

# A New Beginning

***Incoming Executive Director Richard Denniss shares his strategic vision for the Institute.***

In explaining the need for the privatisation of the NSW electricity industry recently, the NSW Health Minister Reba Meagher said that it was not the role of government to do anything that the private sector could do. Is that true? Do ministers really believe that their Governments should simply deliver the residual services that the private sector finds unpalatable or unprofitable?

Public debate in Australia has been dominated for two decades by the simplistic question of whether markets are good or bad. Most of the arguments are well known, but after so much heat, there has been little light shed on the more important questions, namely: When do we need more regulation? When do we need less? And, if we are going to have regulation, what is the best kind?

In taking on the role of Executive Director of the Australia Institute, these are the questions that I want our research to help answer. The questions of when and how to regulate are less ambitious than whether markets are good or bad, but it is far more relevant. Good research, and good ideas, can help improve the way Government services are provided and, in turn, improve social, environmental and economic conditions.

The economic rationalists, neo-liberals, or whatever they are calling themselves these days, have worked hard to try and focus public attention on the issue of whether markets are good or bad. By framing the question

in these terms it forces people to pick one side or the other. They predicted, rightly, that most people would pick markets over government.

But agreeing with the general principle that markets are better than government is not the same thing as opposing expenditure on public hospitals. Agreeing with the proposition that less regulation is better than more is not the same as wanting to abolish all restrictions on trade. And agreeing that individual choice is better than 'red tape nanny stateism' is not the same thing as wanting to choose between 15 different mobile phone plans, without really understanding the terms and conditions of any of them.

In a mixed market economy like Australia's, with its combination of market forces and government regulation, debates about whether markets are good or bad has been a poor substitute for debates about when government regulation or market forces might be more or less appropriate.

The limitations of the 'governments versus market' debate have been highlighted by the need to tackle climate change. The Rudd Government has announced that it will rely on a market based approach, in the form of an Emissions Trading Scheme, to deliver a reduction in Australia's greenhouse gasses. But before an Emissions Trading Scheme can be established, its regulatory framework must first be designed, drafted and

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then passed by Parliament. That is, before the market based approach can begin, the regulatory structures must first be implemented.

Designing an Emissions Trading Scheme will require the Government to legislate the definition of emissions, to legislate the rules for allocating emission permits, to legislate the rules for trading permits, and to create an agency to be responsible for monitoring and enforcing all of the other legislation.

Once all this legislation has passed, the government will rely on individuals and companies to make many of the decisions about the most efficient way to reduce emissions. But does this make it a market based approach or a regulatory approach to tackling climate change? The reality is that it is a bit of both.

In order to introduce an Emissions Trading Scheme it is essential to first build a system of regulation. The opportunity to witness the birth of this new 'market' in emission permits provides a crystal clear view of the inter-relationship between the role of government and the role of the market. But it must be remembered that all markets are built on the foundation of this symbiotic relationship between government regulation and market forces.

The market for banking services is built on the regulation of the financial sector and the market for cars is governed by laws ranging from a ban on leaded petrol to the insistence that all cars have seat belts fitted. Even the market for toys is regulated to prevent the use of lead and choking hazards. All markets are regulated to some extent.

Proponents of the 'market good, government bad' school of thought often imply that deregulation is good for the economy and that noisy consumers and activists prevent deregulation. But a closer look suggests that Australian companies are quite supportive of 'red tape nanny stateism' when it is convenient. For example, the Australian



*Richard Denniss*

car industry has fought hard to prevent the removal of limitations on the importation of second hand cars. The taxi industry has been highly successful in ensuring the ongoing shortage of taxis in our capital cities and the Australian apple industry has fought off repeated attempts to allow New Zealand apples into Australian supermarkets.

The question is not whether regulation is good or bad, but which regulations are good, and which ones are bad.

Throughout the Howard years, debate in Australia was silenced in many ways. This process was so effective that the fundamental contradiction at the heart of the Howard Government was barely discussed, namely, that when it came to issues of the market, the Howard Government professed that individuals were best placed to decide what was in their own best interest. But on a range of social issues, such as euthanasia and same sex marriage, we were told that the Government knew best. This philosophical confusion reached its zenith with policies which required some indigenous Australians and some single parents to spend their welfare payments in ways that the nanny state had deemed appropriate.

The question is not whether governments should ever prevent individual choice, but when, and how?

To return to the beginning, the role of the state must be more than that of service provider of last resort. Evidence based policy cannot begin from the premise that there is no role for government.

It is time to renew the debate about the appropriate role of government, and the appropriate role of the market. Not with a view to solving the question once and for all, but to achieve a once in a generation review of what is working and what is not, with a view to renewing our hopes and expectations for what government can do to enhance the wellbeing of our society.

Over the next three years the goal of the Australia Institute will be to lead this process of review and renewal. We need to not just ask big questions, but to offer bold solutions. And beginning with the recent survey of our members, we hope to engage our members in this process more than ever before.

The Institute will continue its research work on our society, our environment and our economy. We will continue to highlight the need for new directions, and more accountable policy processes. And we will begin to frame the individual elements of our research agenda around the questions of 'What is the role of the state in the 21<sup>st</sup> Century?'

# Banks Must Take Some Responsibility for the Debt Crisis

***A new Institute Research Paper analyses community attitudes to over-lending and over-spending. Co-author Josh Fear summarises the results.***

Australia's love affair with easy credit has turned on itself. The price of credit has reached its highest point in 14 years, and home buyers are feeling the economic pain associated with higher interest rates. Consumer debt is now the subject of conversation at the dinner table and the board table.

Does ultimate responsibility for the debt situation lie with borrowers, who have been too willing to accept offers of credit to sustain unrealistic levels of consumption? Or are lenders, who are in a much better position to understand the nature of financial risk and therefore determine what constitutes a safe level of credit, also liable?

The corporate sector has tended to blame individuals for taking on more debt than they can handle, drawing on the doctrine of 'personal responsibility' to absolve itself of any culpability. But what do ordinary Australians think?

Around three in four survey respondents agreed that *banks are too willing to lend money to people who can't afford the repayments*. Although many people believe that personal responsibility in financial decision-making is important, there is broad consensus that the banking sector has lost the element of social responsibility that tempered lending practices in the past.

Research participants attributed the loss of corporate responsibility to the deregulation of the banking sector and the entrance of new corporate players with a focus on short-term profit. As one participant put it: 'In the past the banks were nicer. They were caretakers. Now it seems like it's just cut-throat.'

A large majority of Australians are uneasy about the way that credit has been pushed on vulnerable consumers. Three-quarters of survey respondents agreed that *credit cards are often targeted at people who don't understand what they're signing up for*. The common practice of soliciting increases in credit limits on an almost routine basis is regarded by many as unethical.

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In 2007, households in the United States received 5.3 billion offers for credit in the post. Comparable data for Australia are hard to find, but policy-makers should endeavour to gather it. Objective evidence on the marketing pressures being brought to bear on consumers would allow unconscionable forms of marketing and promotion to be discouraged through regulation.

Many Australians believe that there are broad cultural factors that have contributed to the debt situation. Four in five survey respondents agreed that *advertising encourages people to spend more than they earn*. Older people are particularly concerned about the ability of the younger generation to resist the temptation to buy now and pay later.

A recent study by Universities Australia showed that graduates leaving university at the end of 2006 owed the government an average of \$25,000 in HECS and HELP fees alone. Such debts make easy credit

a more contentious issue for young Australians, even while (affluent) older people and social commentators bemoan young people's supposed inability to resist the lure of the latest consumer gadget.

Indeed, there is a common perception that Australians are taking on debt as a way to fund their 'lifestyle' or to enjoy things today that they would otherwise be unable to afford. Our research shows that this applies to around one in five Australians – the proportion of survey respondents that admitted to spending more than their income over the previous 12 months.

Despite strong views about the negative influence of advertising, there is uncertainty about what exactly is to be done. Some people are reluctant to tamper with what they see as 'free speech'. This surprising take on the notion of free speech attests to how successful the corporate sector has been in promoting its own interests at the expense of community welfare.

One way to redress the current 'information asymmetry' between consumers and corporations is to introduce new rules covering what information needs to be displayed prominently on monthly credit card statements. This could include how much interest the customer has paid over the past 12 months, how long it will take to pay off the debt if only the minimum repayment is made, and how much interest they are expected to pay over that period.

At a time when our debt is catching up with us, this would at least help some people think through the consequences of their next credit card purchase.

# What Goes Up Must Come Down

***International aviation is growing rapidly, and so too are the greenhouse gas emissions it creates. In furthering his research into this topic, a new paper by former Deputy Director Andrew Macintosh, with co-author Lailey Wallace, explains that it is highly unlikely that emissions can be stabilised at levels consistent with broader climate targets unless demand for air travel is restricted.***

Civil aviation today accounts for nine per cent of global GDP, and carries over two billion passengers and 41 million tonnes of freight and mail per year. These figures look set to grow considerably in the coming decades, with industry forecasts predicting increases in passenger and cargo traffic of 180 per cent and 220 per cent respectively.

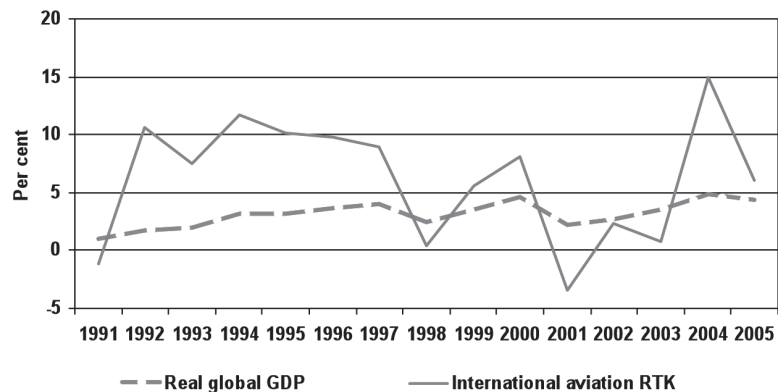
Concerns regarding the threat posed to the climate system by this steep growth trajectory have prompted calls for more innovation and a reduction in demand. These suggestions have been rejected by the aviation industry, which argues that it is only a minor contributor to global warming, and has been making significant progress on emissions reductions since the early 1990s.

However, as aviation traffic is highly responsive to economic growth rates, the forecasted strong economic environment over the coming decades will likely lead to considerable growth in aviation demand. To offset the resulting increase in emissions would require radical improvements in aircraft emission intensity.

Unfortunately, despite progress in this direction, scenarios based on current design philosophy suggest it is unlikely that the necessary improvements will be made.

The results from emissions intensity modelling indicate that international aviation CO<sub>2</sub> emissions will be more than 110 per cent greater than 2005 levels by 2025. Although aviation remains a minor contributor when compared to agriculture and electricity generation, such sharp increases in emissions are inconsistent with risk-averse climate

**Annual growth rate of international aviation traffic (RTK)\* versus annual real growth rate of global GDP (at PPP).**



\* RTK, 'Revenue Tonne Kilometres', is the standard measurement of total world revenue generating traffic (international and domestic, passenger and cargo).

Source: Author estimates based on Datastream International Database (2008), ICAO (1991-2007) and IATA (2000-2007).

targets whereby no sector will be able to dramatically increase their emissions without jeopardising the overall reduction objective.

The report argues that if policy makers wish to keep increases in the average global surface temperature to levels required for climate stabilisation, steps will need to be taken in the near future to curb aviation emissions by curbing demand.

Calls to introduce mandatory measures such as the imposition of carbon prices on flights have been met with industry resistance. But without regulatory action, emissions are likely to increase significantly unless there is a major global economic downturn or other shock to the aviation market. Ultimately, the available evidence suggests that the chances of stabilising aviation emissions without restricting demand are diminutive.

Further complications to restricting growth in international aviation

emissions arise from difficult legal issues, particularly in relation to the ability of countries to unilaterally impose carbon prices on foreign aircraft.

Frustrated at the lack of action, the EU has proposed extending its emissions trading scheme to international aviation in 2012, a proposal that has been met with near universal opposition outside the EU. Nonetheless, its willingness to propose the scheme is a sign of the intensity of the pressure for more action.

The task faced by the aviation industry to stabilise emissions is daunting. This report suggests that the imposition of carbon prices on flights to restrict demand, however unpalatable to the industry, is necessary if the international community is serious about minimising climate change.

*Andrew Macintosh & Lailey Wallace's report can be found at <http://law.anu.edu.au/cclp>*



# Homelessness and the NGO Sector: Beyond Efficiency

*Research Fellow Gemma Edgar writes about the importance of smaller specialist NGOs who work in the homelessness sector.*

Homelessness is now squarely on the political agenda. The Rudd Government has committed an extra \$150 million to be spent on crisis housing and is currently developing a White Paper to frame its approach to the issue. But if the needs of all those who experience homelessness are to be met, the Government must support small, specialist organisations, as well as the larger, well-known non-government organisations (NGOs).

It is difficult to get an exact measure on the number of people who experience homelessness in Australia, in part because it includes those in insecure housing, those who are roofless, and those who are accessing supported accommodation programs. Census data suggests that up to 100,000 people experience homelessness on any given night, and that of these, approximately 36,000 are young people aged between 12 and 25.

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The needs of those experiencing homelessness are primarily met by the community sector. Through programs such as the Supported Accommodation Assistance Program (SAAP), federal and state governments fund various NGOs to provide services to people experiencing homelessness. At present, approximately 1,300 community and local government organisations are funded through SAAP.

Since 1995, there has been an almost 20 per cent decrease in the number of SAAP providers, whilst funding for SAAP has increased by roughly the same amount. This supports anecdotal evidence that smaller, specialist agencies are being replaced by larger organisations. Indeed some organisations receive such significant amounts of Government funding that they have operating budgets in the tens of millions of dollars, considerable numbers of permanent staff and influence over government policy.

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There are significant advantages to the consolidation of homelessness services. Large NGOs have a strong capacity to advocate for their clients. For example, Mission Australia has a staff of over 3,000, and government income of \$253.9 million, to provide a wide range of community services. The organisation is hence able to employ individuals to conduct research, write submissions to government, produce media releases, and maintain an up-to-date website, in addition to direct service provision. Large organisations with strong funding bases are more likely to get issues on the agenda. Smaller organisations are less able to do so, as their focus will lean more towards direct service provision.

There are, however, problems with large organisations dominating the sector. For example, most of the large NGOs are faith-based, such as the Salvation Army, Mission Australia and Wesley Mission. Whilst these

organisations do important work, for some people experiencing homelessness, a religious organisation may not be the most appropriate service provider.

A good example of a group that may not find a large, religious organisation to be an appropriate source of help, are young people who are gay, lesbian, bisexual and/or transgendered (GLBT). Research done both in Australia and overseas, suggests that young, GLBT people are more likely to experience homelessness than their heterosexual counterparts. Further, when they do access homelessness services, they report that they often feel unsafe and isolated due to homophobic harassment from other clients and sometimes even staff.

It is therefore important for these young people that they receive support that is appropriate to their circumstances. Religious organisations, who may do good work, but who have a history of being outspoken in their disapproval of GLBT people, may not be the best place for a young GLBT person to access help. Rather, they are usually better served through small, specialist services that deal primarily with GLBT youth. As well, organisations that work specifically with GLBT young people are likely better equipped to inform both the community and government on issues that affect their clients.

It is crucial that the Federal Government's response to the issues of homelessness supports the contribution of smaller NGOs. Across the NGO sector in general, government must ensure that the pure efficiency of larger organisations is tempered by the effectiveness of smaller organisations in directly addressing the needs of particular groups.

The 2020 Summit was held at Parliament House in Canberra on 19 and 20 April and brought together 1000 of Australia's key thinkers. The Australia Institute was heavily represented with Susan Harris Rimmer and three of our Board Members: Barbara Pocock, Sarah Maddison and Sharon Burrow, all participating. The media has been filled with positive and negative analysis from the weekend – Here are three reflections from inside.

## A View from the Summit

*TAI Acting Executive Director Susan Harris Rimmer looks back on a big weekend.*



*Maxine McKew and TAI Acting Executive Director Susan Harris Rimmer*

The 2020 Summiteers exchanged cards, promises, hugs and sighs of exhaustion and headed home a few weeks ago. I will be reflecting on those two days for a long time to come but my initial view as a person inside the Great Hall was that it was a unique and positive experience.

The best way I can describe it is that it was like a game of 20/20 Cricket (without the nicknames on the t-shirts). There was the crash and bash excitement of the pace as the minutes counted down, there were sixes sailing over the fence, emotions were high and the crowd was on the edge of their seats. In the same way, the Summit design probably favoured those who are good at making the bold shots and playing to the back of the stadium.

I was in the 'future of Australian governance' stream and it was

straight into breakneck, pell-mell debate, akin to being plunged into the middle of a West Wing script. There were lawyers, politicians, academics, students, business folk and journalists, whom I can guarantee would never have otherwise been locked in a room together during the ordinary course of events. The creativity which arose from the clash of disciplines and views was intoxicating, but it also provoked serious dissent. This was no love-in.

John Hartigan and Maxine McKew were the co-chairs and tried to pump our energy levels up and make our ideas bolder and simpler. Do you remember when Maxine danced with the band during the Benelong election? Well, she is like that all the time, and it is definitely infectious. John introduced the session saying that we were going to try to wrestle an octopus into a string bag, and

sometimes it did feel like that, but there was surprising consensus about the ambitions we cherished for the kind of government we wanted by 2020. There was agreement that the challenge was building bonds of trust between the media, the people and the government.

Generally, the Summit cemented my view that those who participate and care about public life across the political spectrum hold more in common than they care to admit. There were serious differences in style, however. The lawyers, including myself, were naturally suspicious of any attempts to turn complicated ideas into slogans, or to confuse boldness or novelty with importance. Some wanted the revival of old ideas, some wanted headlines, some (myself included) wanted ideas that may have been too technical to get across to the wider group in the allocated time. All of us wanted to see the text of what we had agreed on after our labours, and when the Interim Report did not reflect that text, there was serious disappointment expressed by the group in post-Summit emails. Hopefully that will be sorted out in time.

For the record, the Governance stream adopted the Parliamentary Reform group's recommendation and decided that it was a priority to strengthen the accountability of the executive government to Parliament, by:

- (1) independent arbitration of public interest immunity claims by ministers in respect of information required by a House of Parliament or a committee;

- (2) minimum time and process standards for passage of legislation, including committee scrutiny;
- (3) reframing of appropriation bills to specify projects and programs;
- (4) ministerial advisers to appear before parliamentary committees to explain their executive actions; and
- (5) parliamentary approval of war-like overseas commitments of Defence Force personnel, subject to genuinely urgent cases.

Sure, it is no bionic eye, but these reforms would guarantee a more robust Parliamentary culture by the year 2020. They were based on ideas formed through hard-won experience, and put forward by the Clerk of the Senate Harry Evans. Of course, these would never make it onto any bumper stickers, nor did they make any post-Summit headlines. But as part of a process which will draw these ideas forcefully to the attention of the Rudd Government, they are central to a long-term approach to meaningful reform.

Like 20/20 cricket, the Summit

sharpened my appreciation for the Test series. I'm a cricket purist: I like to see the strategy developed over five days and the series, I like the mastery of the well-placed shot. In the same way, I have new empathy for, and insight into the process of governing. I have often lamented, as we all have, that governments get things wrong because they are reactive and take fast decisions influenced by the electoral cycle, being driven by the need for a media headline or the dictates of the two-party system.

What is less obvious is that beyond that layer of difficulty is another layer, that of having to prioritise and choose between public goods when you have limited time, energy and resources. The Prime Minister told the Summiteers that in his dotage he does not want to regret not taking any action he could have when he had the chance. Beneath the faintly Blair-ite pop music and montages of the plenary sessions, the pressure was tangible – if we only have a weekend to send a message to the public and the PM about all the ideas we think could improve Australia's future,

what do we choose? How do we decide? The whole Rudd Government seems genuinely driven to this frantic pace because of the desire to use the power of government to help make people's lives better. That is a good sign. But the long game is important, and we need some slower pace for variation.

As The Bard says, there is a tide in the affairs of men, which, taken at the flood, leads on to fortune. The National Apology to the Stolen Generations was one such tide. I hope that the Summit will be another, rolling the big, bold, hard ideas of a charter of rights, a treaty and a republic towards fruition. The good news is that the tide has also turned in favour of the currency and value of ideas from whatever source they come. This is great news for the Australia Institute. We are in this ideas caper for the long game. I hope that the outcomes of the 2020 Summit will be taken in the spirit of a 5 day test match, where every player counts, and teamwork is the key to victory.

## The gains must not be squandered

***Megan Davis, Director of the Indigenous Law Centre and Sarah Maddison, Senior Associate Dean at UNSW and Chair of the Institute's Board, reflect on the 2020 Summit's Indigenous Stream.***

Aboriginal children 'can't eat the constitution,' Professor Marcia Langton said at the 2020 Summit. She is one of various high-profile indigenous commentators who have criticised the indigenous stream's emphasis on constitutional reform since the weekend. She is right, of course. Constitutional reform alone will not fix the problems facing indigenous children and their families in Australia.

But Professor Langton and others who share her view are wrong in their interpretation of what the so-called 'indigenous rights agenda'

is about. Kids may not be able to eat the constitution but without legal and constitutional reform to indigenous-state relations in this country, you can guarantee that, in 2020, today's Aboriginal children will still be going cap in hand to the government of the day begging for services, for education and, fundamentally, for a fair go.

Resolving unfinished business between indigenous people and the state was the issue that unified the indigenous stream at the summit. We were proud of the clarity and passion of all participants. There was no

group split between Patrick Dodson and those concerned with practical measures, as reported this week. That is a malicious fabrication designed to serve an ideological agenda. There was no clamour for an ATSIC-style representative body. The issue of a national representative body was hardly raised.

Yet despite this emerging consensus, we, like many others in the indigenous stream, left the summit feeling deeply worried that the Minister's failure to faithfully report the dominant sentiment of the group may reflect the Rudd Government's lack



of interest in consulting a broad-based indigenous leadership. For some, the writing was on the wall when Noel Pearson appeared to sleep through much of Saturday's session and was animated only when Kevin Rudd was in the room. Pearson then failed to turn up on Sunday, showing great disrespect to the others in the stream and wasting a place at the summit table that many others would have been honoured to take.

That the Government may be captured by a handful of noisy but marginal individuals - who achieved extraordinary influence under the previous government and who are clearly frightened to let it go - bodes ill. Successive governments have failed to grasp the complexity of Aboriginal political culture and have failed to develop a model by which to consult with a wide range of indigenous voices. Over the years, the National Aboriginal Conference, National Aboriginal Consultative Committee, Aboriginal and Torres Strait Islander Commission and the National Indigenous Council have all ultimately failed to satisfy either party to the relationship. Providing

the appropriate legal underpinning to future relations, through either constitutional reform or a legal agreement or treaty, would be a significant step in the right direction.

The Government must break the spell cast by Pearson and his colleagues. It would be a grave error to ignore the extraordinary goodwill and strong consensus generated in the indigenous stream at the summit in favour of vocal but marginal sectional interests that the Government appears to believe are more palatable to the wider population.

If indigenous communities want the truth about discussions had in their name and those of their children, they can find it out easily enough through the scribing and audio recording of discussion in the indigenous stream. Through the media, the Minister has implied there was dissent between those who wanted a treaty and those who wanted constitutional reform. There was no such division. There was agreement that we needed an entrenched position to ensure indigenous people would not be subject to the whim of government. What was decided on by everyone was

that we want a nationwide dialogue between indigenous and non-indigenous Australians about constitutional reform.

Governments come and go. The goodwill and fragile bipartisanship of today could dissipate tomorrow. International evidence makes it clear that post-colonial nations that have dealt with their First Nations' peoples by way of legal agreement are closing the gap in ways Australia is still only dreaming about.

On the day of the Government's apology to the stolen generations there was a feeling among many that we were, as a nation, returning to a conversation that had been on hold since 1996. Discussing the legal basis of indigenous-state relations is a crucial part of that conversation.

The summit gave the Government an opportunity to listen to a wider range of voices in the debate about indigenous futures. Whether it has the courage to do so remains to be seen.

*This is an edited version of a piece originally published in the Sydney Morning Herald on 24 April 2008*

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## Beyond Cynicism: A Cautious Optimist's View of the 2020 Summit

***Barbara Pocock, TAI Board Member and Director of the Centre for Work + Life at the University of South Australia, shares another view of the Summit.***

Arriving back in Adelaide, picking up the newspapers and listening to talk-back radio about the 2020 Summit, made me wonder if I had been at the event I was hearing cynically dismissed by so much of the media. For all that only 1000 Australians could be there, and for all the imperfect processes of managing a huge conversation, I found the Summit an inspiring and creative event. I felt like this kind of conversation, in a big room with a big group around a big agenda and holding a long timeline in view, is what we need more

of – and one that many politicians would run a million miles from.

The Prime Minister clearly did not.

Sure, the Summit conversations will not change Australia overnight and it will be politically managed, but it was exciting to be - for the first time in my 25 years of public life - at a significant national event with more women than men in the room (that was not a women's conference), where Indigenous issues made up a big part of conversation in every

stream, with one stream entirely devoted to these issues and probably at least 100 Indigenous Australians in the larger Summit population, and where so many young people seemed to be everywhere, oozing talent.

And it felt good to be part of a talk about the future, where public discussion of ideas and a long term view was not only welcome, but *required*.

It was fantastic to see a different crowd in residence on the Hill even if only for two days: a noisy, motley



mob, who ate unpretentious food, and milled about in continuously reforming little lunch and smoko groups.

It was fantastic to see a different crowd in residence on the Hill even if only for two days: a noisy, motley mob, who ate unpretentious food

I had morning tea with a Buddhist monk and the head of Child Protection in the Northern Territory simultaneously. I had a very stimulating conversation with Bob Katter about Indigenous issues. I walked up the hill to the summit with a farmer from Victoria and I walked away from it in the company of a heart specialist from Brisbane. I caught my car to the airport with a careers counsellor from a Queensland farming organization, and I flew home next to a church leader. I got to ask Mike Rann what social inclusion really meant. I spent very little of the time with anyone I knew.

For me, the event pulled oxygen into Canberra – perhaps ever so briefly, and perhaps with limited long term effect – but the effort was important: a citizen’s conversation about our country, what it faces and what it needs to be talking about and doing.

I was part of the stream titled ‘Strengthening communities, supporting families and social inclusion’. It was led by Tanya Plibersek and Tim Costello. These two people are fine leaders and I know it sounds schmalzy, but I felt lucky to be around them, to see their passionate leadership and their complete absence of performance: they wanted to get on with things, and they wanted us to also, and they weren’t calculating political appearances, press present or not.

We saw Julia Gillard, Jenny Macklin, Tanya Plibersek, Penny Wong, Maxine McKew and Nicola Roxon on the podium and in the groups. They are an impressive

group of relatively young leaders in this new government and they look a long way from the grey-faced, past-their-prime, factionally-hobbled usual suspects. They were funny, smart and young. And that’s just (some of) the women who are leaders in the new government. They are impressive.

There were those who arrived in the *Strengthening Communities* stream with multiple copies of their single idea and proceeded to treat the event like a Labor/Liberal Party conference caucus. And there were those who turned sour when their idea or cause did not end up in lights. But most people did not act

Most actively engaged in lively discussion – around themes like violence, children, homelessness, the gap between Indigenous and non-Indigenous life expectancy, preventative health, and the need for community services

like this. Most actively engaged in lively discussion – around themes like violence, children, homelessness, the gap between Indigenous and non-Indigenous life expectancy, preventative health, and the need for community services that are properly funded and community members who actually link up. Those looking for detailed responses to complex problems like the sexual abuse of children would have been – and were – disappointed: this was not going to happen at a meeting of 1000 people dealing with such a broad canvas.

I didn’t see most of my ideas make it in the hastily drawn together summit communiqué – but there were many good ones there, including a few that had not had much (or any) discussion in any group I was part of. The final Summit documentation is yet to appear and it will probably be long.

In the *Strengthening Communities* stream, the crunching of many

individual ambitions into a single statement meant many individual perspectives took a bruising, as they did too when we had to choose top ideas through a wacky voting system that meant many good ideas with lots of support hit the cutting room floor. However, the ideas of a national development index, with an annual progress measure and policies to shift it, had wide support, as did more investment in community

The idea of social support services being delivered through community hubs had wide support, as did the banks’ offer of micro-finance for low income earners

infrastructure, especially for early childhood education and care, as well as a greater effort to reduce violence in our communities and an hypothesized tax on house purchases to fund public housing and end homelessness. The idea of social support services being delivered through community hubs had wide support, as did the banks’ offer of micro-finance for low income earners. There was also support for a national disability insurance scheme and paid parental leave.

Many of the summit’s Big Ideas are ideas that bear Rudd Government fingerprints: they are already out there. But they will require wide public support to be delivered. The billions of dollars needed to properly renovate early childhood education and care or provide decent paid parental leave will require political courage and public support. They will require a multi-term plan. The Summit created momentum for them, and I hope they help extend the horizon and creativity of policy-making in the years ahead, and give momentum to ideas whose time has well and truly come.

It was a momentum-creating event, and I hope it runs a few of the cynics over as it unfolds.

# The Isolation of Australia's Health Care Debate

*Jonathan Burton-MacLeod examines how other nations address health care while pondering Australia's looming crisis.*

From an outsider's perspective, Australia seems concerned with mitigating its isolation from its developed country counterparts; culturally, academically, politically. In light of this, Australia's stubbornness in pursuing its own blend of private-public health care in the face of unsettling comparative evidence is surprising.



World over, policy makers are scrambling to meet the health demands of an aging baby boomer population.

However, the belief that a parallel public-private health care system delivers optimal efficiency and cost reduction has become an article of faith unique to Australia.

The Rudd Government is no exception. Several key assumptions were made in the 2007 election health debate and now form the government's health agenda. The 30% rebate for private insurance, for example, was left off the table for discussion. Continued subsidisation of private insurance was assumed. Short-term surgery blitzes that end up fuelling the private health care system were considered the only natural response to the problem presented by long elective surgery waiting lists.

In other words, the Rudd Government is perpetuating the assumption that bringing health care costs back under control is a matter of properly regulating the private health system. Meanwhile, it is assumed as fact that the public system cannot adequately provide the type of efficient and high quality care required by the new pressures on health care.

These assumptions largely seem to reflect the inertia behind Australia's 'home-grown' private-public health care mix.

It is troubling, however, that these assumptions are not shared by other developed countries dealing with similar health care pressures. They are therefore dangerously isolationist at just the time that comparative analysis seems prudent.

The assumed efficiency benefit of private health care in the Australian context is not currently taken as fact in Canada, the US, or Europe. In the course of the last 5 years almost every major developed country has recalculated the respective benefits of public and private health care in providing both universal access and long-term solutions to difficult problems.

For example, there is persuasive data showing that reduction in surgery waiting lists did not result from facilitating greater private-sector involvement in the health care systems of the UK, NZ, or Germany.

Data from a recent Commonwealth Fund Survey found that waiting lists are larger and waiting times longer in the UK and in NZ than in Canada and Holland, which have no parallel private systems. Indeed drastic waiting list cuts were accomplished in Canada completely within the parameters of the public system. Yet the ALP announced an elective surgery blitz as its first health care initiative in government.

The point here is not to suggest that the provision of private health could never be of value, but rather to say that this cannot be automatically assumed. What is clear from

comparative analysis is that the political economy of waiting lists is complex.

A privatisation-equals-efficiency approach is no longer a conclusion that automatically applies to all contexts (even in the US, long a bastion of privatisation). Yet that is the taken-for-granted message from the Rudd Government's health platform.

This begs the question as to why political debate on the role of private and public health systems, in stark contrast other developed nations, is muted in Australia. Political will obviously holds veto power over this debate. This political will may represent continuing allegiance to 'Australia's way' in health care.



National pride aside, comparative evidence suggests the need to re-think, at a more basic

level, the role of private health care in health care crises. That is in part because the debate is not simply about the morality of equitable access, but about the long-term effects of inequity.

Each country's economic preconditions and political will are different. However, Australian health policy has its collective head in the sand if increased private sector involvement continues to be perceived as an unproblematic solution to crisis situations and the solving of long term problems.

To the extent that these long-term problems are shared, and being addressed, the world over, this is hardly a time for isolationism.

# Character as Destiny

*In a forthcoming Discussion Paper Acting Executive Director Sue Harris Rimmer warns of the dangers of character tests in Commonwealth law. Here she provides an overview of her argument.*

Heraclitus of Ephesus wrote in 500 BC that ‘a man’s character is his destiny’. Philosophers have been puzzling over the role that ‘character’ plays in a person’s life ever since, and wondering how to define the inherent complex of attributes that may determine a person’s moral and ethical actions and reactions. Nevertheless, like many complex human phenomena, character has long been codified and defined by law. The nature and use of a character test in Australian law has radically changed over the last decade.

In recent years, the emphasis of character tests in Australian law have shifted and expanded in scope to include subjective criteria such as the likelihood of future conduct, rather than simply being based on police record checks and past patterns of conduct. They have also become increasingly subject to ministerial discretion or national security considerations, making them almost impossible to appeal.

Yet the consequences of failing such a test are now more serious than ever. Due to changes to migration and citizenship laws over the last decade, as well as the expanded reach of new counter-terrorism laws, falling afoul of a character test could get someone deported, stuck in indefinite detention, unable to gain citizenship and permanently rendered stateless, locked out of their profession as an aviation worker or pilot, or put on trial for a terrorist offence. In this way, someone else’s assessment of your character can now define your destiny as never before.

The realm most affected by this new approach to character tests is migration law. In 1999 the discretion of the Minister to refuse people under the character provisions in the *Migration*



Cartoon by Nicholson from ‘The Australian’ newspaper:  
[www.nicholsoncartoons.com.au](http://www.nicholsoncartoons.com.au)

Act 1958 (Cth) was widened dramatically. We have seen the effects of this played out in several high profile incidents in recent years, most notably the long-term detention of two Iraqi refugees on Nauru, the deportation of United States activist Scott Parkin, and the case of Dr Mohamed Haneef.

But the character test have undoubtedly affected many more individuals and families than this. It was recently revealed through Senate Estimates that Australia has rejected almost 650,000 visas on character and other grounds since 2004. This Departmental figure translates to over 400 per day, or roughly 15 per cent of all offshore visa applications. Ministerial rejections and removals on character grounds have grown from a handful before 1999 to many hundreds. Furthermore, character tests now capture permanent residents that have lived in Australia nearly all their lives and have committed a criminal offence, leading to deportation.

The legal terrain in which Australian citizens - rather than aliens and

non-citizens – can be subject to a character test, and its consequences, is also widening. The new 2007 citizenship laws replicate many of the negative features of the Migration Act character test. The rationale for this change, as debated in Parliament, was explained in relation to the character of Sheik Al-Hilali, and the benefit of being able to deport ‘divisive’ migrants at an early stage.

Character tests which allow for wide ministerial discretion or ASIO clearances are appearing in branches of Commonwealth employment law, such as public service and parliamentary clearances and for aviation and maritime workers. The new background checking system for aviation and maritime workers is a version of character testing, and problems are likely to arise over the lack of procedural fairness inherent in these tests.

The new post-2001 counter terror laws set out to capture not only terrorists, but also people who have not committed any unlawful act themselves, but may be associated somehow with someone in the world who has. Many of the new provisions, including association, proscription, B-Party intercepts (where police can tap your phone in case their actual suspect calls you), sedition, preventative detention and control orders, rest on the basis that the security of the Australian community can best be served by targeting membership of a group. In other words, guilt by association.

The Haneef affair showed how the character of a distant overseas relative determined Dr Haneef’s destiny in Australia. This case could happen again tomorrow because the flaw is inherent in the words of the laws, not just bungled policy or operational



# Institute notes

## New Publications

J Fear and J O'Brien, *Where does the buck stop? Community attitudes to over-lending and over-spending*, Research Paper No.53, May 2008.

J. Fear, *Choice Overload: Australians coping with the new financial order*, Discussion Paper No.99, May 2008.

## Forthcoming Publications

S. Harris Rimmer, *Dr Haneef and the Danger of Character Tests in Commonwealth Law*.

J. Burton-MacLeod, *Citizens, Consumers and the Politics of Health Care*.

G. Edgar, *Encouraging Dissent? The development of a National NGO Compact*.

## INSTITUTE NEWS

The Institute has just completed its first ever survey of the membership. The results will be presented in the next newsletter, and we are making some changes to our membership structure. Please read the enclosed letter and call Louise in the office on (02) 6162 4140 if you have any questions.

In 2005 the Institute drafted a 'Wellbeing Manifesto'. So far more than 8,500 people have signed up to support the Manifesto. The Institute will be exploring the issue of wellbeing in some of our upcoming research. To find out more about the Manifesto go to [www.welbeingmanifesto.net](http://www.welbeingmanifesto.net)

The Institute held its first wine and cheese night for members in Canberra on the 15th of May. It was a good opportunity for the staff and some of the Board to meet with members and talk about our research agenda. The Institute aims to hold similar events in other cities. Watch this space.

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exuberance. Safeguards are necessary to prevent further erosion of the rule of law by unchecked executive power.

The current construction of character tests and the way they are implemented are neither compliant with the right to due process nor compatible with the rule of law. As an expression or an enforcement of Australian 'values', character tests in migration, citizenship, criminal and employment law require urgent amendment. The subjectivities involved in determining character have made it all too easy for politicians and security agencies to err on the side of caution, or 'profiling', and get it wrong.

The lack of accountability in discretionary ministerial decision-making,

and the inability to question intelligence, means that a person whose character is impugned will probably never even know why. The consequences of such decisions for the individuals concerned are so serious that it is inappropriate for such decisions to be so subjective and devoid of accountability. The mishandling of Dr Haneef's case highlights concerns about 'due process' and privacy which are likely to have wide ramifications for permanent residents and Australian citizens.

To codify 'character' into such a powerful place in Australian law requires a denial of its complicated and intangible nature in favour of a more legally tenable understanding of character as objective, knowable and immutable. Applying such

a reductionist approach is bound to produce contested and unforeseen outcomes. Because of this, fundamental questions must be asked or the role of character tests in Australian law.

Character might be destiny, but the philosophy of Albus Dumbledore from the Harry Potter novels is more appropriate here: 'It is our choices, Harry, that show what we truly are, far more than our abilities'. People should be judged according to what they do, not according to any prejudicial view of who they might become or who they might know. A country which had rules based on that philosophy would indeed be displaying some character.