

imagining the **good indigenous citizen**

*Race War and the Pathology of
Patriarchal White Sovereignty*

AILEEN MORETON-ROBINSON

In June 2007, the Australian federal government sent military and police into Indigenous communities of the Northern Territory on the premise that the sexual abuse of children was rampant and a national crisis. This ‘crisis’ was constructed as something extraordinary and aberrant requiring new governmental measures. Agemben argues that this ‘state of exception’ is now the normal form of governance within democracies that ‘establishes a hidden but fundamental relationship between law and the absence of law. It is a void, a blank and this empty space is constitutive of the legal system’.¹ Guantanamo Bay has become the public face of the deployment of this state of exception where law and lawlessness exist in dealing with detainees as a response to the events of 9/11 but it is not exceptional. Other detainees are held in various locations such as Camp Bucca, Abu Ghraib and Camp Cropper and in these camps the USA has determined its own rules which are outside the law. In this sense exceptionalism is dispersed and not unified, but rather is a discursive formation that can only be partially known.²

While the state-of-exception thesis provides a way of explaining how sovereign states responded to terrorism through security measures, which requires disciplining detainees and citizens, the historical conditions of its possibility can be linked to colonisation. Australia, New Zealand, Canada and the USA have a long history of detaining Indigenous people, denying their rights and controlling behaviour through and beyond the law. From the late nineteenth century reserves, privately owned pastoral stations and missions were the places where the majority of Indigenous people in Australia lived under the control of white managers and missionaries appointed by government. Indigenous people, while living in poverty, were

treated differently to white Australian citizens and were subject to 'special' laws, regulations and policies that were racist. Knowledge of the impoverished conditions under which Indigenous people lived was shared by those who controlled their lives. They acted disingenuously and their silence about Indigenous poverty operated repressively as 'an injunction to silence, an affirmation of nonexistence, and, by implication, an admission that there was nothing to say about such things, nothing to see, and nothing to know'.³ During the campaign for citizenship rights in the 1960s, Indigenous poverty was first brought into the public consciousness of white Australia through the advocacy of Indigenous people and their white supporters. This occurred during the time that the White Australia policy was incrementally being phased out. The impoverished conditions under which Indigenous people lived were televised and beamed into the living rooms of white middle-class Australia and represented within the print media. White Australians voted in overwhelming numbers to endorse the 1967 referendum believing they were casting a vote for Indigenous people to be granted full citizenship rights and thus be included within the nation. Within the white imaginary, citizenship represented equality and it was assumed that this status would enable Indigenous people to overcome their poverty and become the same as other Australians.

The 1967 referendum did not confer on Indigenous people citizenship rights. Instead, the Australian Constitution was changed to give the federal government the power to make laws on behalf of any race and so Indigenous people could be counted in the census.⁴ The federal government of the day was well aware that these were the changes being made. The rhetoric of citizenship became a strategy by which Indigenous people could now come under federal government control instead of being primarily the responsibility of state governments. These changes to the constitution did not emerge publicly until the 1990s after academics revealed that Indigenous people were accorded civil, industrial, social and political rights incrementally from the 1960s through the removal of explicitly racially discriminatory legislation and policies.⁵ Irrespective of this research the idea that Aborigines were granted citizenship rights in 1967 continues to circulate discursively. As a consequence the lack of citizenship rights is no longer linked causally to Indigenous poverty within the white Australian imaginary; instead, social rights in the form of welfare payments are seen as having contributed to this outcome.

Since 1967, Indigenous people have continued to live in poverty irrespective of the level of economic prosperity of the nation or whether there are Labor or Liberal federal and state governments in power implementing their 'different' Indigenous affairs policies. There are still large gaps in outcomes between Indigenous people and other Australian citizens on all social indicators. Our life expectancy rates are seventeen years less than the rest of the population, our health is the worst in the country, we live in overcrowded houses, we have the highest unemployment rates, are over represented in the criminal justice system and our

education outcomes are well below the Australian average.⁶ These differential outcomes and their history raise a question: do citizenship rights enable or constrain Indigenous people within society? In this article I will address this question by focusing on the Northern Territory intervention. I argue that patriarchal white sovereignty as a regime of power deploys a discourse of pathology as a means to subjugate and discipline Indigenous people to be extra good citizens and that the tactics and strategies deployed within this race war reveal its own pathology.⁷

— SOCIAL CONTRACT AND RIGHTS THEORY

Social contract theorists, such as Locke and Rousseau, argued that the formation of the state was enabled by a contract between men to decide to live together, govern and make laws for such living. It is a contract that secures the right of the sovereign in the form of the state to govern and the right of citizens to partake in that governance and to live in society through the rights and responsibilities conferred on them. The problem with most social contract theories is that the moral egalitarianism that underpins them is predicated on the theory that the transition from a state of nature to civil society ‘founds government on the popular consent of individuals taken as equals’.⁸ The white patriarchs who theorised about the social contract were primarily concerned with it being a means of agreement between white men to live together, make laws and govern, incorporating white women into the polity as their subordinates through the marriage contract.⁹

In contrast to social contract theorists Michel Foucault offers a genealogy of rights from the seventeenth century to the present, arguing that war has been central to the development of the judicial edifice of right in democratic as well as socialist countries.¹⁰ He explains how in France the history of the divine right of kings that worked in the interests of sovereign absolutism was challenged through the work of Boulainvilliers, who produced a counter history to that of the king, effectively introducing the new subject of rights into history. Refuting the myth of the inherited right to rule, Boulainvilliers’ history of the nobility advanced the idea that because of their investments in participating in war they too had rights. Having become legitimate and normalised, Foucault argues, the nobility’s assertion of rights was utilised by the commoners as an impetus to the French revolution; in this way a ‘partisan and strategic’ truth became a weapon of war.¹¹ The commoners’ assertion of rights as subjects of the crown became the rationale for war against the monarch. It is only by repressing the founding violence of sovereignty’s emergence through war that equality can circulate as a truth constitutive of citizenship and its relationship to state sovereignty. While it is a truth that is challenged by theorists of citizenship within modernity, the right of state sovereignty functions discursively as not being born of conflict and war but rather of agreement between citizens.¹²

For Foucault, antagonisms, struggles and conflict are processes of war that should be analysed according to a grid of strategies and tactics because war continues within modern mechanisms of power such as government. The ensuing conflicts from the late eighteenth century between rulers and ruled increasingly involve a relation between a superior race and an inferior race. As Foucault argues 'the State is no longer an instrument that one race uses against another: the State is, and must be, the protector of the integrity, the superiority, and the purity of the race ... racism is born at the point when the theme of racial purity replaces that of race struggle, and when counterhistory begins to be converted into biological racism'.¹³ 'Race' is defined by Foucault as a linguistic and religious marker that precedes the modern nation state. Race surfaces as a biological construct in the late eighteenth century because disciplinary knowledges came into being and regulatory mechanisms were developed to control the population. He describes this form of power as biopower, arguing that race became a means of regulating and defending society from itself. That is, race war continues in modernity in different forms, while sovereignty shifts from a concern with society defending itself from external attacks to focus on its internal enemies, though sovereign right continues to protect its boundaries from external attacks. Politics becomes war by other means. Race becomes the means through which the state's exercise of power is extended from one of 'to let live or die', to one of 'to let live and to make live'. What is important about Foucault's work is how race and war are tied to sovereign right. It offers us a different understanding of how colonisation operates through sovereign right as a race war whose power effect on the Indigenous population was one of to let live or die and after occupation becomes one of to let live and to make live. The origins of sovereignty in Australia are predicated on a myth of *Terra Nullius* (the imagination of an un-possessed continent), which functioned as a truth within a race war of coercion, murder and appropriation carried out by white men in the service of the British Crown. The military secured sovereignty on Australian soil in the name of the white king of England; in this way sovereignty was both gendered and racialised upon its assumption. Patriarchal white sovereignty is a regime of power that enabled the 'seizing, delimiting, and asserting control over a physical geographic area—of writing on the ground a new set of social and spatial relations' underpinned by the rule of death.¹⁴

As I have argued elsewhere patriarchal white sovereignty in the Australian context derives from the illegal act of possession and is most acutely manifest in the state and its regulatory mechanisms such as the law.¹⁵ Therefore possession is tied to right and power in ways that are already racialised. Foucault argues that 'right' is both an instrument of, and vehicle for, the exercising of the multiplicity of dominations in society and the relations that enable their implementation. He argues that the system of right and the judicial field are enduring channels for relations of domination and the many forms of techniques of subjugation. For this reason 'right' should not be understood as the establishment of legitimacy but rather

the methods by which subjugation is carried out.¹⁶ In this sense citizenship rights are a means by which subjugation operates as a weapon of race war that can be used strategically to circumscribe and enable the biopower of patriarchal white sovereignty. Thus rights can be enabling and constraining.

— RIGHTS AND RACE WAR

Disciplinary knowledges that developed and deployed ‘race’ as a biological concept in the eighteenth century in Australia did so through a prevailing racist discourse. Indigenous people were considered a primitive people, nomadic, sexually promiscuous, illogical, superstitious, irrational, emotive, deceitful, simple minded, violent and uncivilised. We were perceived as living in a state of nature that was in opposition to the discourse of white civility. This racist discourse enabled patriarchal white sovereignty to deny Indigenous people their sovereign rights while regulating and disciplining their behaviour through legislative and political mechanisms and physical and social measures. After the 1967 referendum, which gave the federal government the power to make laws on behalf of any race, it became increasingly difficult to continue to deny citizenship rights to Indigenous people. ‘Race’ had become the means to let live and to make live. After the Second World War the allies agreed to a new international regulatory mechanism being established to preserve human rights and justice while upholding state sovereignty in their respective countries.

The United Nations was established in 1942 and member countries agreed to be bound to the Declaration of Human Rights in 1948. Two important covenants were also ratified in 1966 by the United Nations which gave all people the right to self determination and by virtue of that right they were free to pursue their political, cultural, social and economic rights within society. They were the Covenant on Political and Civil Rights and the Covenant on Economic, Social and Cultural Rights. These covenants supplied moral and political strategies for the emergence of decolonisation and civil rights movements which soon spread globally. The eruption of the rights discourse in the 1960s was due to influences that were both global and national in character and influenced by events that challenged established norms, values and social conventions. In Foucaultian terms this represents a phase of war whereby the antagonisms, confrontations and struggles of the 1960s became represented strategically and tactically through a discourse of Indigenous rights in the 1970s. In Australia the effects were the advocacy of civil, women’s, gay and Indigenous rights claims of subjects within its borders. Discriminatory legislation specifically aimed at Indigenous people were revoked and the *Racial and Sexual Discrimination Acts 1975* were enacted to protect against racial and gender discrimination. An Indigenous land rights discourse encompassing Indigenous sovereignty claims was placed on the public agenda which saw the *Aboriginal Land Rights (Northern Territory) Act 1976* established for the application and granting of land claims in the Northern

Territory. The White Australia policy was formally abolished in 1972 and multiculturalism was promoted as Australia's new national policy.¹⁷ Just as human rights were becoming an effective political weapon Australia strengthened its internal sovereignty by formally separating from British judicial review, which meant that the High Court of Australia was the final court of appeal. The impact of this separation is that the nation-state's management of the rights claims of its citizens is no longer subject to an external sovereign's scrutiny.

— RACE WAR AND THE DISCOURSE OF INDIGENOUS PATHOLOGY

A new mechanism of government regulation of Indigenous people began through the bureaucratic infrastructure of the federal Department of Aboriginal Affairs. Since the 1970s, government policy has oscillated between self management and self determination. The former was concerned with administration and management of communities and organisations, while the latter implied control over policy and decision making, 'especially the determination of structures, processes and priorities'.¹⁸ While it is often argued that self determination has been the dominant policy framework since the early 1970s, a closer analysis of government processes and practices would reveal that self management has occupied centre stage, despite the establishment of the Aboriginal and Torres Strait Islander Commission (ATSIC) in 1989. ATSIC was represented to the world as the epitome of Indigenous self determination by the Keating-led Labor government. However, regional councils did not have autonomous control over expenditure in their regions and ATSIC's budget was controlled and monitored in the same way as other government departments. The federal government determined what policy areas it would allow ATSIC to administer. ATSIC commissioners were 'developing' policy prepared by bureaucrats who worked within the confines of the government's overall policy on Indigenous affairs.

When the ATSIC commissioners did change the policy agenda, under the stewardship of Geoff Clarke, from one of self determination involving decision making to a self determination model that advocated Indigenous rights, the newly elected Howard coalition government, in concert with the media, represented the commission as being mismanaged, misguided and corrupt. Howard deployed a discourse of pathology strategically to win electoral support aided by the mainstream media. Chairperson Geoff Clarke and deputy chair 'Sugar' Ray Robinson were represented as being criminal and violent, and ATSIC was blamed for the underperformance in Indigenous health and education; both policy and program areas were administered by mainstream departments. Howard had made an electoral promise that he would cut funding to Indigenous affairs, review ATSIC and ensure that Indigenous rights claims would be controlled because the pendulum had swung too far in the direction of Indigenous people's rights. He amended the *Native Title Act 1993*, reducing even further than

the Keating government the property rights Indigenous people had won in the High Court's Mabo decision. Through the use of the law, the Howard government reconfigured Indigenous affairs containing, reducing and controlling the rights claims of Indigenous people by positioning us as having received more than our entitlements as citizens and as not taking responsibility for our 'dysfunctional' behaviour. Rights of citizenship were deployed as weapons within the race war serviced by a discourse of Indigenous pathology. Within this discourse social problems are considered to be any forms of behaviour that violate the norms of white civility.

From the year 2000, Howard's Indigenous affairs policy agenda was concerned with 'practical reconciliation' involving mutual obligation contracts with Indigenous communities. The government's closure of ATSIC and amendments to the *Native Title Act 1993* signalled the end of an Indigenous-rights-based policy consistent with international human rights covenants, and the beginning of a focus on 'practical measures' to alleviate Indigenous disadvantage. Significantly, the Howard government rejected the Aboriginal Reconciliation Council's 'Declaration Towards Reconciliation' and 'Roadmap for Reconciliation' at Corroboree 2000, which recommended a treaty. Mick Dodson, the former Indigenous Social Justice Commissioner, states that:

Howard responded with his own version of the Declaration. While there is considerable similarity between the two documents, there are more subtle differences in wording. The Howard government said that it is unable to endorse the approach to customary law in the Council's Declaration, believing that all Australians are equally subject to a common set of laws. It refused to endorse the term 'self-determination', claiming that it implies the possibility of a separate Indigenous state or states. More significantly, the Howard government refused to support a formal apology to Indigenous people for past injustices, claiming that such an apology could imply that present generations are in some way responsible and accountable for the actions of earlier generations.¹⁹

Howard's tactics in the race war were to contain Indigenous rights and protect the state against compensation claims by only recognising those rights that were available to other citizens. One of the social rights of citizenship (the right to welfare support), became the means of disciplining Indigenous subjects containing their human right to be self determining, using the regulatory mechanism of the governments bureaucratic infrastructure. This regulation was rationalised within a neoliberal discourse which privileged individualised rights and the democratic process while advocating that the market should manage and direct the fate of all human beings as free agents. Neoliberal discourse promotes formal equality of individuals through citizenship, allowing government to implement economic and social policies that reinforce structural inequalities between Indigenous people and the rest of Australian society.

The individualism of neoliberalism informs the discourse of pathology within the race war, enabling the impoverished conditions under which Indigenous people live to be rationalised as a product of dysfunctional cultural traditions and individual bad behaviour. In this context Indigenous pathology, not the strategies and tactics of patriarchal white sovereignty, is presented as inhibiting the realisation of the state's earlier policy of self-determination. Citizenship becomes a weapon of race war deployed to advance the idea that because citizens have 'rights' the king no longer rules, despite his 'crown' remaining intact as the holder of radical title to all land. As the holder of the radical title of all land, patriarchal white sovereignty can invade land occupied or owned by citizens when it wishes to do so. This was clear when the federal government sent the army and police into seventy-three Indigenous communities in the Northern Territory in response to the *Little Children are Sacred* report, which identified that sexual abuse and neglect of children was an issue of urgent national significance.²⁰ The use of the term 'emergency response' by government signified that it was life or death situation requiring a response out of necessity; it was a state of exception. In effect, patriarchal white sovereign right was exercised utilising the report as evidence to further regulate and manage the subjugation of Indigenous communities. The discourse of Indigenous pathology provided the rationale for the containment of people within specific regulated areas and the Northern Territory became the new laboratory for an experiment in Indigenous civility.

The federal government passed five bills enabling the 'emergency response' and suspended the *Racial Discrimination Act 1975* to protect the state from litigation on the basis that the intervention was racist. The suspension of law was used as a weapon of race war to enable and regulate the intervention. The media had prepared the white Australian imaginary by utilising a discourse of pathology that entailed constantly reporting negative stories of Indigenous dysfunction, corruption, neglect and sexual abuse to elicit white virtue and possessive investments in citizenship. This discourse was deployed by Noel Pearson, an Aborigine from Cape York who was later appointed as Howard's advisor on welfare reform. Pearson's collusion with the media resulted in him being the first 'Aboriginal leader' to have a regular column in the *Australian* newspaper. In August 2000 in his Ben Chifley memorial lecture 'The Light on the Hill', Pearson stated:

In my consideration of the breakdown of values and relationships in our society—I have come to the view that there has been a significant change in the scale and nature of our problems over the past thirty years. Our social life has declined even as our material circumstances have improved greatly since we gained *citizenship*. I have also come to the view that we suffered a particular social deterioration once we became dependent on passive welfare. So my thinking has led me to the view that our descent into passive welfare dependency has taken a decisive toll on our people, and the social problems which it has precipitated in our

families and communities have had a cancerous effect on our relationships and values. Combined with our outrageous grog addiction and the large and growing drug problem amongst our youth, the effects of passive welfare have not yet steadied. Our social problems have grown worse over the course of the past thirty years. The violence in our society is of phenomenal proportion and of course there is inter-generational transmission of the debilitating effects of the social passivity which our passive economy has induced.²¹ [my emphasis]

Pearson strategically uses citizenship rights to welfare as the enabler of Indigenous 'dysfunction' by arguing that these rights have given Indigenous people entitlements but no responsibilities. Between the years 2000 and 2004 Pearson has produced twenty-five papers elaborating his thesis on welfare reform and Indigenous pathology while also acknowledging that communities require service provision and resources to enable a change in behaviour.²² His argument is that citizenship rights should be tied to behavioural outcomes for Indigenous people as a means to let live and make live. Focusing on individualist explanations for Indigenous poverty, Pearson promoted welfare reform within Indigenous affairs mimicking the United States neoliberal conservative position of the early 1990s, which advocated that:

a) The receipt of welfare should be predicated on reciprocal responsibilities whereby society is obliged to provide assistance to welfare applicants who, in turn, are obligated to behave in socially approved ways; and b) able-bodied adult welfare recipients should be required to prepare themselves for work, to search for employment and to accept jobs when they are offered.²³

Pearson's thesis that the right to welfare facilitates Indigenous addiction and dysfunction circulates as a truth in the race war, while masking the strategies of patriarchal white sovereignty to perpetuate Indigenous welfare dependency. Pearson indigenises welfare dependency through a discourse of pathology that effectively silences talk about the behaviour of millions of non-Indigenous people who receive welfare in one form or another to enable them to live within society. In 2007 he wrote in the *Australian* a response to Indigenous people who were advocating an Indigenous rights agenda, stating:

Let me conclude by pointing out three problems with the indigenous rights agenda as it is now presented. First, it is just not credible on too many questions. Ordinary Australians are simply not convinced that land rights and culture alone will solve social problems. Ordinary Australians can see through the fact social order is an urgent imperative ... Ordinary Australians are not like old progressive converts. They can no longer be sold slogans. The evidence of social and economic disrepair is too obvious for them to accept the old solutions. Those seeking indigenous rights must come up with more compelling justifications for

the policies they propose. Second the advocacy must be more sophisticated and have more of an impact ... Instead of retreating into righteous impotence, the rights advocates must become a lot more competent than they have been. Third those concerned about rights must understand that most rights—the right to better health and education and safe and healthy children—cannot be delivered by rights alone. They require behavioural responsibility on behalf of our people. And this is why the recent launch by Aboriginal and Torres Strait Islander social Justice Commissioner Tom Calma of Closing the Gap ... is only partly convincing ... The gap will not close unless we have a plan that is as forthright about these responsibilities as it is about rights.²⁴

Pearson's pathologising of Indigenous people works discursively. He positions Indigenous rights advocates as being unsophisticated, righteously impotent, incompetent and naive. He stipulates that good citizenship requires both rights and responsibilities; this appeals to and elicits the virtue of 'ordinary Australians' who are already assumed to be 'good citizens'. He strategically uses the term 'ordinary Australians', as did Howard and Hanson in their anti-Indigenous rights politics, to seduce his white middle-class audience and affirm the characteristics of white civility. Pearson's explanation for the existence of poverty and inequality is the 'problematic' characteristics of Indigenous people, not patriarchal white sovereignty's right to disavow Indigenous sovereign resource rights. Indigenous people are perceived and talked about as the undeserving poor who lack effort, proper money management skills, a sense of morality, the ability to remain sober, the ability to resist drugs and a work ethic. Pearson has staked a possessive claim to patriarchal white sovereignty in his welfare reform agenda, which seeks to discipline and produce the good Indigenous citizen who is perceived as having no inherent sovereign right to their resources, which were illegally appropriated by the Crown. The media and government have conferred on Pearson a leadership role in Indigenous welfare reform, one which services the legitimacy of patriarchal white sovereignty through a discourse of Indigenous pathology by denying the effects of colonisation in producing economic dependency. This serves, in turn, to make invisible the ongoing race war against Indigenous people.

— RACE WAR AND TACTICS OF INTERVENTION

The print media's representation of Indigenous pathology in the race war was actively promoted by the national magazine the *Bulletin* in the late 1880s. Cartoons of drunken and destitute Aborigines were a regular feature over the subsequent century in its promotion of the White Australia policy.²⁵ This pathologising took a different form in the negative stories that circulated and began building in the 1970s after land rights were granted in the Northern

Territory and after Noonkanbah headlined in the 1980s when the traditional owners protested over mining on their sacred site in the Kimberleys. In its investigation into media representation, the National Inquiry into Racist Violence in 1991 concluded that the Australian media was responsible for the 'perpetuation and promotion of negative and racial stereotypes, a tendency towards conflictual and sensationalist reporting on race matters'.²⁶

Over the next fifteen years it became the norm for negative stories about Indigenous people's 'demands' and 'dysfunctional behaviour' to circulate in the popular press. On 5 May 2006 the Australian Broadcasting Commission's (ABC) program *Lateline*, the feature story was on Indigenous sexual abuse in Central Australia. The main interview was with Dr Nanette Rogers, Crown Prosecutor in Alice Springs.²⁷ Rogers provided information on cases that had come before her involving children as young as two years who had been raped. She explained that the silences around sexual abuse in Indigenous communities can be attributed to the entrenched violence, failure to take 'responsibility for their own actions' and the punitive nature of Indigenous society where reporting an incident could lead to 'harassment, intimidation and sometimes physical assault'. What Rogers did not disclose is the way in which sexual abuse operates through repression; how silence operates as part of the cycle of sexual abuse in white communities whether they are remote, rural or suburban; it is not openly discussed, easily reported or prosecuted. Child sexual abuse in white homes is dealt with by government as though it is something aberrant that requires intervention on an individual case-by-case model. There is no intervention into the whole community where the perpetrators reside; instead, the civil rights of perpetrators are respected. In contrast, child sexual abuse is treated as being normative within Indigenous communities, requiring everyone to be placed under surveillance, scrutinised and punished. In this way the receipt of welfare payments, which is a social right, enables the regulation and disciplining of Indigenous people at the margins of Australian society.

There was a flurry of media activity pathologising Indigenous communities after Roger's interview on national television. This was in stark contrast to the media's lack of response to Indigenous women's recommendations regarding violence, alcohol, substance and sexual abuse in communities, which were made as early as 1980. Recommendations from Aboriginal women concerning these issues and the need for increased service provision and resources were made at the ANZAAS Fiftieth Conference in Adelaide in 1980, the Federation of Aboriginal Women's Conference in Canberra in 1982, the National Aboriginal Women's Taskforce in 1986, the First Indigenous Women's Conference in Adelaide in 1989, the Remote Area Aboriginal and Torres Strait Islander Women's meeting in Laura in July 1991 and the ATSIC National Women's Conference in Canberra in 1992.²⁸ Governments and the media did not respond to any of these recommendations. As a white woman and a lawyer Rogers

was already conferred with authority, legitimacy and virtue within the white imaginary. Her revelations were strategically deployed by media and political institutions to confirm Indigenous pathology and feed moral outrage within the race war. The decades of silence and inaction by government and media on these issues confirms that politics is race war by other means; during the year of an election the media and government strategically deployed the discourse of Indigenous pathology as a weapon by making child sexual abuse a central issue for voters.

In response to Roger's national disclosure, on 8 August 2006 the Northern Territory Labor government commissioned the Board of Inquiry into the protection of Aboriginal children from sexual abuse led by Rex Wilson QC and Dr Patrica Andersen, signalling that Labor, not the federal Liberal–National coalition government, was concerned about Indigenous child sexual abuse. In this way the Labor Party, which was in opposition federally, could stake a possessive claim to morality and virtue, attributes of white civility. Wilson and Andersen tabled their report entitled *Ampe Akelyernemane Meke Mekarle* ('Little Children are Sacred') to the Northern Territory government on 30 April 2007. They found there was sufficient 'anecdotal and forensic and clinical information available to establish that there is a significant problem in Northern Territory communities in relation to the sexual abuse of children'.²⁹ The report acknowledged that alcohol and drug abuse, poverty, housing shortages, poor health and poor education were contributing factors to its prevalence. The inquiry recommended that the government consult with Indigenous communities on the implementation of their recommendations concerning service provision and resources in key areas such as health, education, housing, employment and policing. The majority of recommendations reveal the years and the level of government neglect in service provision to its Indigenous citizens, who have the highest levels of mortality and morbidity rates in the Western world. This illustrates that within the race war the exercising of patriarchal white sovereignty's right to let live or make live produces an early death for Indigenous people.

The recommendations in this report echo all the Human Rights and Equal Opportunity Commission, Aboriginal and Torres Strait Islander Social Justice Commissioner's reports from 1993 to 2007.³⁰ In a speech made to the Committee for Economic Development in Australia, the chairman of the Australian Productivity Commission, Gary Banks, presented an overview of the commission's *Overcoming Indigenous Disadvantage: Key Indicators 2005* report to government, which identified strategic areas for government action. They included: Early child development and growth (prenatal to age three); Early school engagement and performance (pre-school to year three); Positive childhood and transition to adulthood; substance use and misuse; functional and resilient families and communities; effective environmental health systems and economic participation and development.³¹ Similar recommendations were

made in the Senate's Legal and Constitutional References Committee report in 2003, titled *Reconciliation: Off Track*.³² Despite the advice and recommendations of its own regulatory mechanisms the federal government failed to take responsibility for its policies. The exercise of sovereign right by patriarchal white sovereignty has continuously denied Indigenous sovereign rights by containing Indigenous people through social rights to welfare. Indigenous people have limited social capital and resources, independent of welfare, to engage in economic development.

Since colonisation began, patriarchal white sovereignty has deployed punitive action as a technique of subjugation in its relations with Indigenous people. And it has been cunning and deceitful in masking its subjugation. For example, in 1996 Prime Minister Howard removed \$470 million from ATSIC's budget and in 2007 \$39 million was cut from Abstudy, which had a direct impact on Indigenous peoples' participation in the education system. Between 2000 and 2007 the federal government increased its Indigenous budget to \$3 billion. However, \$360.45 million of those funds which were identified for family violence program, health, child care, business, education, housing and schooling was not spent in 2007. And \$136.216 million of the Indigenous budget was used as substitute funding on programs that benefit all Australians. These funds were spent by the Northern Authority Quarantine Strategy, Bureau of Meteorology, Reconciliation Australia, the National Museum, public phones and the Tax Office and Centrelink's administrative costs in delivering its mainstream services to Indigenous clients.³³ A similar picture has emerged from the Northern Territory where large spending shortfalls in Indigenous affairs have occurred in the areas of child and family services, with \$177 million allocated by the federal government but only \$43 million spent. Professor Rolf Gerritsen stated that federal funds are channelled into wealthy electorates for political purposes and that over 50 per cent of Indigenous funding 'ends up in white hands'.³⁴ The lack of resources and the underspending of funds in the provision of government services to Indigenous communities is not perceived to be linked to the impoverished conditions under which Indigenous people live. Instead, the discourse of pathology prevails as the government's explanation for not fulfilling its responsibilities in providing services to Indigenous citizens. 'Knowledge' about Indigenous pathology circulates as strategic truth in the race war to rationalise the continuing subjugation of the Indigenous population and encourage non-Indigenous investment in patriarchal white sovereignty.

In his speech to the National Press Club, which was televised nationally on the ABC on 15 July 2007, Mal Brough, Minister for Indigenous Affairs and Family and Community Services, took the opportunity to present the Howard government's welfare reform agenda.³⁵ Brough began his speech with a list of welfare reforms in mainstream areas where there was a need for further funding because of state government neglect. In his pledge of \$1.8

billion for older carers of disabled children he said, 'the Howard government has now said to older carers that we will ensure that you have a place and that you will have the services that you need as you grow older and frailer and that you have given your love and your life to your child who's disabled, we'll guarantee that. No state government has done it in the past'.³⁶ In this speech Brough makes a discursive shift between the deserving poor and the undeserving poor. The deserving poor are white citizens and the undeserving poor are Indigenous people who are rarely represented within the white national imaginary as carers or as disabled in spite of the well-known health statistics. When discussing Indigenous housing needs he stated:

we've faced up to the fact that over years, ATSIC and successive federal governments have gifted over \$3 to \$4 billion worth of housing, lost control of it, don't know who's in the houses, whether they're appropriate people, whether rents are being paid, whether maintenance has been undertaken. We said, no, that's got to stop. Put away the political correctness, let's stop that and let's do something that actually will provide more housing and better housing.³⁷

Brough accuses ATSIC and Labor governments of mismanaging government funds by gifting houses to Indigenous people, who may be inappropriate tenants, who behave irresponsibly by not valuing or maintaining their assets. By implication inappropriate Indigenous people should be homeless or in prison, which speaks to the punitive nature of the government's approach to Indigenous people. This statement is patently disingenuous as federal assets cannot be gifted to individual citizens without the consent of Parliament. The discourse of pathology is used to vilify Indigenous people while promising them more and better housing only if they behave like good white citizens. Throughout his speech Brough gave highly emotive individualised anecdotal evidence of the violence, substance and sexual abuse and neglect in Indigenous communities in order to substantiate the measures taken to intervene in the Northern Territory. Brough deployed the discourse of pathology to mask the government's neglect in service provision to Indigenous communities and justify increasing surveillance and subjugation.

The imposition of martial law and the emergency measures were outlined in a press release from Mal Brough's office on 6 July 2007. Brough stated that the legislative package would allow the federal government to restrict alcohol, audit computers to detect pornographic material, lease Indigenous land and change land tenure to allow for private purchase, remove customary law as a mitigating factor for bail and sentencing; put in place business managers in remote communities; quarantine income support payments for basic necessities such as food, clothing and shelter; compulsory health checks for Indigenous children; change the permit system for access to Indigenous lands and abolish the Community Development

Employment Program (CDEP) which is a work for the dole scheme. The law enables patriarchal white sovereignty's regulation of Indigenous behaviour through their social rights entitlements. Brough said:

The *Little Children Are Sacred* report highlighted horrific abuse of children in remote communities ... I was astounded that the report's authors provided *no recommendations* designed to immediately secure communities and protect children from abuse. The legislative measures being introduced tomorrow will achieve that.³⁸

In order to shift responsibility for their poverty back onto Indigenous people Brough negates the recommendations of the *Little Children Are Sacred* report, which clearly outlines the substantial neglect by government. Neglect, denial, blame, abdication of responsibility and violence are attributes of the dysfunctional behaviour of patriarchal white sovereignty that service Indigenous economic dependency and the negation of Indigenous sovereign rights.

In the conflict over the intervention, the response to government from rights advocates was framed within both citizenship and human rights seeking to deploy them as a strategic truth to make claims and repatriation against patriarchal white sovereignty. The Human Rights and Equal Opportunity Commission welcomed the government's announcements but argued that they should be delivered within a human rights framework.³⁹ Approximately one hundred and seventy-five representatives of church, social service and civil rights organisations wrote an open letter to Brough arguing that the services provided to other Australians are often not delivered to Indigenous communities.⁴⁰ In response to the emergency measures they argued that 'in their present form the proposals miss the mark and are unlikely to be effective. There is an over-reliance on top-down and punitive measures, and insufficient indication that additional resources will be mobilized where they are urgently needed; to improve housing, child protection and domestic violence supports, schools, health services, alcohol and drug rehab programs'. In a briefing paper for Oxfam, Jon Altman argued that there is no evidence to show the relationship between child sexual abuse and changes to the permit system and compulsory acquisition of five-year leases over township. 'In particular both measures will lessen the property rights, and associated political and economic power, of an already marginalized Indigenous minority'.⁴¹

Several months after the intervention, the Central Land Council consulted with traditional owners from across central Australia. They found that overall most Indigenous people supported steps taken to address child abuse, housing shortages and increased policing but were opposed to: 'five year lease, changes to the permit system, welfare reform measures and the current changes to the operation of Community Development Employment Program Scheme'.⁴² The Aboriginal Rights Coalition's research into experiences and attitudes towards compulsory welfare management revealed that '85% of respondents do not like the

intervention and see the overall changes as negative. 90% of respondents experience serious problems with income management. The changes have caused problems within families for 74% and made no change for 23%.⁴³ Rallies were held on 21 June 2008 demanding 'the repeal of the NT Emergency Response legislation, the restoration of the *Racial Discrimination Act (1975)*, increased funding for infrastructure and community controlled services and the implementation of the UN Declaration on the Rights of Indigenous Peoples'. The dissenting citizens sought to make social and human rights the enabler of justice and provision of resources that would improve the mortality rates of Indigenous people. However, patriarchal white sovereignty continued its welfare reforms regulating and defending society from itself and external sources by actively rejecting counter rights claims. The Australian government did not ratify the UN Declaration on the Rights of Indigenous Peoples, which was passed by the United Nations General Assembly on 13 September 2007. The declaration recognises Indigenous peoples' inherent sovereign rights to their lands but such rights cannot be exercised if they infringe on the rights of the nation state.

The successful election of the Rudd Labor government in November 2007 did not signal a radical shift in policy. Rudd committed to Howard's measures but agreed not to abolish the CDEP and allowed the permit system to stay in place. The CDEP allows Indigenous people to work for their unemployment benefits in areas where virtually no labour markets exist. The Bureau of Statistics 2006 census revealed that in remote communities in the Northern Territory that of the 22,055 Indigenous people of working age, 80 per cent were unemployed and 20 per cent were on CDEP.⁴⁴ The national statistics for unemployment are currently at 6 per cent. Keeping Indigenous people on CDEP does two things: it hides the real levels of unemployment and creates exclusion from the economy. If the state of Indigenous economic disadvantage was reflected within the broader Australian citizenry there would be outrage, and government would seek to intervene in the market to provide capitalists and workers with financial incentives to stimulate employment and economic development.

The government's agreement to retain the permit system was influenced by police, the Northern Territory government and Indigenous people, who advised that it helped regulate the exploitation of Indigenous artists and the unwanted activities of outsiders running drugs and alcohol. In their first budget the Rudd government committed a further \$1.2 billion to Indigenous expenditure over the following five years. The majority of these funds are committed to the Northern Territory intervention with only \$554 million allocated to the majority of the Indigenous population, who live in other states and territories but who share the same socioeconomic position in Australian society. The Rudd government has called for a review of the intervention measures and is seeking to establish an independent Indigenous body that will advise on Indigenous policy and programs but it will have no fiscal responsibility for them. The federal Department of Health's analysis of the mandatory child health

checks revealed that out of the 7433 mandatory health checks of Indigenous children in the Northern Territory only thirty-nine were considered at risk of neglect or abuse with only four children identified as being sexually abused.⁴⁵

— CONCLUSION

The discourse of pathology is a powerful weapon deployed by patriarchal white sovereignty to gain support from its white citizens for the exercising of its power. Race and rights are the means by which patriarchal white sovereignty exercises its power to let live and make live where the granting of life is conditional on the perceived appropriateness of the individual, the measure of which is the good white citizen. As a regime of power capillarising through rights and possession, patriarchal white sovereignty enables the law and government to intervene in the lives of Indigenous people to let them live and to make them live as welfare dependent citizens, not as property owning subjects with sovereign resource rights. In this way citizenship rights are methods of subjugation because in their relations with sovereign right they can be both enabling and constraining.

In the race war with Indigenous people, patriarchal white sovereignty pathologises itself through the tactics and strategies it deploys in subjugation. Deceit, neglect, blame, abuse, violence and denial become tactics and strategies of war to subjugate the Indigenous enemies and their counter claims of sovereign rights, which are perceived to threaten the integrity of patriarchal white sovereignty's inherited right to rule. The pathological behaviour of patriarchal white sovereignty has been produced by the contradictions and imbalances in its fundamental constitution originating in Australia through theft and violence. The unfinished business of Indigenous sovereignty is refused by patriarchal white sovereignty because Indigenous entitlements to inherent resources would allow Indigenous people to engage in the economy on a different basis—as self-determining property owning subjects—which would alter the current state of exception. Within the race war Indigenous sovereign counter rights claims pose a threat to the possessiveness of patriarchal white sovereignty, requiring it to deploy a discourse of Indigenous pathology as a weapon to circulate a strategic truth: if Indigenous people behaved properly as good citizens their poverty would disappear.

AILEEN MORETON-ROBINSON is a Goenpul woman from Minjerribah (Stradbroke Island), Quandamooka First Nation (Moreton Bay) in Queensland, Australia. She is Professor of Indigenous Studies, Indigenous Studies Research Network, at the Queensland University of Technology. Prior to this appointment she taught women's studies at Flinders University and Indigenous studies at Griffith University and the University of South Australia. Her books include *Talkin' Up to the White Woman: Indigenous Women and Feminism* (2000), the edited collections *Whitening*

Race: Essays in Social and Cultural Criticism (2004) and *Sovereign Subjects: Indigenous Sovereignty Matters* (2007), and a collection co-edited with Dr Maryrose Casey and Dr Fiona Nicoll, *Transnational Whiteness Matters* (2008).

-
1. Ulrich Raulff, 'Interview with Giorgio Agamben—Life, a Work of Art Without an Author: The State of Exception, the Administration of Disorder and Private Life', *German Law Journal*, vol. 5, no. 5, 1 May 2004, para 2, <http://www.germanlawjournal.com/print.php?id=437%23_ednref9>.
 2. Andrew W. Neal, 'Foucault in Guantanamo: Towards an Archaeology of the Exception', *Security Dialogue*, vol. 37, no. 1, March 2006, pp 31–46.
 3. Michel Foucault, *The History of Sexuality: An Introduction*, Vintage Books, New York, 1990, p. 4.
 4. Bain Attwood and Andrew Markus, *The 1967 Referendum, or When Aborigines Didn't Get the Vote*, Aboriginal Studies Press, Canberra, 1997.
 5. John Chesterman and Brian Galligan, *Citizens Without Rights: Aborigines and Australian Citizenship*, Cambridge University Press, Melbourne, 1997.
 6. Tom Calma, Achieving Aboriginal and Torres Strait Islander Health Equality Within a Generation—A Human Rights Based Approach, Right to Health of Indigenous Australians seminar, University of Melbourne Law School, 16 March 2006, <www.hreoc.gov.au/about/media/speeches/social_justice/achieving_health_equality_20060316.htm>.
 7. Australia was acquired in the name of the king of England. As such, patriarchal white sovereignty is a regime of power that derives from the illegal act of possession and is most acutely manifested in the form of the crown and the judiciary. The crown holds exclusive possession of its territory, which is the very foundation of the nation-state. The nation-state in turn confers patriarchal white sovereignty on its citizens through what Carol Pateman argues is the sexual contract (Carole Pateman, *The Sexual Contract*, Stanford University Press, Stanford, 1988). However, not all citizens benefit from or exercise patriarchal white sovereignty equally. Race, class, gender, sexuality and ableness are markers that circumscribe the performance of patriarchal white sovereignty by citizens within Australian society.
 8. Charles W. Mills, *The Racial Contract*, Cornell University Press, Ithaca, New York, 1997, p. 3.
 9. Pateman, *The Sexual Contract*.
 10. Michel Foucault, *Society Must Be Defended*, Penguin Books, London, 2003.
 11. Foucault, *Society Must Be Defended*, p. 57.
 12. Bart van Steenberg (ed.), *The Condition of Citizenship*, Sage Publications, London, 1994.
 13. Foucault, *Society Must Be Defended*, p. 81.
 14. Achille Mbembe, 'Necropolitics', *Public Culture*, vol. 15, no. 1, 2003, pp. 25–6.
 15. Aileen Moreton-Robinson, 'The Possessive Logic of Patriarchal White Sovereignty: The High Court and the Yorta Yorta Decision', *Borderlands eJournal*, vol. 3, no. 2, <www.borderlandsejournal.adelaide.edu.au>.
 16. Foucault, *Society Must Be Defended*, p. 27.
 17. Laksiri Jayasuriya, David Walker and Jan Gothard (eds), *Legacies of White Australia: Race, Culture and Nation*, University of Western Australia Press, Perth, 2003. See also Jon Stratton, *Race Daze: Australia in Identity Crisis*, Pluto Press, Sydney 1998.
 18. House of Representatives Standing Committee on Aboriginal Affairs, 'Our future, Our Selves: Aboriginal and Torres Strait Islander Community Control, Management and Resources', August 1990, <<http://www.aph.gov.au/house/committee/atsia/ourfutureourselves.pdf>>.
 19. Michael Dodson, 'Indigenous Australians', in Robert Manne (ed.), *The Howard Years*, Black Inc., Melbourne, 2004, p. 135.
 20. Rex Wild and Pat Anderson, *Ampe Akelyernemane Meke Mekarle 'Little Children are Sacred': Report of the Northern Territory Board of Inquiry into the Protection of Aboriginal Children from Sexual Abuse*, Northern Territory Government, Darwin, 2007, p. 22–7.
 21. Noel Pearson, The Light on the Hill, Ben Chifley Memorial Lecture, Bathurst Panthers Leagues Club, Saturday 12 August, 2000, p. 1, <<http://www.capeyorkpartnerships.com/team/noelpearson/lightonhill-12-8-00.htm>>.
 22. Copies of Noel Pearson's papers are available at <<http://www.capeyorkpartnerships.com/team/noelpearson/papers.htm>>.
 23. William Julius Wilson, 'Citizenship and the Inner-City Ghetto Poor', in Bart van Steenberg (ed.), *The Condition of Citizenship*, Sage Publications, London, 1994, p. 53.
 24. Noel Pearson, 'Hunt for the Radical Centre', *Australian*, 21 April 2007, <<http://www>>.

- theaustralian.news.com.au/story/0,20867,21591955-7583,00.html>.
25. Michael Meadows, *Voices in the Wilderness: Images of Aboriginal People in the Australian Media*, Greenwood Press, Westport, 2001.
 26. Human Rights and Equal Opportunity Commission, *Racist Violence: Report of the National Inquiry into Racist Violence in Australia*, Australian Government Publishing Service, Canberra, 1991, p. 3.
 27. Tony Jones, interview with Nanette Rogers, 'Crown Prosecutor Speaks Out About Abuse in Central Australia', *Lateline*, ABC Television, 15 May 2006, transcript available at <<http://www.abc.net.au/lateline/content/2006/s1639127.htm>>.
 28. Aileen Moreton-Robinson, *Talkin Up to the White Woman: Indigenous Women and Feminism*, PhD thesis, Griffith University, 1998, pp. 272–5.
 29. *Ampe Akelyernemane Meke Mekarle*, p. 8.
 30. Human Rights and Equal Opportunity Commission Social Justice Reports 1993–2007, <http://www.hreoc.gov.au/Social_Justice/sj_report/index.html>.
 31. Gary Banks, 'Indigenous Disadvantage: Are we Making Progress?', 2005, p. 5, <http://www.pc.gov.au/_data/assets/pdf_file/0005/7655/cs20050921.pdf>.
 32. Nick Bolkus, 'Reconciliation: Off Track', Senate Legal and Constitutional References Committee, Canberra, October 2003, <http://www.aph.gov.au/senate/committee/legcon_ctte/reconciliation/report/report.pdf>.
 33. Joel Gibson and Debra Jopson, 'Black Dollars go Everywhere but to Blacks', *Sydney Morning Herald*, 21 August, 2007, <<http://www.smh.com.au/news/national/black-dollars-go-everywhere-but-to-blacks/2007/08/118746>>.
 34. Natasha Robinson, 'Northern Territory "Short-changing" Indigenous Aid', *Australian*, 16 July 2008, <<http://www.theaustralian.news.com.au/story/0,25197,24027311-601,00.html>>.
 35. Mal Brough, 'Commonwealth's Intervention into Aboriginal Communities in the Northern Territory', *National Press Club*, ABC Television, 15 August 2007, <http://www.facsia.gov.au/internet/minister3.nsf/print/speech_nter_15aug07.htm>. accessed 9 August 2008.
 36. Brough, 'Commonwealth's Intervention into Aboriginal Communities in the Northern Territory', p. 2.
 37. Brough, 'Commonwealth's Intervention into Aboriginal Communities in the Northern Territory', p. 4.
 38. Mal Brough, 'Howard Government Getting On with the Job of Protecting Children in the Northern Territory', media release, 6 August 2007, <http://www.facs.gov.au/internet/minister3.nsf/content/nter_6aug07.htm>.
 39. Human Rights and Equal Opportunity Commission, 'A Human Rights Based Approach is Vital to Address the Challenges in Indigenous Communities', media release, 26 June 2007, <<http://www.eniar.org/news/hreoc19.html>>.
 40. Australian Council of Social Services, 'Open Letter to The Hon. Mal Brough MP', 26 June 2007, p. 2, <<http://www.acoss.org.au/News.aspx?displayID=99&articleID=2683>>.
 41. Jon Altman, 'The "National Emergency" and Land Rights Reform: Separating Fact from Fiction: An Assessment of the Proposed Amendments to the *Aboriginal Land Rights (Northern Territory) Act 1979*', briefing paper for Oxfam Australia, Centre for Aboriginal Economic Policy Research, Australian National University, 7 August 2007, p. 2, <http://www.anu.edu/caepr/Publications/topical/Altman_Oxfam.pdf>.
 42. Central Land Council, 'From the Grassroots: Feedback from Traditional Landowners and Community Members on the Australian Government Intervention: An Initial Briefing Paper', Alice Springs, 19 December 2007, p. 2, <http://www.clc.org.au/media/From_the_Grassroots_Briefing.pdf>.
 43. Aboriginal Rights Coalition, 'Data Shows Intervention is a Disaster: National Rallies Planned', 5 June 2008, p. 1, <<http://www.eniar.org/news/NTintervention29.html>>.
 44. Paul Toohey, 'Putting Paid to Perk for the Dole', *Australian*, 12 July 2008, p. 2, <<http://www.theaustralian.news.com.au/story/0,25197,24004457-5013172,00.html>>.
 45. Margaret Wenham, 'Indigenous Child Abuse in New Light', *Courier Mail*, 25 May 2008, <<http://www.news.com.au/couriermail/story/0,,23746618-5003416,00.html>>.