. Scott asked whether the ATSIC Commissioners and regional councils would have sufficient autonomy from Commonwealth Government policies and administrative procedures to be politically effective? (Scott 1992, 31). The Royal Commission into Aboriginal Deaths in Custody recommended that ATSIC should be constituted as an employing authority independent of the Australian Public Service. Of the 339 recommendations of the Royal Commission, this was the only one unreservedly rejected by the Commonwealth Government. However, despite all of the submissions to the Royal Commission about this matter, and the Government’s official policy response, ATSIC in its discussion paper on the review of its own legislation asks whether staff of the Commission should remain as public servants. Why ask this question when the decision has already been made? Scott essentially summarises the attitude that many Aboriginal people seem to have towards ATSIC:

Representation by statutory requirement, while it may foster certain skills in dealing with government bureaucracy, is the sort of approach to 'delegated' rights of self government that has been rejected by Aboriginal groups in Canada, in favour of 'inherent', constitutionally-entrenched rights of self government (Scott 1992, 31).
He notes that what has developed in Canada has been the development of regional-scale governments for economic development:

They enable greater coordination of development strategies across communities, and more effective capture and recirculation of multiple sources of income through contracting and other policies. They also offer opportunities for breaking the stalemate of dependency on external agencies, by providing investment and more informed decision-making about larger economic projects (Scott 1992, 6).

In a submission to the Resource Assessment Commission Coastal Zone Inquiry, the Aurukun Community Inc. and the Cape York Land Council (1992, 48) outlined some of the basic principles about development and land use for the people living in and around Aurukun. Although the submission did point out that it is difficult to formulate a consensus on all issues, many of the issues raised would be broadly applicable to many remote and regional areas of Australia. If these types of principles were the basis of regional planning in many parts of Australia, then it is more likely that the interests of Aboriginal people would be more adequately protected from the external developmental pressures. The submission stated that Aboriginal people in the area:

- want to live on their land, and develop their communities where they choose, according to their laws and customs;

- want to freely use the natural resource of the land;

- want to be left alone to manage their communities as they see fit, utilising administrative and political structures of their own design and choice;

- do not want planning to be carried out by people from outside their communities;

- want to create employment opportunities for young people and produce discretionary income for their communities;

- do not want exploration and mining on their land;

- do not want any form of conservation tenure over their land and do not want their freedom to live on or to use their land to be restricted;
• do not want the public to have access to their land for any purposes, other than for approved recreational purposes.

It is likely that some ATSIC regional council plans will emphasise these types of issues. The Interim Plans of the Cairns and District, and Peninsula Regional Councils in north Queensland, prepared in October 1992, include references to many of these issues. For many Aboriginal people, their minimal input into land use and development decisions, and control over development near sacred sites, are matters of considerable concern. An emerging problem seems to be the divergent agendas within ATSIC, and particularly between some of the regional councils and the national administration and the Commissioners.

ATSIC is principally a service delivery agency of the Commonwealth Government, and while it often uses the term social justice, in fact most of its role is focussed on achieving more efficient and effective service delivery. This is partly reflected in the emphasis being given to the negotiation of bilateral agreements with the State and Territory governments, and the implementation of the recommendations of the AAAC Report. It is intended that these agreements will take account of regional council planning. What appears to be happening, however, is that a number of regional councils are developing regional plans which will not mesh particularly well with ATSIC's national agenda. Increasingly, ATSIC's national agenda, to the extent that it exists, is driven by the need to account for the expenditure of public funds to the Commonwealth Parliament. It is this need to provide certain types of information to the Parliament that is driving much of ATSIC's national policy making. It is not clear that many regional councillors are fully aware of the constraints imposed on the organisation by these accountability requirements. Nor is it clear that many regional councils are undertaking regional planning with these issues at the forefront of their deliberations.

As was noted in chapter 8, social justice for Aboriginal people will require a far broader range of issues to be considered, and hopefully negotiated with Aboriginal people and their organisations. Hence the calls for some form of self government from Aboriginal people in parts of northern Australia. How self government would work in practice is affected by a large number of considerations. The experience of other countries suggests that there are numerous models of self government that
have been adopted by indigenous peoples. In Australia, Aboriginal self government could be:

- based on a particular area of Aboriginal land, such as Arnhem Land or the Pitjantatjara lands in South Australia and the Northern Territory;
- based on a particular Aboriginal community, like Maningrida and its surrounding outstations;
- based on a particular region, such as the Kimberleys or Cape York Peninsula;
- based around Aboriginal service delivery organisations, such as the Combined Aboriginal Organisations in Alice Springs;
- tribally or clan based;
- national, with perhaps ATSIC as the preliminary model.

There are many forms of self government, and the issue is complex. But these are not reasons for avoiding consideration of the issue. The fact that there are many models that can be developed is a strength, particularly in a country as large and geographically diverse as Australia. The Australian federal system of government already encompasses different forms of self government. Australians know that the Commonwealth, State, Territory and local governments have different powers and responsibilities. The areas that each of these governments administer has changed over time, and the limits and range of their powers have been redefined, either legislatively or through the courts.

One of the key questions for Aboriginal self government will be control of both financial and other resources. The Aboriginal Land Rights (Northern Territory) Act has provided a land base that gives Aboriginal people considerable ability to negotiate appropriate forms of self government, and a high degree of control over land-based, and to a lesser extent, marine resources. The decision of the High Court in the Mabo case will in all likelihood provide a land base for Aboriginal people in other areas of Australia, quite apart from the implications for the people of the Torres Strait.
The access to financial resources will be an equally difficult issue. This is likely to be a sensitive issue because of the potential for scaremongering about the use of 'taxpayers' funds' by Aboriginal people. Some have suggested that Aboriginal self governments would need to be economically self sufficient. That is unrealistic, unless one is arguing that Aboriginal people will return to a totally traditional lifestyle. Such arguments also ignore the realities of the Australian political system. The State, Territory and local governments are not self sufficient, in that they are all dependent on Commonwealth financial assistance. Why should Aboriginal governments not be supported by similar Commonwealth financial assistance.

This is where the importance of the right to access citizenship entitlements is highlighted. Aboriginal governments, in whatever form they may take, will need to deliver services to their constituents. Presumably, unless the larger question of Aboriginal sovereignty is accepted, most Aboriginal people will still regard themselves as citizens of Australia. They will still have a right to be educated, to be housed, to receive medical services. There is no reason why all of these services should be funded by Aboriginal people themselves, although to some extent it is happening already: not by choice, but because governments refuse to do so. With the range of services required it will be almost impossible for Aboriginal people to raise sufficient revenue to fund the services, unless the present reliance by some Arnhem Land community councils on the profits from kava sales, and the shire councils in north Queensland on alcohol sales, is to continue. This is even more likely given the type of land that is now, and will become, Aboriginal land in the next decade. Despite the extent of commercial development on Aboriginal land already, it is likely that any future activity, at least for the foreseeable future, will have a marginal economic impact on the lives of Aboriginal people.

ATSIC is responsible for the expenditure of considerable amounts of money, but there are much larger amounts of money distributed by the Commonwealth each year to enable the State, Territory and local governments to deliver services. ATSIC is attempting to use negotiated bilateral agreements to redirect some of this expenditure, but the negotiations are still at a preliminary stage and the outcomes are very uncertain. In some States and Territories one could not be very hopeful of improved outcomes for Aboriginal people, as the experience with the
National Aboriginal Education Strategy, notably in the Northern Territory, is increasingly suggesting.

ATSIC could evolve in the national funding organisation for Aboriginal self government, a form of Aboriginal Grants Commission. Or it could be overtaken by other political events, and be seen to be an interesting transitional experiment. However Aboriginal self government develops it is certain that there will be no one uniform model that can be applied across Australia. In the same way that the Kimberleys are different from the south-east coast of Australia, Aboriginal development will take on its own distinct regional, cultural and political forms.
CHAPTER 14

SOME FINANCIAL ASPECTS OF THE USE OF ABORIGINAL LAND

Traditional Aboriginal land owners in parts of Australia receive financial benefits from the use of their land. For example, some land owners, generally through incorporated associations, receive negotiated royalty income for exploration and mining on their land. Some traditional Aboriginal land owners receive rent and other income from national park lease arrangements, and others receive rent payments for the oil and gas pipelines from the Merenjiek and Palm Valley fields. In the Central Land Council region these payments amounted to $3.06 million in 1991–92. A further $690,000 was received by the Central Land Council in 1991–92 from the ABTA in statutory royalty equivalents for distribution to traditional Aboriginal land owners and other Aboriginal people affected by the mining projects. According to the Annual Report 1991/1992 of North Flinders Mines Ltd, which operates the Granites gold mine on Aboriginal land in central Australia, its payments to traditional Aboriginal land owners amounted to $934,489 during the year. Other rather unusual payments include the $90,000 of gravel payments negotiated by the Northern Land Council on behalf of the traditional Aboriginal land owners for roadworks along the Bulman-Nhulunbuy track (Northern Land Council 1991, 28). However, it should be noted that while these payments may appear substantial, the benefits from the spending are spread across a wide region and accrue to many hundreds of Aboriginal people. In Queensland, the Aboriginal Land Act provides for the payment of royalty equivalents in relation to royalties received by the Government from mining on Aboriginal land.

The leasing arrangements for the two most important National Parks in the Northern Territory are producing considerable financial benefits for the Aboriginal people associated with the land in the Parks, although on a per capita basis the payments are not particularly large. The Uluru-Katatjuta Land Trust receives an annual lease payment of $75,000 plus 20 per cent of receipts from entry charges to Uluru National Park. The Kakadu Aboriginal Land Trust receives an indexed rental of $175,701 plus 25 per cent of receipts from entrance and camping fees, and from commercial activities in the park in excess of an indexed threshold of

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$30,000. The future commitments under these arrangements are estimated to be $21.85 million (the Kakadu lease expires in 2078, the Uluru lease in 2084), with the payments in 1990–91 amounting to $288,311 (Australian National Parks and Wildlife Service 1991, 215, 219).

These management arrangements are broadly successful, with the proviso that there is increasing concern about the numbers of tourists visiting each park. Apart from the financial benefits for the traditional Aboriginal land owners and other Aboriginal people, the management arrangements provide a high degree of Aboriginal control in relation to the protection and management of the land in the parks. A number of Aboriginal people, including groups in western and eastern Arnhem Land, have in fact expressed interest in introducing similar arrangements for their country. While the primary motivation of these people for discussing possible formal management arrangements seems to be the protection of sacred sites, to control the spread of weeds and feral animals, and to restrict unauthorised entry, there is also the attraction of the employment and other financial opportunities that such arrangements can provide. This is of course not something that is confined to the Northern Territory, as the papers in the recently published book Aboriginal Involvement in Parks and Protected Areas demonstrate (Birckhead, de Lacy & Smith 1992).

However, many other traditional Aboriginal land owners do not receive, directly at least, any income from their ownership of land. During the Economic Development hearings in Darwin of the Royal Commission into Aboriginal Deaths in Custody, it was argued that Aboriginal land in the Northern Territory is being appropriated by government departments and authorities without adequate compensation to the land owners (Royal Commission into Aboriginal Deaths in Custody 1990, 76). The implications of the Aboriginal Land Rights (Northern Territory) Act for land tenure in the larger Aboriginal communities still have not been properly examined and discussed. It has been argued that one of the reasons the legislation has not significantly impacted on the income levels of Aboriginal people in the Northern Territory is that a substantial proportion of the most valuable land, in the larger communities, was retained by the Crown and the churches. In the case of the churches, most of the facilities were transferred to the community councils following the passage of the Act.
According to some information supplied by the Northern Land Council, about 80 per cent of the rents being collected from closely settled areas of Aboriginal land come from commercial enterprises, mainly community stores. In fact, because rentals from other activities, such as public utilities and housing, are so low, the commercial sector, particularly the community stores, is carrying a very high proportion of the cost to the traditional Aboriginal land owners of having their lands occupied by others. Governments, and many other interests, seem to assume that Aboriginal land is some form of public purpose land. As a staff member of the Northern Land Council argued:

Land rights in the Northern Territory created a form of private property. However, the major development on Aboriginal land to date has taken no notion or reference to that notion of private property, in that governments have placed massive assets on Aboriginal land and have sought at no stage to make compensation to individual landowners (Royal Commission into Aboriginal Deaths in Custody 1990, 75).

When houses, schools, police stations or other public facilities have been constructed on Aboriginal land, it has generally been the case that no provision for either the cost of leasing the land for the project, or the necessity of obtaining permission from the relevant Land Trust as required by the Aboriginal Land Rights (Northern Territory) Act, has been made. However, there has been an improvement in the situation more recently. The traditional Aboriginal land owners of closely settled areas are not generally benefiting financially from urban development on their lands to anywhere near the same extent as would be the case if the same kinds of improvements were being made to land owned by non-Aboriginal people. While traditional Aboriginal land owners in the Northern Territory can charge governments and their authorities (such as Telecom) for the use of their land, a different situation prevails in Queensland. Under the Aboriginal Land Act, section 6.02 of the Act specifically states that:

The Crown is not liable to pay any amount in the nature of rent in relation to its occupation or use of land...

The Northern Land Council noted that when the film Crocodile Dundee II was being filmed in parts of western Arnhem Land, the traditional Aboriginal land owners were attacked for seeking payment from the film makers who wished to use their land, and for being 'obstructive' towards the film industry. The land owners assessed the value of their land to the film makers by examining the takings of the first Crocodile Dundee film.
As the Land Council noted, the producers of the film had already paid about $2,000 an hour for the use of a New York bar for the film. The reality is that Aboriginal land is often regarded by many people as not having any value when non-Aboriginal people wish to use it (Northern Land Council 1987).

One large organisation which has accepted most of its responsibilities for the payment of rent is the Arnhemland Progress Association (ALPA). By the late 1970s ALPA was beginning to receive demands from traditional Aboriginal land owners for rent for the land on which some of the stores, and the Galiwin'ku training school, were built. After years of discussions, the ALPA Board of Directors decided that the Association would pay a fixed rent of $3,000 per annum, payable quarterly, plus 1 per cent of individual store profits. Rent, either directly or in the form of loan repayments on behalf of the community councils, is paid for the houses or flats occupied by store managers and the store buildings. These payments totalled almost $132,000 in 1991–92 (Arnhemland Progress Association 1992, 23).

Apart from ALPA, however, it is clear that traditional Aboriginal land owners are not treated the same as private land owners in Darwin or Alice Springs. For example, the Department of Lands and Housing has a land acquisition program, under which 27 acquisitions costing $1.97 million were made in 1990–91. While Aboriginal land cannot be acquired due to the form of title under the Land Rights Act, it can be leased. While the land owned under the land rights legislation is inalienable, it is possible for a market in leases to develop. What it will require, however, is a major change in the attitude of major financial institutions, and a willingness of governments to accept that traditional land owners have the right to benefit from the use of their land is the same way as other land owners.
CHAPTER 15

DON'T ABORIGINAL PEOPLE WANT TO WORK?
NATIONAL PARK MANAGEMENT
ARRANGEMENTS

Much of the public debate about Aboriginal economic issues assumes that Aboriginal people do not want to work, or will not work even when opportunities are made available to them. The prevalence of this type of thinking prompted the Minister for Aboriginal and Torres Strait Islander Affairs during NAIDOC Week to issue a statement under the title Rebutting the Myths (Tickner 1992). One section was headed 'Myth: Aboriginal people don't want to work', which discussed the number of Aboriginal people working under CDEP projects (about 20,000), and the number waiting to join the scheme (about 11,000).

This chapter is not intended to provide a detailed critique of the Aboriginal Employment Development Policy, of which CDEP is a major component of the spending. But there are other examples of Aboriginal attitudes to work, that do not involve the CDEP scheme. It is worth at the outset noting the comments of authors of the Land of Promises report on Aboriginal attitudes to work:

Aborigines do not face the general Australian economy with their time fully available for employment or divided simply between 'work' and 'leisure'. Rather they come with their time significantly allocated to distinctly Aboriginal purposes and activities. Employment or other involvement in the Australian economy involves a trade-off between the potential to earn cash and a range of other activities (Coombs, McCann, Ross & Williams 1989, 85–6).

The situation with respect to the Kakadu and Uluru National Parks provides an interesting perspective on the Aboriginal employment issue. Apart from the financial benefits to the traditional Aboriginal land owners of Kakadu and Uluru National Parks, the parks also generate a range of employment opportunities for Aboriginal people, although the structure of the workforce is somewhat different in the two parks.
In the immediate vicinity of the parks is a large, non-Aboriginal owned commercial operation. In the case of Kakadu National Park, it is the Ranger uranium mine, which is inside the boundaries of the park. At Uluru, it is the Ayers Rock Resort (formerly Yulara). The uranium mine now provides employment for less than 200 workers, while the Ayers Rock Resort has more than 400 employees. In neither case are there a significant number of Aboriginal employees, despite some efforts by the management of both operations to increase Aboriginal employment. Some would suggest that this shows that Aboriginal people do not want to work, have a welfare mentality, and do not contribute to the economic development of the regions in which they live.

Why is it then that part of the workforce of both National Parks is comprised of Aboriginal people? In the case of the Uluru National Park, the park employees are drawn from the Mutitjulu community and surrounding outstations, while the Aboriginal employees of Kakadu National Park live in Jabiru, Gunbalunya and nearby outstations. In pointing to this fact, however, it should also be recognised that the majority of the traditional Aboriginal land owners do not want to work as rangers, particularly the elderly people who have very little interest in full-time formal employment (for further details for Uluru National Park, see Willis 1992, 159–166).

The attitude of the Australian National Parks and Wildlife Service to Aboriginal employment stands in stark contrast to those of the Conservation Commission of the Northern Territory, or perhaps more correctly, the Ministers who have been responsible for the Commission. The Northern Territory Government, while it belatedly entered into joint management arrangements for the Nitmiluk (Katherine Gorge) National Park, has generally been unwilling to provide specific positions for Aboriginal employees in its parks and conservation areas. This is not to say, however, that Aboriginal people are not employed in the CCNT, and the Nitmiluk National Park draft plan of management does include a section on employment and training of Aboriginal people.

The experience with Kakadu and Uluru National Parks is that Aboriginal people are prepared to work in a range of formal occupations, and to establish and run their own commercial enterprises in and near the parks. There is very little evidence of Aboriginal people wanting to work in the mining or tourist industries. This should be the lesson for those involved in developing the McArthur River mine near Borroloola in the Gulf
Region of the Northern Territory. The town of Borroloola has, at the present time, a majority Aboriginal population, most of whom are unemployed. It is highly unlikely that many of these people will want to work in the mining project, even if opportunities were specifically made available. At the same time, the Northern Territory Government, following the publication of the Gulf Land Use and Development Study, is planning to establish a number of new national parks and conservation areas in the region. Some of these areas could include areas of Aboriginal land. But on the basis of previous experience there are not likely to be any formal arrangements negotiated that provide for a high degree of control by Aboriginal people, such as the arrangements for Kakadu, Uluru and Nitmiluk National Parks. It is almost certain that the $220 million investment in the McArthur River project will contribute to the further marginalisation of the Aboriginal population of the region.

Apart from the question of Aboriginal employment in national park management arrangements, there is another important point that needs to be made. Figgis has pointed out that much of the Aboriginal land in the more remote parts of Australia can be regarded as unstaffed, under-resourced de facto conservation areas. The areas of remaining vacant crown land in the pastoral region of Western Australia are viewed as de-facto conservation reserves by the Environmental Protection Authority. Pastoralists sought to incorporate nearly 6 million hectares of this land into their leases during the 1980s (Select Committee into Land Conservation 1991, 171). Very few financial resources are put into 'managing' this land, and those that are often relate to some specific concerns of non-Aboriginal people, such as the protection of certain endangered species. To take the example of the Uluru and Kakadu National Parks, the ANPWS spent almost $6.3 million in the two parks in 1990–91. But immediately outside of these areas, ANPWS has no direct responsibility, and governments have been very reluctant to commit resources for dealing with some very pressing environmental problems.

Uluru National Park is surrounded by Aboriginal land, and while some of the Aboriginal people living on this land do receive some financial benefits from the National Park, these are limited. CDEP has been introduced in many of the communities in the region in the Northern Territory, South Australia and Western Australia, but this is the main form of economic development envisaged for people in these communities by ATSIC. While some of the physical features of Uluru are undoubtedly impressive, much of the country in the Park is little
different from the tens of thousands of square kilometres of Aboriginal land adjoining the Park. Is this land, and the people living on it, entitled to the same treatment by governments as the land and the Aboriginal people living in the Park, if the traditional Aboriginal land owners sought such assistance? Unfortunately, despite the success of the management and financial arrangements for the National Park, the clear implication of the selective approach is that Aboriginal people living on land of little interest and value to non-Aboriginal people are a social welfare problem. Inside the Park, significant resources, both human and financial, are devoted to developing management arrangements and improving the economic and employment opportunities of the traditional Aboriginal land owners. Outside of the Parks, it becomes an Aboriginal policy issue to be dealt with by CDEP and social security payments.

Much of the Aboriginal land held under the land rights legislation in the Northern Territory and South Australia, and leased in Western Australia, is in fact a large component of Australia's 'wilderness' land. Considerable resources are being put into managing wilderness areas on the east coast of Australia, but virtually nothing in the arid parts of Australia. As Figgis has argued:

Conservationists cannot ask the poorest communities in Australia to turn their backs on all development and hence income, for the sake of European 'wilderness values'... Realistically, if conservationists wish to prevent large scale destructive development on Aboriginal land they must first defend Aboriginal rights to control what happens on their land and second must put their efforts into feasible alternatives whereby communities can get a return for conserving their lands (Figgis 1986, 25).

The challenge raised in the above quote does not just apply to conservationists. Ultimately it will be governments, using 'taxpayers' funds', which will have to deal with this issue.
CHAPTER 16

CONCLUSION

The High Court's decision in the *Mabo* case has overturned the notion that Aboriginal people were not the owners of Australia prior to the arrival of the European population. While its practical implications are yet to be fully recognised, it will undoubtedly be seen to represent one of the most significant steps in the recognition of Aboriginal people as land owners and all that that implies in a country whose economy is so dependent on resource-based activities.

However, the participation of Aboriginal people in the economic activity of Australia is yet to be fully appreciated, particularly in many local and regional economies. While Aboriginal people do represent only a small proportion of the total Australian population, in parts of northern Australia the situation is quite different.

Aboriginal people as a group, despite their relatively low incomes, high rates of unemployment, and marginalisation from many economic activities, are increasingly participating in a range of economic activities and businesses, and are beginning to recognise the potential of the relationship between land ownership, government funding, income, and in some instances, self government.

Aboriginal people, despite what many northern Australian politicians and interest groups believe, cannot continue to be marginalised from economic activity, effectively excluded from involvement in many land use decisions, and denigrated for undermining development. Increasingly, it will not be in the interests of some of those groups to continue with this line of argument. Over time, the *Mabo* decision will inevitably change the political agenda. Aboriginal people and their
organisations will, hopefully, build on their achievements, to change the rest of the agenda. As a *Sydney Morning Herald* editorial (14 October 1992) argued, on the basis of the Canadian experience with land claim agreements:

The result has been to integrate those communities into the national life without unduly burdening the rest of the population. Once indigenous people have secured protection for their environment and social traditions they are usually just as keen as anybody else to develop their lands. That, in turn, gives them a self-sustaining economic base. This is the direction in which the *Mabo* decision points if we are only prepared to choose it.
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Aboriginal People in the Economy of Northern Australia

Discussions about economic development in northern Australia tend to ignore the role of Aboriginal people. When issues affecting Aboriginal people are raised in public debate, it is generally within a welfare policy context. There is little recognition that Aboriginal people are engaged in a wide range of commercial activities, and their economic contribution to many local and regional economies is systematically ignored. In this respect, Aborigines are ‘invisible people’.

The economy of northern Australia is highly dependent on government spending and transfers of taxation revenue from other parts of Australia. The fact that a large proportion of the population of northern Australia is comprised of Aboriginal people affects the size of these transfers. However, Aboriginal people are routinely blamed for wasting ‘taxpayers’ dollars’ and for undermining economic development. In this respect, Aborigines are highly ‘visible people’.

This book examines some of these issues, and suggests that Aboriginal people can be seen as the stable, long-term base of development in northern Australia. The High Court’s decision in the Mabo case has guaranteed that the interests and rights of Aboriginal people will receive a great deal more prominence than they have in the past. Some of the ways that this might occur in northern Australia are discussed in this book.

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