

The Howard Government's Northern Territory Emergency Response: Racialised Discourse and Representations of Indigenous Communities and Culture.

by

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BEdu (Primary), BA (Australian Indigenous Studies) (Hons 1)

A thesis submitted for the degree of

Doctor of Philosophy (Aboriginal Studies)

School of Communication, International Studies and Languages.

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University of
South Australia

April 2017

Table of Contents

List of Acronyms	iv
Abstract	vi
Declaration	vii
Acknowledgments.....	viii
1. Introduction: Discourse on the NTER	1
1.1 Stabilise, Normalise and Exit	1
1.2 Thesis aim, arguments and research questions.....	6
1.3 Main theoretical and methodological approaches	9
1.3.1 Critical Race Theory (CRT).....	9
1.3.2 Critical Discourse Analysis (CDA)	10
1.3.3. Critical Race Discourse (CRD).....	11
1.3.4 Sources employed in this thesis	12
1.4 Main ethical imperatives	13
1.5 Thesis chapter outline.....	14
2. Literature Review	17
2.1 The Northern Territory Emergency Response	17
2.2 Neoliberal discourse	19
2.2.1 Defining neoliberalism	19
2.2.2 Neoliberalism and the Northern Territory Emergency Response	20
2.3 Critical Race Theory: A disruptive narrative	28
2.3.1 Applying CDA with CRDA and CRT	33
Table One: Aspects of a CRD	37
2.4 Critiques of the NTER.....	38
2.5 Indigenous social problems and the 2006 Lateline broadcasts	46
2.6 Methodology	49
2.7 Method	50
2.8 Conclusion.....	51
3. Representations of Indigenous ‘social problems’	54
3.1 Discourse on the NT	54
3.2 The representation of Indigenous social problems in government publications	56
3.2.1 Key recommendations from government-commissioned and government department publications.....	62
3.2.2 The counter-discourse in government department and commissioned reports.....	68
3.3 Non-government research on Indigenous social problems	70
3.3.1 A counter-discourse to non-government research	74
3.4 Judicial and coronial reports	74
3.5 Indigenous commentary	77
3.7 Conclusion.....	81
4. The impact of the 2006 <i>Lateline</i> broadcasts.....	83
4.1 The Crisis	83
4.2 Media discourse on Mutitjulu	85
4.2.1 The <i>Lateline</i> broadcasts, 2006	85
4.2.2 Challenging the racialised narrative about Mutitjulu.....	97
4.2.3 The continuation of a racialised media discourse of Mutitjulu.....	98
4.2.4 Counter-discourse to the <i>Lateline</i> stories.....	100
4.3 Australia’s media reaction to the racialised Lateline narratives.....	102
4.4 The Australian Federal Parliament’s reaction to the Lateline broadcasts	108
4.5 Conclusion.....	111

5. The <i>Little Children Are Sacred</i> Report.....	113
5.1 Representations of Indigenous peoples, communities and culture	113
5.2 The normalised narrative.....	114
5.2.1 Neglect and a lack of support for Indigenous affairs.....	115
5.2.2 The Martin discourse on addressing Indigenous ‘social problems’.....	118
5.2.3 Disrupting the Martin Government discourse.....	119
5.3 The Inquiry.....	121
5.3.1 The pre-NTER ‘mini-interventions’	123
5.4 The Little Children Are Sacred Report findings	127
5.5 The Little Children Are Sacred Report recommendations	134
5.6 Conclusion.....	142
6. Integration and Racialised Discrimination: Stabilise, Normalise, Exit.....	144
6.1 Introduction	144
6.2 The Northern Territory Emergency Response: ‘Stabilise, Normalise, Exit’	145
6.3 Representations of Indigenous communities as dysfunctional.....	154
6.4 Representations of Indigenous communities in ‘crisis’	159
6.5 Representations of Indigenous communities as a threat to children	165
6.6 Representations of welfare as the problem.....	171
6.7 Privileging Indigenous responses to the NTER	177
6.8 Conclusion.....	183
7. Conclusion.....	185
7.1 Introduction	185
7.2 Background to the NTER policy	186
7.2.1 Negative narrative on Indigenous people led to the an integrationist approach	186
7.2.2 Key problems with the ‘solution’	186
7.2.3 Focus on the additional problem: government motivation	187
7.3 Integration and the Howard Government’s Indigenous policy approach	188
7.4 The racialised representation of Indigenous communities, people and culture	188
7.5 The continuing of the NTER post Howard Government	190
7.6 Ten years since the imposition of the 2007 NTER	192
7.7 Original contribution to the academic debate on the NTER	197
7.8 Recommendations for future research.....	198
7.9 Conclusion.....	201
8. References	203

List of Acronyms

ABC	Australian Broadcasting Corporation
ABS	Australian Bureau of Statistics
AIATSIS	Australian Institute of Aboriginal and Torres Strait Islander Studies
ALP	Australian Labor Party
ALRA	Aboriginal Land Rights (Northern Territory) Act 1976
APONT	Aboriginal Peak Organisations of the Northern Territory
ATSIC	Aboriginal and Torres Strait Islander Commission
BBC	British Broadcasting Corporation
CAAC	Central Australian Aboriginal Congress
CAEPR	Centre for Aboriginal Economic Policy Research
CAT	Child Abuse Taskforce
CAT	Centre for Appropriate Technology
CATSI	Corporations (Aboriginal and Torres Strait Islander) Act 2006.
CDA	Critical Discourse Analysis
CDEP	Community Development Employment Projects
CDP	Community Development Programme
CEDAW	Convention on the Elimination of Discrimination Against Women
COAG	Council Of Australian Governments
CRWMA	Commonwealth Radioactive Waste Management Act
CRDA	Critical Race Discourse Analysis
CRD	Critical Race Discourse
CRoC	Convention on the Rights of the Child
CRT	Critical Race Theory
CSA	Child Sexual Abuse
CTG	Closing the Gap
CTGID	Closing the Gap of Indigenous Disadvantage: A Generational Plan of Action
DEET	Department of Employment, Education and Training
DHCS	Department of Health and Community Services
FACS	Department of Family and Community Services
HACC	Home and Community Care

HREOC	Human Rights and Equal Opportunity Commission
LCAS	Little Children are Sacred
MP	Member of Parliament
NACCHO	National Aboriginal Community Controlled Health Organisation
NACLC	National Association of Community Legal Centres
NGO	Non-government organisation
NPY	Ngaanyatjarra, Pitjantjatjara and Yankunytjatjara
NTER	Northern Territory Emergency Response
NT	Northern Territory
PHC	Primary Health Care
PM	Prime Minister
QC	Queen's Counsel
RCIADIC	Royal Commission into Aboriginal Deaths in Custody
RJCP	Remote Jobs and Communities Program
SA	South Australia
SMH	Sydney Morning Herald
SRAs	Shared Responsibility Agreements
STEP	Structured Training Employment Projects
STI	Sexually Transmitted Infection
US	United States
WA	Western Australia
UK	United Kingdom

Abstract

This thesis analyses the Howard Government's Northern Territory Emergency Response (NTER) policy. It was announced on 21 June 2007 and enshrined in legislation on 16 August 2007 over 73 prescribed Indigenous communities in the Northern Territory (NT) (Altman 2007c, p. 8). The thesis draws on Critical Race Discourse (CRD) analysis which encompasses three key tenets of Critical Race Theory (CRT): the permanence of racism, social justice and racialized narratives. It examines these narratives as significant and telling of racist discourse in Australia but also embraces the positive aspects of Indigenous culture and communities.

The thesis examines the background to the development of the policy and government and non-government publications with an emphasis on the representation of Aboriginality. In addition, it considers the racialised framing of social problems in Indigenous communities in the NT. Furthermore, it assesses the continuation and (re)production of this frequently destructive discourse in the Howard Government's approach to Indigenous policy.

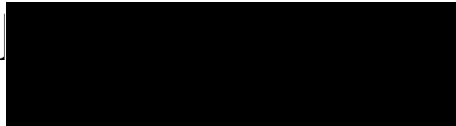
In 2006, the media reported on allegations of Indigenous child sexual abuse and violence toward women in Central Australia. The thesis also investigates the significance of the media narratives and the response of the NT Government in announcing an Inquiry into the Protection of Aboriginal Children from Sexual Abuse in 2006. This is achieved by analysing the representation of Indigenous people, communities and culture in the Australian media and the continuation and (re)production of an Indigenous social problems discourse. The NTER policy was developed following the *Little Children are Sacred* (LCAS) report that presented the findings of the Inquiry. The NTER policy was developed as a response to this report and subsequent media discourse.

This research includes a critical analysis of the LCAS report and the NTER. It compares the key themes and recommendations from the report and the policy, as well as representations of Indigenous people, culture and communities. The thesis focuses on the racialised discourse surrounding the NTER and the representation of Indigenous people and communities by then Prime Minister (PM) John Howard, and Mal Brough, the then Minister for Indigenous Affairs.

Declaration

This thesis presents work carried out by myself and does not incorporate without acknowledgment any material previously submitted for a degree or diploma in any university; to the best of my knowledge it does not contain any materials previously published or written by another person except where due reference is made in the text; and all substantive contributions by others to the work presented, including jointly authored publications, are clearly acknowledged.

Andrea Velardi



20/04/17

Acknowledgments

I would like to thank my supervisors Associate Professor Peter Gale, Dr. Julie Fenley and Professor Andrew Gunstone for their ongoing support and advice. Peter and Julie were able to take over as my main supervisors in the later stages of my project while Andrew was main supervisor in the early stages of my PhD. As such, they continued to provide comprehensive and helpful feedback during this time to my submission.

I began my doctorate at Monash University. I left Monash, where I was a student for seven years, to continue my PhD at UniSA. While I was at Monash during the early stages of my project, I was supported from a number of lecturers and HDR students, including Robyn and Sadie Heckenberg and Elise Wedrowicz. I was supported through employment as a sessional tutor, lecturer and through their helpful advice about my project. This provided me with excellent assistance.

I was awarded an Australian Government Research Training Program Scholarship at UniSA. As I was nearing the end of my PhD, the David Unaipon College of Indigenous Education and Research (DUCIER) was disestablished. However, I acknowledge the support of DUCIER. I would like to thank the HDR group, other DUCIER staff and my friends and family who supported me throughout many challenging and difficult times.

My time at UniSA was made so much more manageable with the help and support from the HDR group, which comprised of Annmarie Reid, Sheelagh Daniels-Mayes, Karen Sinclair, Skye Akbar, Julie Cartlidge and Kristina Sehlin Macneil. Their words of wisdom, the friendships that were formed, and the rich research environment that was created there is something I will never forget. Sheelagh, I would like to thank you personally for your comments and support with my final chapters. This helped me immensely.

Finally, but most importantly, I would like to thank my parents, Frank and Jenny, for their love, support and encouragement throughout my PhD and to my two younger brothers, Riccardo and Eduardo, for being there when the times got tough. I dedicate this PhD to them.

1. Introduction: Discourse on the NTER

1.1 Stabilise, Normalise and Exit

The Northern Territory Emergency Response (NTER) legislation was introduced by the Federal Liberal and National Coalition Government by Prime Minister (PM) John Howard in 2007. The stated aim was to address alleged Indigenous child sexual abuse in Indigenous communities in the Northern Territory (NT) of Australia.¹ This policy was implemented in response to the Northern Territory Government's *Little Children are Sacred* report (LCAS). The LCAS report was the result of a Board of Inquiry led by Pat Anderson and Rex Wild, commissioned by the NT Government in 2006 following intense media scrutiny of alleged Indigenous social problems in communities such as Mutitjulu, in Central Australia.² However, the NTER, commonly referred to as the NT Intervention (Hemming 2010, p. 438), was much broader than the recommendations of the LCAS report, including the compulsory acquisition of Indigenous land and the linking of welfare payments to school attendance.

Following the release of the LCAS report, the Howard Government declared a state of emergency in NT Indigenous communities and consequently was able to send in the military and police to 'stabilise the situation' as part of imposing the NTER policy (Howard-Wagner 2012b, p. 4). The introduction of Federal legislation led to military forces being deployed and targeted 500 or more 'prescribed areas' of Indigenous communities, including 73 larger settlements. These communities were on land which had been recognised under the *Aboriginal Land Rights Act (NT) 1976*, as well as in Indigenous communal living areas and town camps (Yu, Duncan & Gray 2008, p. 9). There was an increase in police numbers in Indigenous communities (Scullion 2007). Medical practitioners, among other professionals, were encouraged to offer their time and knowledge throughout these communities (Hinkson 2007, p. 2). The initial rollout of the Intervention into communities came as a surprise to Indigenous peoples living in them as individuals were not informed of the federal government plan prior to entering these areas.

¹ The NTER acronym and the Intervention will be used interchangeably throughout this thesis to represent the entire legislative package. The term Indigenous peoples, which represents all Aboriginal, Torres Strait and Tiwi Islander peoples, will be used throughout this thesis. This is to illustrate the diversity of the First Nations peoples and groups of Australia that have continuously owned or occupied what is now known as Australia. The term Indigenous will be used when discussing Indigenous social policy from a governmental point of view. Both the terms Aboriginal and Indigenous are also utilised in direct quotes. It should be noted that when I have referred to a name of a community or of a language group, this is to respectfully indicate which Indigenous nation in Australia I am specifically discussing.

² The Aboriginal community of Mutitjulu is situated in the Central Australian region in the Northern Territory within the Uluru-Kata Tjuta protected area and is comprised of Pitjantjatjara and Luritja people, among other Aboriginal groups (AIATSIS 2016).

On 25 June 2007, John Howard described the alleged abuse and violence in remote communities as Australia's Hurricane Katrina, which needed urgent action. He stated, 'we have our Katrina, here and now' (Howard 2007b, p. 70).³ Langton (2007, p. 13) notes that the NTER was subsequently described as '...the most extraordinary federal takeover in Australia's history'. This indicated that previous federal governments had not adopted such a radical approach of intervening to 'takeover' part of another jurisdiction in Australia's history. This thesis assesses the representation of Indigenous communities in the NT as abusive and violent environments. It considers whether the Howard Government's NTER policy of 2007 was racialised and integrationist in nature and was a reflection of the view that Indigenous culture was inferior to 'Western' culture.

To introduce the NTER, the Howard Government suspended Australia's *Racial Discrimination Act* 1975 (RDA) on 16 August 2007 (Altman 2007c, p. 8). Other laws were also affected, including the Aboriginal Land Rights (NT) Act 1976, and the Native Title Act 1993 (Cth) which were discontinued in order to forcibly obtain Indigenous land (Gray, S 2015, p. 35). The Federal Government had already amended the Aboriginal Land Rights (NT) Act 1976 in 2006 to allow for 99-year lease schemes, which provided essential services in exchange for leases on Indigenous land (Nicholson 2010, p. 8). The nature of these leases permitted non-Indigenous peoples to relocate onto Indigenous communal land and establish businesses and dwellings (Native Title Report 2006). The suspension of the RDA by the Federal Government and introduction of the NTER in areas under NT jurisdiction heralded a significant shift in Federal relations with the NT. Nonetheless, Australia's Constitution contains a 'special laws' clause (Langton 2002b, p. 32), which permits the Federal Government to intervene in the governance of the NT (Altman 2007c, p. 2). This clause gave the Federal Government the constitutional power to impose the NTER policy.

By suspending the RDA, the Federal Government removed the prospect of legal challenges being mounted that claimed that the Intervention discriminated against Indigenous people on the basis of 'race' (Partridge 2014, p. 16). The suspension of the RDA allowed the introduction of legislation targeting Indigenous peoples. It linked 'race' with the government's intended social policy, thus contravening human rights (Altman 2007c, p. 8). The emphasis on 'race' has historical roots in the nineteenth-century and described and categorised groups of human beings based on physical attributes, and later on ethnic or

³ The cyclone titled Hurricane Katrina struck the south coast of the United States (US) in 2005, having a devastating impact on New Orleans, which resulted in the US Government declaring an 'emergency response' (Moynihan 2009 p. 2).

cultural characteristics (Hollinsworth 2006, p. 24).⁴ In making use of this concept, the Howard Government suggested that as a group, Indigenous people were an inferior ‘race’ to the rest of the non-Indigenous population in Australia.

In the initial announcement of this policy, there were eleven special measures within five legislative documents, which encompassed welfare reform through to alcohol and pornography restrictions. The measures were highly complex in their application, management and organisation: the policy spanned Federal and Territory jurisdictions and crossed ministerial portfolios, including a minimum of ten Federal Government agencies in the first year (Partridge 2014, p. 14). It continued to be applied by Labor and Liberal-National Federal Governments under different leaders. The special measures passed in the House of Representatives on 7 August 2007 (Hinkson 2007, p. 2), ten days after their introduction in Parliament and following a brief ‘second reading debate’ (Manderson 2008, p. 239). They were then referred to the Senate Standing Committee on Legal and Constitutional Affairs.⁵ Following the tabling of the report from this Committee, the NTER Bills were introduced and passed in Parliament with two-party backing through the support of the Labor opposition on 17 August 2007 (Cameron 2011, p. 73; Manderson 2008, p. 239). A further NTER policy announcement by the Federal Government indicated that the Community Development Employment Projects (CDEP) would also be abolished. The abolishment of this scheme meant that a total of twelve special measures had been introduced, and welfare reforms were also to take place in four Cape York Aboriginal communities in the Australian State of Queensland (Calma 2009, p. 18).

This policy sought to ‘stabilise, normalise, and exit Aboriginal communities’ (Altman & Hinkson eds 2007). The push for stability allowed for an additional police presence in these communities (Scullion 2007, p. 20, 25, 31), a key facet of the law and order approach of the NTER. The ‘stabilise and normalise’ theme was linked with ‘race’. The Government suggested that Indigenous communities needed to be normalised to make them safe, arguing that Indigenous people could become like ‘mainstream’ Australians and integrate into the

⁴ From an historical 19th century standpoint, this hierarchical positioning of ‘race’ viewed Indigenous peoples as inferior and situated them as primitive, in the bottom-most stage of evolution. They were compared to ‘savages’, while Europeans were seen as being ‘civilised’ (Evans, Saunders, Cronin 1988; Morris 1989).

⁵ This Committee had less than a week to study the NTER legislation and only one publicly held meeting was undertaken through a hearing in the Senate (Calma 2009, p. 28; Behrendt 2015a, p. 68). The Committee received 154 submissions, from government and non-government individuals and organisations (Standing Committee on Legal and Constitutional Affairs 2007, pp. 81-85). It recommended that the legislation pass, but suggested that annual monitoring should take place, and a full appraisal be undertaken after 24 months (Hinkson 2007, pp. 2-3). However, little public debate occurred before the legislation went before the Senate (Watson, I 2009, p. 3). The legislation was not scrutinised over a prolonged period of time, with only the Greens, Democrats and some NT Labor Party parliamentarians analysing the bills (Behrendt 2015a, p. 68).

‘mainstream’. At the same time, the Government advocated for individual enterprise and responsibility. Indigenous people were to be required to make individual contributions to the mainstream economy by obtaining employment.

The NTER policy has been linked to law and order, with a focus on creating a space for a mainstream economy to flourish through business ventures. As Cameron (2011, p. 85) highlighted, the underlying design of the policy was centred on restoring law enforcement. Howard-Wagner (2010, p. 79) similarly alluded to the policy being constructed to reinstate communal lawfulness by creating a feasible culture centred on building individual businesses and economic structures. Fundamentally, the Government’s emphasis on law and order reveals that these Indigenous communities were viewed as inferior and in need of modification. This ‘stabilise, normalise and exit Aboriginal communities’ theme is a key focus of this thesis.

The Howard Government not only adopted a law and order approach with the NTER, they also favoured a policy agenda centred on a free market economy (Ferro 2008, p. 2; Moreton-Robinson 2009). Indigenous people would be expected to have occupational skills and to invest in the economy through private home ownership. This would be made possible by accessing Indigenous land. Indigenous people living on this land through Native Title, were deemed to not be utilising it in a way that linked with the approach the Federal Government advocated for. Thus, they would now be encouraged to entirely understand the monetary potential of the land and increase its output (Howard-Wagner 2012a, pp. 235-236; Watson, I 2009b, Tilmouth 2007; McMullen 2013b, p. 2). These ideas about economic contribution form a core theme throughout the research.

Following the announcement about the NTER, there were positive, negative and ambivalent reactions from Indigenous and non-Indigenous peoples about the NTER. The Indigenous response included researchers such as Marcia Langton and Larissa Behrendt (Willis 2012, p. 88; Karvelas 2008a, p. 2; Behrendt, 2008, p. 13) and communities directly affected by this policy (see for example, Price, cited in Jones 2011, p. 10). The responses to the NTER by Indigenous peoples are included in the discussion and analysis of this dissertation.

The Australian media widely reported on this announcement and plan for the Howard Government to intervene (see for example, Schubert, Murdoch, Marriner & Westerman 2007, p. 1; Schubert, Murphy, Murdoch, Smiles & Rood 2007, p. 1). In addition, considerable public debate – much of which was reported in the Australian media – focused on the shift in public policy. The NTER was criticised by members of the public and

academia as assimilationist in its agenda, as a 'land grab', and as racially discriminatory (see for example, Kunoth-Monks 2016, p. 12). Similarly, as Stephen Gray (2015, p. 27) argued, the '...legislation was widely regarded as incompatible with international human rights law standards and practices'. The sudden intervention by the Howard Government focused attention on the perceived crisis and the associated claims to 'save the children' (Watson, N 2009, p. 12). Gray also notes that there was a disconnect between the special measures which formed the basis of the NTER policy and the advancement of human rights, as under human rights law special measures should provide a positive benefit to those that are going to be affected by them (Gray, S 2015, p. 29; Hunyor 2009, p. 39). There were criticisms from Indigenous peoples and the wider community about '...the incompatibility of the Intervention with the RDA and the broad exemptions of the Intervention from the RDA' (Gray, S 2015, p. 31).

Altman (2007b), Cowlshaw (2012, p. 397) and Gibson, P (2009b, p. 8), among others, argue that the Intervention linked with the past policy approach of assimilation. 'Voluntary' assimilation, or integration, was widely supported by the Howard Government, with Indigenous culture being represented as inferior and Indigenous peoples being encouraged to leave their communities, abandon their culture, and move into the mainstream (Dodson 2007b, p. 22). This policy approach had similarities with the colonial administration in Indigenous reserves annexed through the various 'Aborigines Acts' by the power vested in Aboriginal protectors, with the focus on the 'total absorption into mainstream Australia culture' (Watson, I 2015, p. 116). However, Langton points out that culture does not need to be sacrificed for the purpose of economic development (Langton 2002a, p. 21). This integration narrative is built on throughout this thesis.

The introduction of the NTER legislation impacted significantly on education and employment schemes such as the Community Development Employment Projects (CDEP). It saw changes to other welfare schemes, as well as to Native Title. The legislation placed pressure on some Indigenous peoples to integrate into the mainstream, while at the same time promoting a narrative that stigmatised communities, labelling Indigenous peoples as irresponsible parents, addicted to pornography and alcohol. Although the incursion of military, police and welfare personnel into communities is no longer evident, the racial and interventionist thinking behind the NTER remains in the current Stronger Futures legislation which was introduced by the Gillard Government on 1 July 2012 (Gray, S 2015, p. 6, 9). The Stronger Futures legislation continued to be based on 'race', particularly the inclusion of income management, even though the legislation does not directly mention 'race' or ethnic

background (Gray, S 2015, p. 35). As such, this legislation continues to intervene in the lives of Indigenous peoples in the NT. This thesis is limited to the Howard Government years, from 1996 leading up to the NTER in 2007. This eleven-year period provides a significant opportunity to assess the period up to the passing of racially-based and integration-based legislation that continues to inform government policy today. It explains why the Howard Government waited eleven years to impose a racialised integration-based policy, contrary to past government and non-government publications that did not support this policy approach.

1.2 Thesis aim, arguments and research questions

This thesis focuses on the lead-up to the Howard Government's NTER policy in 2007 and examines the key discourse of the then PM John Howard and Indigenous Affairs Minister, Mal Brough.⁶ The thesis explores the level to which the Howard Government, but in particular John Howard and Mal Brough, were engaging in a racialised and integrationist discourse that continued to (re)produce and represent Indigenous communities as being inferior. Goldberg stated that racialised discourse pervades not only descriptive representation but also institutional structures:

... racialised discourse does not consist simply in descriptive representations of others. It includes a set of hypothetical premises about human kinds (e.g. the 'great chain of being', classificatory hierarchies, etc.) and about differences between them (both mental and physical) ... And it incorporates a set of institutional regulations, directions and pedagogic models (e.g. apartheid, separate development, educational institutions, choice of educational and bureaucratic language, etc.). (Goldberg 1993, p. 47)

The thesis explores to what extent the NTER policy is reflective of racialisation and integration. This question draws on Critical Race Theory (CRT) (Gray & Beresford 2008; Delgado & Stefancic 2001; DeCuir & Dixson 2004, p. 26; Ladson-Billings 1998; Brayboy 2006). This is a theory that centres on the analysis of the intersection of 'race, racism and power' (Writer 2008, p. 2). Moreover, the thesis utilises Critical Race Discourse Analysis (CRDA) which was framed by merging CRT and Critical Discourse Analysis (CDA) to recognise the understandings and stories of minority people (Briscoe & Khalifa 2015, p. 742). The universal phrase used throughout the thesis to define these approaches is Critical Race Discourse (CRD). These influential approaches form the basis of the research methodology that is discussed further in subsection 1.3 of this chapter and in Chapter Two, subsection 2.6 and 2.7.

⁶ John Howard was the PM of Australia from 1996-2007 and Mal Brough was the Minister for Indigenous Affairs (2006-2007) in the Federal Government.

This research addresses two primary questions, drawing on CRD and the concepts of ‘race’ and racialisation, while also allowing insights into representations of Indigenous peoples and the ‘solutions’ put forward on their behalf. This approach guides the main arguments throughout this dissertation, focusing on the following questions:

- 1) Why did the Howard Government suddenly design and implement the NTER in 2007 in Indigenous communities in the NT?
- 2) What can be observed by assessing the racialised and integrationist discourse around this policy by the Howard Government — how were Indigenous communities being represented by Prime Minister John Howard and the Minister of Indigenous Affairs, Mal Brough at the time?

A number of secondary questions elaborate on the key themes originating from the primary questions. These are:

- 1) Why did the Howard Government ignore past recommendations from government and non-government reports? And why did the Howard Government wait until 2007, after being in power for eleven years, to impose the NTER – even though it had access to these past findings and recommendations?
- 2) How significant were the *Lateline* broadcasts about Mutitjulu in shaping reactions from the Australian media, the NT Government and Federal Parliament? And, how were Indigenous culture, communities and people perceived in these *Lateline* broadcasts?
- 3) Did the LCAS findings and myths debunk past representations of Indigenous people, communities and culture? And to what extent did the LCAS report recommendations and guiding principles inform the Howard Government’s design of the NTER?
- 4) Did the LCAS report justify the design and imposition of the NTER?

The Intervention policy advocated for the integration of Indigenous peoples into Australia’s mainstream, in order to normalise their behaviour, so they could obtain a full-time ‘real’ job, as supported by Mal Brough, and contribute to the real economy.⁷ This thesis critiques the policy of integration and employs a theoretical approach that does not endorse the policy and provides a critique of the detrimental aspects of the policy. In utilising the terms integration

⁷ A ‘real job’ can be defined as an individual working in a full-time status in a private context, in turn, contributing to Australia’s economy (Australian Employment Covenant, cited in Altman & Hinkson 2010, p. 197). Mal Brough supported the idea of a ‘real job’ in the ‘real economy’ in Australia when he highlighted this in a speech on 7 August 2007 (Brough 2007h, p. 11).

and assimilation this thesis highlights the intersection between these concepts. This is aligned with Carter's (2006, p. 80) observations about the assimilation policy in Australia, in which the Federal Government endorsed the integration of Indigenous peoples into the mainstream. The concept of integration as a policy stands against self-determination as outlined in the United Nations Declaration of the Rights of Indigenous People (UNDRIP).⁸ Influential anthropologist AP Elkin, who was an early advocate of assimilation but later became a vocal opponent of it, defines integration as 'compatible with assimilation' (Elkin cited in McGregor 2011, p. 103). As such, the concept of integration used in this thesis echoes those ideas behind assimilation policy dating back to 1961, 'emphasising the desired sameness of Aboriginal and other Australians in rights, responsibilities, customs, beliefs, hopes and loyalties' (McGregor 2011, p. 100). As Brayboy, Castagno and Maughan (2007, p. 167) suggest in an educational context which might equally apply to the NTER, governments would impose 'policies that force those who are not like those in power to become more like them or to model themselves after the 'norm''. Generally, adopting the norm involves people entering the mainstream in order to become and act like other citizens that have already done so. However, this would mean adopting mainstream cultural practices to gain equal services and rights and allow Indigenous peoples to be ethno-culturally and economically integrated in Australian society.

The Howard Government sought to incorporate a minority group into an encompassing nation *without* destroying the minority's cultural heritage and collective identity. But, the government would not fully support the retention of cultural beliefs and practices. Moreover, the government did not fully support whole assimilation (i.e. the vanishing of physical differences and obligatory acceptance of 'white' culture). They supported a form of integration which would decrease (but not completely extinguish) Indigenous cultural heritage. As such, the concept of integration recognises 'people's differences and does not expect them to abandon their personal beliefs and practices in order to gain the skills needed to participate in society' (Hudson 2013, p. 174).

Chapter Two includes the discussion, 'Neoliberalism and the NTER', and examines the substantial literature that reflects on neoliberalism in analysing certain aspects of the NTER. Lovell (2012b; 2012c), Partridge (2014) and Macoun (2012) have notably analysed the NTER and the neoliberal nature of this policy. This thesis provides an alternative approach to the examination of the NTER and to the policy by the Howard Government.

⁸ The definition of self-determination in the UNDRIP is provided in Chapter Three.

The level that John Howard and Mal Brough applied a racial discourse and policy approach could be considered to be in line with the concept of a 'racial government'. According to Bessant and Watkinson, this is established from the period when non-Indigenous people settled and began to form 'policy to regulate both the lives of indigenous people as well as the relations between white and indigenous populations' (Bessant & Watkinson 2006, p. 100). For example, the many socially constructed narratives of a racialised government can extend to seeing 'a population in a given political space separated into allegedly distinct groups using race as the criterion for classification' (Bessant & Watkinson 2006, p. 100). This separation referred to by Bessant and Watkinson was most notable when the Howard Government separated and targeted Indigenous peoples as a 'race' of people from the rest of the Australian population, by suspending the RDA to impose the NTER.

1.3 Main theoretical and methodological approaches

This thesis adopts Critical Race Discourse (CRD) a basis for the analysis of the data, drawing on aspects from Critical Race Theory (CRT), Critical Discourse Analysis (CDA) and Critical Race Discourse Analysis (CRDA). These theories have influenced the approach of this thesis, being adopted as a way to analyse the various arguments throughout this dissertation. CRD is useful as its main purpose is to uncover the racialised and integrationist discourse of the NTER policy and how Indigenous people, communities and culture were represented prior to and with the Intervention. These approaches are discussed further in the methodology and method subsections 2.6 and 2.7. The following sections discuss these approaches and how they relate to the Howard Government's NTER policy direction.

1.3.1 Critical Race Theory (CRT)

Critical Race Theory (CRT) is discussed in Chapter Two, however, this section provides an introduction to CRT. It will focus on its origins and what this theory is. In addition, it will provide justifications for its use and the main tenets of CRT that are utilised in this thesis. Within an Australian context CRT '...is a useful construct through which to explain the Howard government's policy in Indigenous affairs between 1996-2007' (Gray & Beresford 2008, p. 214). CRT has been described as focusing:

... on explaining race relations as a manifestation of embedded racism, whites' perception of their colour blindness, the weakness of the liberal state, the primacy of elite economic interests and working-class psychological interests ... [thus] ... teasing out how reconciliation has been undermined in Australia. (Beresford & Beresford, cited in Gray & Beresford 2008, p. 214)

CRT was first developed in the 1970s as an extension of critical legal studies and radical feminism (Delgado & Stefancic 2001, pp. 3-4). CRT seeks to critique the connections between ethnicity, discrimination and control in US society in particular through the associations between 'race', racism and power (Writer 2008, p. 2; DeCuir & Dixon 2004, p. 26; Brayboy 2006, p. 428). Drawing on CRT, the thesis focuses on themes which have a direct bearing on this project. These themes are referred to as tenets and are the titles that are commonly used by CRT scholars in the field. These tenets are: 'racialized narratives as significant and telling' – which also includes counter storytelling, perpetuity of racism and social justice (see for example, Writer 2008; Delgado & Stefancic 2001; Stovall 2006; Crenshaw, Gotanda, Peller, & Kendall Thomas, cited in Griffin 2011; Ladson-Billings 1998; DeCuir & Dixon 2004, p. 27; Delgado & Stefancic 2012, p. 7; Razack & Jeffery 2002, p. 262). These tenets provide the greatest potential to analyse 'race' and racialisation in the period leading up to the imposition of the NTER policy in 2007. They provide a way to analyse a discourse that has been (re)produced by the government that presents Indigenous peoples, communities and culture as being deficient. These tenets provide the opportunity to honour social justice/activism.

Although CRT has predominantly been applied in US contexts, Gillborn (2008, p. 41) has stated that there is no reason why this theoretical framework cannot be applied in other countries. This thesis follows writers such as Rahman (2009), Rudolph (2011), Vass (2013), Kelly (2010), Gray and Beresford (2008) and Ford (2012) by utilising CRT in an Australian context. While the framework is predominantly centred on the US, it can be harnessed and built on to assess perceptions of Indigenous people and the development of Indigenous policy in Australia.

1.3.2 Critical Discourse Analysis (CDA)

The following subsection concentrates on the methodological approach of Critical Discourse Analysis (CDA). According to Fairclough, Critical Discourse Analysis:

... provides a way of moving between close analysis of texts and interactions, and social analyses of various types. Its objective is to show how language figures in social processes. It is critical in the sense that it aims to show non-obvious ways in which language is involved in social relations of power and domination, and in ideology. (Fairclough 2001, p. 229)

This methodology is described by van Dijk as 'dissident research': the study of social power, supremacy and inequity, how they are permitted and repelled in a political context, and how they manifest in text and dialogue. This methodological approach seeks to uncover and work against social inequality (van Dijk 2001, p. 352; Johnstone 2008, pp. 53-63). CDA

concentrates on methods that relate to structures of discourse that ratify, sanction, authenticate, replicate, or contest associations of authority and supremacy in society (Van Dijk 2001, p. 353). In addition, CDA has rightly been regarded by Kress (2003, p. 15) as focusing on the importance of uncovering a system of extreme disparities of power.

CDA, as a qualitative analysis, focuses on people's words or expressions, opinions, beliefs, subjective understandings and feelings in developing an interpretivist epistemological approach (Matthews & Ross 2010, p. 142). This in-depth exploration of primary and secondary source materials places value on how knowledge is obtained through the construction of narratives about Indigenous communities, peoples and culture.

This thesis draws on aspects of Critical Race Discourse Analysis (CRDA) which is formulated by combining CRT and CDA (Briscoe & Khalifa 2015, p. 742). It encompasses CRT and CDA – drawing upon specific language and titles which are commonly used by key and emerging scholars in this field – CRDA identifies the knowledges and narratives of marginal people as valid (Briscoe & Khalifa 2015, p. 742). Applying CRDA to a Critical Race Discourse (CRD) approach adds a significant layer of depth throughout this dissertation. The next section focuses on the theoretical framework of Critical Race Discourse (CRD).

1.3.3. Critical Race Discourse (CRD)

Drawing on the work of Razack and Jeffery (2001) in a social work context, CRD provides a counter narrative to the Howard Government's NTER policy. (CRD is explained more fully in Chapter Two.) It can be defined as an approach that focuses on examining 'race' and racialisation in relation to the NTER and Indigenous social policy more generally. Unlike other theoretical approaches, this framework incorporates both the significance of 'race' and racialisation, and the respect for Indigenous culture and peoples to strengthen their communities (Libesman 2012, p. 190). In addition, the research accentuates the importance of consultation, self-determination and empowerment of Indigenous people and communities. The theory provides a space for marginalised voices to be heard. CRD approach provides a basis for a critique of the racialised and integrationist discourse of the Howard Government, with particular focus on John Howard's and Mal Brough's discourse about Indigenous peoples, communities and culture. This is to analyse a discourse that continued to be (re)produced with the NT Intervention policy. It considers whether the concept of 'race' and racialisation played a key role in the design and imposition of the NTER.

The CRD draws on three tenets of Critical Race Theory (CRT), including the ‘permanence of racism’, ‘racialized narratives as significant and telling (which also comprises of counter storytelling)’ and ‘social justice/activism’. This approach is elaborated on in Table One. Moreover, Critical Race Discourse Analysis (CRDA) — which combines Critical Discourse Analysis (CDA) with CRT. These theories and concepts provides a counter discourse and builds on past frameworks for analysing Indigenous policy in the Australian context.

According to Brown and Yule (1983, p. 1) ‘...the analysis of discourse is, necessarily, the analysis of language in use’. The discourse on the NTER policy and Indigenous communities – and the language used by John Howard and Mal Brough in shaping this policy – forms a large component of Chapter Six, in particular. Critical Discourse Analysis was utilised by Macoun (2012), Lovell (2012c) and Partridge (2014) in their research on the NTER. This thesis builds on this method of analysing this policy. This research combines the tenets of CRT and Critical Race Discourse Analysis (CRDA) as a basis for the examination of the data. This enables my research to review the representations of an Indigenous social problems discourse and the impact of the 2006 *Lateline* broadcasts. It informs analysis of the LCAS report and its representation of Indigenous peoples, communities and culture, with a focus on integration and racialisation within the NTER policy.

1.3.4 Sources employed in this thesis

A range of primary and secondary sources which are discussed in subsection 2.6 and 2.7, form the foundation for the methodology and theoretical approach. The primary source material includes key speeches from Australian political leaders and legislation in Hansard and online, television, print media, newspaper articles, government and non-government publications and radio transcripts. These research materials date from the lead-up to the NTER to when the Howard Government lost power in November 2007. An afterword in Chapter Seven also examines materials dating from the period of Kevin Rudd’s and Julia Gilliard’s leadership in 2007-2012 to highlight the extent to which these racially-based policies continued when the Australian Labor Party was in office.

This thesis also draws upon secondary source material, including books, book chapters, journal articles and websites. This secondary data published before and after the imposition of the NTER covers a range of relevant areas, including political philosophies such as neoliberalism and CRT. This material concentrates on a more prolonged period of time as commentators continued to analyse the 2007 NTER. This literature provides diverse viewpoints and arguments in relation to the 2007 Intervention. Unlike other commentaries,

this thesis focuses on CRT to examine the key discourse from May 2006 – November 2007. In particular, the analysis focuses on John Howard and Mal Brough's understanding of the NTER, the rationale behind their decision to intervene, and their perception of Indigenous communities and culture.

1.4 Main ethical imperatives

In undertaking this research project, there are several ethical considerations to be observed. In discussing these factors, I should firstly note the reasons for undertaking this research and why I focused on this topic. In 2008, I became interested in the NTER and the legislative parameters of this policy which responded only to cases of alleged abuse within Indigenous communities in the NT. This continued to interest me several years later, and in 2012 became the focus of research for my doctoral dissertation. As I began this research it became apparent that there were key themes of 'race', racialisation and integration which required further investigation.

In positioning my research, I have drawn upon Martin Nakata's description of Indigenous standpoint theory as a 'distinct form of analysis' that is 'both a discursive construction and an intellectual device to persuade others and elevate what might not have been a focus of attention by others' (Nakata 2007, p. 214). Moreover, it contains important principles that refer to '...a specific societal position, the result of one's field of experience, which serves as a subjective vantage point from which persons interact with themselves and the world' (Orbe 1998, p. 26; Allen, Armstrong, Riemenschneider & Reid 2006; Harding 2004). The theory holds that if there is a strong focus on the experiences of marginalised groups, then more of an understanding about the view of the production of knowledge, relations and social conditions can take place (John 2011; Swigonksi 1994). Standpoint theory provides a framework, then, to understand perspectives of both '...nondominant and dominant group members, develop from their daily – often indiscernible, but nonetheless meaningful-activities' (Orbe 1998, p. 28).

Based on these definitions, there is a need to highlight that I am a non-Indigenous Australian-born person with Italian/New Zealand heritage undertaking research within Aboriginal studies. I acknowledge the privileged position I have as a non-Indigenous researcher. Foley (2008, p. 116) suggested that while post-modern discourse promotes the importance of acknowledging diverse voices of minority groups, 'it is a white Anglo Euro-centric and middle class voice that dominates this literature'. I am also aware of various academic

viewpoints in relation to Indigenous people and research, and of the sometimes negative connotations of research activities. Linda Tuhiwai Smith highlights this:

From the vantage point of the colonized, a position from which I write, and choose to privilege, the term ‘research’ is inextricably linked to European imperialism and colonialism. The word itself, ‘research’, is probably one of the dirtiest words in the indigenous world’s vocabulary. (Tuhiwai Smith 1999, p. 1)

I have taken care not to speak for Indigenous communities and peoples, or to claim universal knowledge (Moreton-Robinson 2004). In line with Tyson Kaawoppa Yunkaporta, of Nunga and Koori descent, ‘the protocol we follow in this work is, ‘if you take something, put something back’’ (Yunkaporta & Kirby 2011, p. 205). This line of thinking and application to my research will be touched on again in the conclusion of this thesis.

It should be noted that the Indigenous viewpoints presented throughout this thesis are not representative of the views of all Indigenous peoples. There are a number of differing perspectives within Indigenous communities that were and have been deliberately ignored with the introduction of the NTER. Although the voices of Indigenous peoples were heard throughout the publication of the LCAS report, as highlighted in Chapter Five of this thesis, they were wholly ignored with the design of the NTER. Following the introduction of the NTER, influential Indigenous leaders such as Marcia Langton, Noel Pearson and Aileen Moreton-Robinson, among others, indicated support for and strong resistance to the NTER respectively. Importantly, however, the Indigenous leaders I have referred to in this thesis do not speak for all Indigenous people.

As a non-Indigenous researcher, the investigation strives to listen to the voices of both sides, and to give something back to Indigenous communities from this research. The study includes a variety of Indigenous and non-Indigenous authors from a range of disciplines and in a variety of formats. This gives a more diverse viewpoint about the areas under discussion. It enables the thesis to benefit from the multi-disciplinary academic disciplines of history, politics, law and sociology as it considers the narratives and discourse behind the NTER.

1.5 Thesis chapter outline

This thesis is divided up into five chapters which are linked to the aims and key arguments as previously presented in this chapter. Chapter Two reviews research that relates to this research topic. It includes a section on Neoliberalism and the NTER, Critical Race Theory (CRT), a discussion about the methodological approaches utilised in this thesis as well as the main methods that are employed, critiques of the NTER, Indigenous social problems and the *Lateline* broadcasts, and also reviews existing research in this field. There has been a limited

research focus on CRT and its application to the NTER, Indigenous social problems and the *Lateline* broadcasts, while a CRD framework was formulated to build on past studies of the Howard Government's NTER policy.

Chapter Three focuses on an investigation of numerous publications from government and non-government departments from 1996 to 2006. These reports aimed to address a variety of social problems in Indigenous communities in the NT. However, in doing so, these publications continued to (re)produce a discourse representing Indigenous communities, peoples and culture as being inferior to mainstream Australia. Chapter Three examines these recommendations to determine if they were aligned with an integration approach to Indigenous policy. This chapter examines Indigenous affairs policy from governments of any persuasion.

Chapter Four of this thesis analyses the 2006 interest in social problems – predominantly in the Mutitjulu community – by the Australian Broadcasting Corporation (ABC) program, *Lateline*. These sensational reports ignited debate involving the media, politicians, and public servants in the NT and across Australia. These reactions are analysed, as well as the extent to which these broadcasts perceived Indigenous communities, peoples and culture in negative terms. The chapter questions whether the media broadcasts played a pivotal role in drawing attention to Indigenous issues. It considers if *Lateline* shaped media and Federal Parliament reactions which in turn led to the NT Government responding with an Inquiry into the Protection of Aboriginal Children from Sexual Abuse.

In August 2006, the NT Labor Government commissioned an Inquiry into the Protection of Aboriginal Children from Sexual Abuse. This resulted in the *Little Children are Sacred* (LCAS) report. Chapter Five includes an analysis of this report and compares it with previous reports, assessing how Indigenous people, communities and culture were being represented. This research examines the NTER in relation to the LCAS report recommendations. It uses a social justice perspective based on a CRD framework. It considers whether the recommendations from the LCAS were utilised with the design of the NTER policy and if not, why.

Chapter Six provides a discursive study of the NTER legislation and the twelve special measures included in the NTER policy, along with discussion on public debate surrounding the announcement and implementation of the NTER. This chapter examines the key discourse of John Howard (PM) and Mal Brough, the Indigenous Affairs Minister, to determine whether there were negative representations of Indigenous communities and why they

intervened with the NTER policy. This will be achieved by drawing upon a CRD framework to consider how a discourse continued to negatively (re)produce Indigenous peoples as inferior. This chapter examines responses to the NTER from Indigenous peoples by drawing on a CRD framework.

Chapter Seven is the conclusion of this thesis. It determines how Indigenous communities were being represented in the discourse on the NTER policy, and if the Howard Government did not support government recommendations to address Indigenous social problems in NT communities in the lead-up to the NTER in 2007. It emphasises the significance of the *Lateline* broadcasts in gaining reactions from politicians and the media, and how Aboriginality was represented. A brief but informative focus on the NTER policy under the Labor Governments of Kevin Rudd and Julia Gillard is also included. In addition, included is a critique of the effectiveness of the NTER policy ten years after its introduction. I summarise the academic debate this thesis has made on the NTER and provide recommendations for future research, as well as reflect on the theoretical and methodological approaches employed throughout this dissertation. Finally, the thesis draws together the findings relating to alternatives to designing Indigenous policy in the NT in order to challenge the dominant NTER story. This is provided as a counterstory to the Howard Government's integration-based policy approach.

2. Literature Review

2.1 *The Northern Territory Emergency Response*

The Northern Territory Emergency Response (NTER) was a controversial policy imposed by the Federal Government of John Howard (1996–2007) on 73 prescribed Indigenous communities in the Northern Territory (NT) of Australia (Thill 2009, p. 537). It impacted upon 45,500 Indigenous people in the NT (Yu, Duncan & Gray 2008, p. 9).

Since the implementation of the policy in 2007, there has been considerable debate about its benefits, its continuation by the two succeeding Federal Governments, and its initial design and application. This debate has featured both positive and negative responses from Indigenous and non-Indigenous people in the public, the media, government, and academia. Some of this debate centred on the denial of rights to Indigenous people and saving Indigenous children from sexual abuse. Various reactions by Indigenous people about the NTER have been published, arguing that the policy was not supported as a whole, that there was support for more funding regarding housing and law and order, and that there was insufficient support for income management and ending the Community Development Employment Projects (CDEP) scheme. Some Indigenous leaders have contended that the policy was racially discriminatory and that it denied rights to Indigenous peoples.

This chapter reviews some of the varying debates and views from Indigenous people about the NTER. Voices against the NTER have focused on how the policy was ideologically-driven, race-based, and restricted rights. A lack of connection is perceived between the majority of the recommendations of the *Little Children are Sacred* (LCAS) report and the NTER. Questions were raised as to why it was really imposed and whether there was a hidden government agenda.⁹ This is considered further in Chapter Five. But not all responses to the NTER were negative. By way of an example, Bess Price, an Aboriginal leader from Central Australia, supported the NTER and illustrated its ongoing positive effect for women in some Indigenous communities (Price, cited in Jones 2011). An analysis of this response, including some negative and ambivalent Indigenous views, will feature in Chapter Six. Contrasting with Bess Price, an Arlparra/Utopia based resident did not support the NTER, stating that:

⁹ Evidence suggested that there was either a restricted link made between the recommendations in the LCAS report, or no reference to them at all in the NTER (National Association of Community Legal Centres [NACLC] 2010, p. 4; Tait 2007, p. 619). Cameron (2011, p. 78) also raised that there was no connection to the protection of children and the Intervention and Muriel Bamblett (cited in Maddison, 2008, p. 45) stated that the words ‘child’ or ‘children’ were not present in the NTER legislation. This certainly draws attention to the possibility that the Howard Government operated from a hidden political and economic agenda in the NTER policy, with a limited connection to the recommendations about protecting children.

We're the first Australians! And we will not lie down and take orders when we are not committing a crime. What the Northern Territory Intervention is doing, as far as we are concerned, is dividing us from our white brothers and sisters. (Alparra/Utopia Community Member, cited in Gilbert 2010, p. 27)

These negative views were frequently shared by Indigenous people across NT communities.

This chapter is organised into six main sections. Firstly, the discourse of neoliberalism and its link to the NTER is analysed. Next, the scholarship of Critical Race Theory (CRT) is introduced, illustrating its applicability to the critiquing of the NTER. Thirdly, broad critiques of the NTER are analysed. Fourthly, Indigenous social problems and the *Lateline* broadcasts, and existing research in this field, are examined. Fifthly, the main methodological approaches in this thesis are discussed. Finally, a methods section is included to highlight how the data was collected and organised to complete this research. Overall, this chapter will argue that critiques of the NTER, especially its links with neoliberalism, have been given considerable attention. There has also been some publications linking the NTER to neoliberalism and rights-based frameworks.¹⁰ But questions remain about applying different theoretical frameworks like CRT to analyse the NTER, Indigenous social problems and the *Lateline* broadcasts.

The literature review identifies some theoretical gaps that exist in the data and will begin addressing them. It will particularly focus on the literature relating to CRT and discuss how it can be used to analyse the NTER and NT Indigenous social policy. Certain measures of the NTER have been analysed using CRT. The application of certain tenets of CRT such as interest convergence to funding on Indigenous issues that relate to the NTER, and the special measure of income management, is a notable example (Bell, cited in Ford 2013, p. 97). However, these are only superficial CRT analyses of the NTER. Analysis of Indigenous affairs policy has not previously employed an explicitly CRT framework. But Critical Whiteness Theory has been employed to undertake this task. Castagno summarises Whiteness theory, as does Walter, Taylor & Habibis (2011, pp. 7-9), as referring:

... to structural arrangements and ideologies of race dominance. Racial power and inequities are at the core of whiteness, but all forms of power and inequity create and perpetuate whiteness. The function of whiteness is to maintain the status quo ... Whiteness maintains power and privilege by perpetuating and legitimating the status quo while simultaneously maintaining a veneer of neutrality, equality, and compassion. (Castagno 2014, p. 5)

¹⁰ For example, Pounder (2008) employed a rights-based approach to analyse the NTER and its supposed focus on the children of Indigenous descent; Calma (2009, p. 23) identified that a human rights-based approach forms a key component to high quality policy development in Indigenous affairs.

Furthermore, Critical Whiteness Studies has been explained as ‘both a conceptual engagement and a racial strategy. Conceptually, it poses critical questions about the history, meaning, and ontological status of Whiteness’ (Leonardo 2009, p. 91). As such, this theoretical approach assists with pointing to the ways in which racial power is evident in the NTER. Moreover, the use of Indigenous Critical Theory to examine the racialised nature of Indigenous policy development in Australia has been analysed.¹¹ The next section will survey the literature relating to neoliberalism and its links to the Howard Government, the NTER policy and Indigenous people.

2.2 Neoliberal discourse

This section investigates the discourse of neoliberalism. More specifically, this section aims to reveal neoliberalism's application by the Howard Government to Indigenous affairs in relation to the Indigenous contribution to the economy, Indigenous engagement with the mainstream and promotion of individual choice. But to begin with, a discussion about how neoliberalism has been defined will be outlined.

2.2.1 Defining neoliberalism

Neoliberalism emerged in the mid-1970s with a strong focus on a market free from any state control and constraints. This was believed to be the most efficient way of allocating and creating goods and amenities in society, for example, in the form of either healthcare or education (Cahill 2004, pp. 2-3; Povinelli 2010, p. 21). It disregarded the Keynesian welfare state, seeing it as an unmerited and inept form of social directive (Cahill 2004, p. 3; Manne 2010, p. 18). Adam Smith's definition of neoliberalism (cited in Martinez & Garcia 1996) encompasses some key concepts of neoliberalism but diverts from the above definition, instead emphasising freedom of competition in a capitalist society and individualism (see for example, Manne & McKnight eds 2010, p. 2). Smith contended that:

Free trade was the best way for a nation's economy to develop. Such ideas were 'liberal' in the sense of no controls. This application of individualism encouraged 'free' enterprise, 'free' competition – which came to mean, free for the capitalists to make huge profits as they wished. (Smith, cited in Martinez & Garcia 1996)

For many, Smith's assertion of capitalism pushing to obtain significant profits could be disputed as it is difficult to make this assertion without evidence that all capitalists take this approach. This is even though capitalism forms a major part of neoliberalism (Smith, Alison & Willis 2008, p. 2). Smith provides an insight into the neoliberal rationale of the abolition

¹¹ This has been undertaken by authors such as Charles Rowley and Aileen Moreton-Robinson.

of the permit system, one of the twelve special measures under the NTER. This, and support for the removal of people to larger towns, where Indigenous people would contribute to the economy by finding jobs, are examples of turning them into individual agents in the economy. Thus, Indigenous peoples would be able to integrate to contribute to the real economy by obtaining a real job in the mainstream. This neoliberal facet of the Howard Government's political ideology will be further examined throughout this thesis.

A further definition provided by Smith, Alison & Willis (2008, p. 2) highlighted that capitalism forms a major part of neoliberalism and 'individuals can benefit from participating in new forms of consumption activities and enjoy the freedoms that come from economic success' (Smith, Alison & Willis 2008, p. 6). On the other hand, some authors such as Harvey focus on individualism and not capitalism (although they are both central characteristics of neoliberalism), as Smith, Alison & Willis (2008) did. Harvey highlights that 'neoliberal thought took political ideals of human dignity and individual freedom as fundamental, as 'the central values of civilization'' (Harvey 2005, p. 5). According to this insight, one way these values would be put into jeopardy is by intervention by the state (Harvey 2005, p. 5). Overall, neoliberalism encompasses a variety of political and economic characteristics. These include but are not limited to, capitalism, economic and individual freedom, no state intervention, entrepreneurial consumption activities, free trade and markets and isolated property rights. The next section will discuss and critique neoliberalism and its application to Indigenous policy, in particular to the NTER policy.

2.2.2 Neoliberalism and the Northern Territory Emergency Response

Current research on the NTER predominantly focuses on neoliberal theories in its critique of government policy.¹² Altman, Rundle and Sanderson (cited in Altman & Hinkson eds 2007) focus some of their attention on the neoliberal approach of the Howard Government, and on Australian governments in general, in regards to Indigenous policy. These authors provide a wide-reaching examination of policy, including the application of economic and neoliberal ideas to Indigenous policy. They point out that the Government hoped that this policy would allow Indigenous people to contribute to the Australian economy by leaving their land and entering mainstream Australian society. As McMullen argued, neoliberal policies would drive Indigenous people off their lands (2013b) but the Indigenous contribution to the

¹² See for example, Altman, J 2007c, *The Howard Government's Northern Territory Intervention: Are Neo-Paternalism and Indigenous Development Compatible?*, Centre for Aboriginal Economic Policy Research, Australian National University, topical issue, no. 16, viewed 2 April 2012, <http://caepr.anu.edu.au/sites/default/files/Publications/topical/Altman_AIATSIS.pdf>.

economy would increase if those citizens found jobs and purchased private property in the mainstream. Similarly, other authors suggest that the NTER was driven by the need to access Indigenous land (see for example, Watson, I 2009b, Tilmouth 2007, Dodson, P 2007, Martinello 2007).

Viewing the NTER through a neoliberal lens enables alternate purposes for the NTER to be revealed, exposing a neoliberal discourse underpinned by two centuries of racial discrimination of Indigenous peoples. In addition, it challenges the Howard Government's argument that it was forced to act quickly and without consultation to allegedly address Indigenous child sexual abuse. But, this neoliberal discourse must be explained to comprehend racism and oppression.

The NTER can be seen as an instrument to promote individual rights and freedoms, thus leading to improved choice in the lives of individuals. By way of an example, David Harvey (2005) provides a significant explanation of neoliberalism that illuminates the NTER, defining neoliberalism as:

... a theory of political economic practices that proposes that human well-being can best be advanced by liberating individual entrepreneurial freedoms and skills within an institutional framework characterized by strong private property rights, free markets, and free trade. (Harvey 2005, p. 2)

Similarly, Ferro (2008) argued that the Howard Government's application of neoliberal policies to Indigenous peoples revolves around the concept of a free market economy. Arguably, this 'free market economy' would create 'real jobs' in the mainstream economy.

Indigenous commentator, Aileen Moreton-Robinson highlighted that the official acknowledgement of discrete rights and single citizen agents is mere pretence. This is because there are structural and historical reasons which alleviate against actual Indigenous equality. In addition, she argued that the current government approach recognises that Indigenous people possess the *same* rights as other citizens (Moreton-Robinson 2007, p. 6). Moreover, Moreton-Robinson (2009, p. 67) analysed the connection between Indigenous rights and the government's neoliberal ideology (see also Walter, M 2010), and shares some of Ferro's views emphasising that the regulation of welfare support (under the Howard Government) was a tool to discipline Indigenous people by restricting their rights. Both Moreton-Robinson and Ferro highlight the belief that the market manages itself, achieving a 'free market'. Moreton-Robinson argued that:

[t]his regulation ... [of welfare support] ... 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. (Moreton-Robinson 2009, p. 67)

The Australian Government used the NTER to interfere in the lives of Indigenous people to encourage them to buy and sell dwellings and relocate to larger townships, an instance of ‘individuals ... [benefitting] from participating in new forms of consumption activities and [enjoying] the freedoms that come from economic success’ (Smith, Alison & Willis 2008, p. 6). This quote, although not explicitly relating to neoliberalism and the NTER, does provide a useful illustration of how such discussion can reveal a neoliberal approach to the NTER. In addition, it is uncertain whether the Federal Government encouraged this sort of behaviour primarily because of Indigenous ‘recklessness’ or to empower communities. These issues are considered in more depth in Chapter Six.

Concepts of modern liberalism can inform an investigation of the NTER by understanding how the government approached welfare and intervention in Indigenous communities in the NT. Unlike traditional or classical liberalism, which originated in seventeenth-century Britain and advocated individualism with no government intervention (Goodwin 2007, pp. 35-36), modern liberalism believes that the state, by intervening to assist individuals who are unable to help themselves, can engender self-reliance and self-responsibility (Heywood 2007, p. 48). This can be viewed as a supportive approach, as it gives Indigenous peoples the opportunity to be empowered to make individual decisions to enter the mainstream and contribute economically.¹³ Neoliberalism, on the other hand, believes in no or limited state intervention. A neoliberal position on the NTER is somewhat at odds with this definition as it would view the intervention as a *temporary* measure to assist Indigenous people to develop

¹³ Supportive commentaries in relation to the neoliberalist agenda in the lead-up to the NTER during the 1990s onwards have been analysed by Partridge (2014, pp. 169-172). In addition, Helen Hughes from the Centre of Independent Studies developed neoliberal government approaches to Indigenous policy. Her publication entitled *Lands of Shame* (2007) called for the abolishment of the Community Development Employment Projects (CDEP) scheme and personal possession of homes (Gibson, J 2007, p. 6; Hughes 2007). Robert Manne also suggested that this text “reflects the general thrust of the thinking of the Howard government and conservative Australia” (Manne 2007, p. 40). Moreover, it has been argued that governments should discontinue building permanent dwellings for Indigenous people in remote localities, where they do not have employment in the real economy and where they cannot contribute payments for rent or to a mortgage (see for example, Johns 2009). There are also commentaries which are supportive of the neoliberal agenda of government policy with the NTER. Noel Pearson’s support of the abolishment of CDEP, in order for Indigenous peoples to enter the mainstream to engage with the ‘real economy’, is an example (see Chapter Six for this discussion). The Howard and Brough interventionist discourse that advocate for engagement in the mainstream and real economy by obtaining employment is also evidence of a supportive neoliberal commentary (see Chapter Six). Various media articles in *The Australian*, by the Bennelong Society and the Institute of Public Affairs for example, support the neoliberal views of Hughes and Johns (see for example, Lattas & Morris 2010b, pp. 64-65).

individual responsibility and, in the long-term, to integrate into mainstream Australian society. The integrationist nature of the NTER is considered throughout this dissertation.

Howard-Wagner (2012a, p. 224) examined the NTER as an aspect ‘of settler colonialism in Australia’, helping to resolve the contradiction noted above. She argued that the NTER adopted:

... a form of a non-interventionist, essentially economic, laissez faire, top-down agenda via an array of market-friendly policies such as deregulating labour and privatizing state assets and utilities, while at the same time adopting a highly interventionist bottom-up agenda focusing attention on transforming welfare and welfare populations, such as Indigenous populations. (Howard-Wagner 2012a, pp. 222-223)

Howard-Wagner exposed the economic benefits for the government if policies such as the NTER are implemented in Indigenous communities, transforming them into groups which are not dependent on welfare and allowing them to contribute to the economy. She subsequently argued that, by the acquisition of land, the state can impose a neoliberal agenda in which Indigenous people are expected to assimilate ‘into the mainstream economy’ (Howard-Wagner 2012a, pp. 235-236). She concluded that ‘issues of land ownership, usage and tenure’ were at the core of the Howard Government’s approach (Howard-Wagner 2012a, p. 231).

Stringer (2007) advocates a similar view. She argued that there are three elements of neoliberalism that underlie the ‘assimilatory neoliberalism’ of the Intervention (Stringer 2007). The first element is ‘privatizing Indigenous land’ (Stringer 2007). This element comprises two processes:

The first is a process of replacing communal land ownership in Indigenous communities with private free-market land tenure arrangements, facilitated by successive amendments to the Aboriginal Land Rights (Northern Territory) Act 1976 (ALRA). The second process is one of easing the path of certain private interests wanting to do business on Indigenous land, through amendment of the ALRA but also the Commonwealth Radioactive Waste Management Act (CRWMA). (Stringer 2007)

Stringer expands on this second process by noting that ‘corporatising Indigenous governance’ (Stringer 2007) relates to the Corporations (Aboriginal and Torres Strait Islander) Act 2006 (CATSI). This helped to establish ‘existing and future Indigenous organisations (councils, associations and existing corporations) as corporations which operate to the “same standards of corporate governance” as the rest of corporate Australia’ (ORATSIC, cited in Stringer 2007).

The third element to which Stringer alludes is ‘disciplining Indigenous labour’ (Stringer 2007). The NTER abolished voluntary programs, such as the CDEP, and introduced the

Structured Training and Employment Projects (STEP) (Brough, cited in Stringer 2007). Stringer argued that:

STEP also shares with the Protection Acts regime a belief that Indigenous ways of life are antithetical to the development of a work ethic, and that this is a problem that needs to be fixed through disciplinary erasure of Indigenous ways of life. (Stringer 2007)

Neoliberalism has been used by the Federal Government to dispossess Indigenous people of their lands in order to acquire those lands for economic purposes, and to control social groups to ensure that they conform to the dominant culture. Like Stringer, McMullen (2013b; 2013a, pp. 116-123), a non-Indigenous journalist, interrogated the neoliberal perspective and argued that this theory influenced Federal Government policy and the NTER. In addition, Lattas and Morris' (2010b) propose that the NTER policy is a new form of a transformation to neoliberal ascendancy for Indigenous peoples, which was misconstrued by Peter Sutton in his 2009 publication, *The politics of suffering: Indigenous Australia and the end of liberal consensus*. Moreover, McMullen contends that the neoliberal approach assisted the government in favouring the mining industry: 'neoliberalism connects the agendas of 'modernising' Aboriginal Culture and allowing mining companies to vigorously exploit at minimum cost the mineral treasure on Aboriginal lands' (McMullen 2013a, p. 111). Notably, as McMullen stated, this neoliberal approach to Indigenous policy is evident with an:

... extraordinary emphasis on managing access for mining companies to resources on Aboriginal lands. This involves controlling what is still perceived as 'the Aboriginal problem' and forcing a social transition from traditional values and cultural practice to 'mainstream' modernism of a particular brand. It also involves displacing many Aboriginal people from their traditional lands and concentrating them in 'growth towns'. (McMullen 2013a, p. 106)

McMullen further argued:

... the neo-liberal approach to developing Aboriginal lands is that neo-liberalism involves dispossessing people of communal lands through dubious promises of payoffs if they sign long leases and chase the great Aussie Dream of a mortgage and 'private home ownership'. (McMullen 2013b)

Turner and Watson (2007, p. 205) similarly argued that the NTER was a Federal Government 'Trojan horse' for regulating Indigenous land. But, Irene Watson (2009a, p. 3) stated that the Intervention was a 'land grab' stimulated by the government idea that violence toward women was due to collective ownership over land. Watson observed that the government's view was that private ownership provides better protection for these women. This indicates that it was more about a perceived link between collective ownership and violence as opposed to accessing Indigenous land for mining to resolve issues of unemployment. McMullen has linked neoliberalism with the Howard Government's justification for

implementing the NTER, asking, ‘who benefits from neo-liberal style development of Aboriginal lands whether it is through mining or agriculture?’ (McMullen 2013b). He quotes Harvey on his suggestion that, in managing crises, neoliberals enforce ‘their real agendas’ by formulating arguments to suit their political ideology (Harvey, cited in McMullen 2013b).

Melissa Lovell’s (2012c) doctoral research used the NTER as a case study for examining the relationship between government and Indigenous people. Her primary argument was that overall ‘colonial and neoliberal politics contributed to a view of Aboriginal people as dysfunctional and incapable of self-discipline and self-government’ (Lovell 2012c, p. v). Her thesis argued that ‘this perception of Aboriginal people played an important role in the justification of authoritarian and coercive policies in remote Aboriginal communities’ (Lovell 2012c, p. v).¹⁴ The NTER is used in Lovell’s thesis as evidence for these arguments. She also published several articles in 2012. Her work focuses on neoliberal approaches and compulsory governance in Indigenous affairs, and utilises ‘settler colonial analysis’ when examining the discourse of the Liberal-National and Australian Labor Party (ALP) Governments regarding the NTER (Lovell 2012a, p. 199). In another article, she focuses on the ‘political debate’ about the imposition of the NTER, with her main argument centred on how:

The legitimization of coercive governance depended upon the development of new forms of knowledge about both Aboriginal people – as the objects of governance – and the limitations of alternative techniques for Aboriginal governance. Neoliberal conceptions of good governance and the ideal citizen were employed to produce new forms of knowledge about the field of Aboriginal Affairs governance. (Lovell 2012b, p. 222)

Lovell’s research analysed various aspects of the NTER using neoliberalist discourse. However, her research examined the NTER under both the Coalition and ALP Governments and the shift in Australian political ideology towards neoliberal concepts. She employed the notion of ‘liberal governmentality’ in her analysis. Employing liberal governmentality and highlighting the concept of freedom which forms a central component of this (Lovell 2012c, p. 106) assisted with her exploration of ‘the relationship between the neoliberal government and the coercive and authoritarian aspects of the NTER policy’ (Lovell 2012c, p. 126).

¹⁴ Remote Indigenous communities were targeted with the NTER rather than where the majority of Indigenous peoples reside. Most Indigenous peoples reside in areas that are not considered to be in the ‘outback’ but rather in townships or city locations (Rowse 2010, p. 166). As such, this was an attempt ‘to imply that Aboriginality is the problem, and that it is a problem confined to the remote reaches of the outback’ (Fozdar, Wilding & Hawkins 2009, p. 122). Fozdar, Wilding & Hawkins (2009) argued that these perceived issues with Aboriginality were only being confined to remote Australia and targeted by Brough, implying that he believed that dysfunctional behaviour was engrained within Aboriginality in remote communities.

In contrast, my thesis undertakes an analysis of the NTER discourse from the Coalition Government's perspective, in particular by then Prime Minister (PM) John Howard and Indigenous Affairs Minister, Mal Brough, between the years of 2006-2007. Lovell's thesis, as well as other research which has a focus on the Intervention, did not specifically centre *just* on the lead-up to the Liberal Government's NTER or on the key discourse originating *just* from John Howard or Mal Brough. There are some similarities to the discourse analysis by Roffee (2016) which focused on the rhetorical features of Howard and Brough's justifications and explanations behind the Intervention. My examination does not focus on the rhetorical aspects of their speeches, nor does it take a social and legalistic methodological approach.

Elizabeth Strakosch (2011) also focused on neoliberalism, but not specifically on the NT Intervention, although there was minor discussion about the policy. Strakosch's research focused on tracing 'neoliberal policy development between 2000 and 2007' and undertook 'empirical work to build an integrated picture of this critical transformative period' (Strakosch 2011, p. 5). Emma Partridge (2014) conducted an analysis of 'official' or 'government' discourse and found that Coalition and Labor governments employed racialised and neoliberal concepts in implementing the NTER. In addition, it uncovered the significance of Indigenous personal responsibility and behaviour, and the failure of Indigenous culture, individuals and community, highlighting that these were general similarities in both government discourse. Throughout this dissertation, I draw links to the representation of Indigenous people, communities and culture as being inferior to 'Western' culture. Accordingly, I am adding and extending upon this by Partridge.

Partridge's research drew upon interviews from a variety of stakeholders to uncover how they engage with the aforementioned policy discourse. Furthermore, it draws upon Carol Bacchi's work relating to policy approaches and the question: 'what's the problem represented to be?' This is to examine the discourse on the Intervention to focus on ways policy generates, establishes or forms particular 'problems'. Overall, the thesis argues that there are four key Intervention discourse on NT Indigenous communities which identify 'problems' as 'dysfunction', the 'dependency of welfare', 'irresponsible behaviour' and 'detriment'.

Similarly, Annie Kennedy (2013) had a strong focus on the Howard Government's Intervention and its continuation by the Rudd Labor Government. It concentrated on the voices of Central Australian Western Arrente peoples regarding three major reforms introduced as part of the policy. It is an approach framed around an outstation perspective

on engagement with the state. Based on these narratives as presented by the residents, this thesis utilises these voices to understand how they engaged, comprehended and replied to these reforms. The importance of this is linked to storytelling and counter-storytelling which is a key approach in my research. Guided by CRT; this approach allows marginalised populations to find a balance between forgetting and remembering (Dunbar 2006, p. 119).¹⁵

Diana Perche (2015) focused one chapter of her thesis on the Howard Government's NT Intervention as part of an examination of the advancement of Indigenous land policy in the NT. These theses provided an important guide to my research and offered significant ideas about how to analyse the NT Intervention. However, this thesis will not comprehensively examine the NTER's neoliberal framework, or liberal governmentality and settler-colonial discourse. Instead, I have opted to use the extensive scholarship of Critical Race Theory (CRT) which provides an alternative theory to utilising the concept of neoliberalism as it foregrounds the concept of 'race' and racism. This is discussed in the next subsection.

Among the discourse used to analyse the Howard Government's approach, the thesis will focus on two of Lovell's themes and make some linkages to Macoun's (2011; 2012) analysis of Aboriginality as a threat to children of Indigenous descent. It will make use of Macoun's view that Aboriginality was associated with child abuse, and as such that integration into the mainstream needed to occur. Kennedy's (2013) and Partridge's (2014) linkage to the importance of Indigenous voices, as well as Gibson's (2009b) focus on Indigenous peoples living beneath the Intervention, is also taken up in this thesis. Lovell's (2012c) themes include representations of Aboriginality, particularly representations of Indigenous NT communities as dysfunctional and in crisis. My thesis contributes to this discussion, extending on Lovell's analysis. However, the focus of my research is on the discourse of John Howard and Mal Brough.

The concentration on these two political leaders illustrated the significance of their opinions about Indigenous communities and peoples, and their views on why a governmental intervention was necessary. In contrast, other research has examined a range of political leaders' understandings about Indigenous communities. My thesis draws on a newly formed Critical Race Discourse (CRD) approach, as summarised in Table One, to analyse and critique the discourse on the NTER and the lead-up to this policy. It assesses a variety of Indigenous responses to the Howard Government's NTER using one of three tenets in CRT. While a critique of neoliberalism is of value, as shown by Stringer (2007), Howard-Wagner

¹⁵ Some other approaches to analysing the NTER policy include the monitoring, assessment and evaluation of it (Altman & Russell 2012; Altman 2011; Dillon 2013).

(2012a), Walter, M (2010) Lovell (2012c; 2012b) and McMullen (2013a; 2013b), it does not reveal the racism, or the integrationist agenda that was the emphasis of the policy. It is these perspectives that my research aims to uncover. This will be achieved by drawing upon a key integration argument by Hudson (2013, p. 184) that maintains that Indigenous peoples should be able to decide what aspects of their culture to disregard or retain in relation to integration, although there are issues with this such as Indigenous peoples being entangled in two cultures and therefore being unable to reconcile them. Consequently, the next subsection asserts that CRT can be employed as a tool of analysis to counter the limitations of a neoliberal critique.

2.3 Critical Race Theory: A disruptive narrative

CRT is derived from critical legal studies (Delgado & Stefaniec 2001; Guinier 2003, 2004; Ladson-Billings & Tate, 1995; Matsuda et al., cited in Rogers & Mosley 2006, p. 465). CRT aims to demonstrate the prevalence of racism, the historical consequences of colonisation and the maintenance of ‘white’ privilege. In essence, CRT was designed to test this privilege (Yosso 2005, p. 73) and to highlight that being ‘white’ has intrinsic rights (Cullen 2014, p. 40). In this context, racism can be defined as ‘a system of ignorance, exploitation and power used to oppress [minority groups] ... on the basis of ethnicity, culture, mannerisms, and color’ (Marable, cited in Yosso 2005, p. 72). CRT can then ‘be used to theorize, examine and challenge the ways [in which] race and racism implicitly and explicitly impact on social structures, practices and discourses’ (Yosso 2005, p. 70). However, it should be noted that the concept of ‘racism’ is used not only in relation to crude, obvious acts of race hatred but also in relation to the more subtle and hidden operations of power that have the *effect* of disadvantaging one or more minority ethnic groups’ (Gillborn 2006, p. 9). Nonetheless, a criticism of CRT is that it is US-centric and therefore relates to the history and ongoing African American story of ‘race’ and racism in US society (see for example, Ladson-Billings 1998). Other criticisms include that it focuses too closely on racism being a permanent part in society which can unsettle people who are trying to disrupt it. Moreover, due to its emphasis on ‘race’, CRT does not focus on social class and gender (see for example, Hiraldo 2010, p. 57).

The aim of CRT, however, is to show that ‘race’ and racism is not peripheral to social, political and legal systems. CRT is based on ‘the belief that Eurocentric epistemologies and practices in the creation and application of the law failed to adequately consider the lived realities of people of color’ (Griffin 2011, p. 2). Therefore, CRT was conceived as a tool for non-white people to challenge the ‘white’ supremacy underlying the ideologies behind the rule of law and related policies in the US (Crenshaw, Gotanda, Peller & Thomas, cited in

Griffin 2011, p. 2). Furthermore, CRT treats 'race' as central to law, policy, history and culture, and asserts that racism is invisibly institutionalised. As 'race' is central to CRT, it is a concept that is utilised as a preliminary point to begin with as a way to comprehend discrimination and bigotry (Hylton 2012, p. 29). Moreover, Alice Harris (cited in Delgado & Stefancic 2001) indicates that:

Critical race theory not only dares to treat race as central to the law and policy of the United States, it dares to look beyond the popular belief that getting rid of racism means simply getting rid of ignorance, or encouraging everyone to 'get along'. (Harris, cited in Delgado & Stefancic 2001, p. xx)

In particular, CRT 'deconstructs race and racism by positioning the interests of people of color at the center of inquiry to advance racial equality in general and equal treatment under the law' (Griffin 2011, p. 2). In the US, it has provided insights into how the apparatus of 'race', racism and power has been used to reinforce discrimination against African Americans, Latinos, Asians, Pacific Americans, Native Americans, and other peoples (Marable, cited in Yosso 2005, p. 72). It has revealed a lack of awareness of minority beliefs and practices at an institutional level and the efforts by minority groups to challenge the Eurocentric underpinnings of the American state and to increase understanding of their cultures.

The scholarship on CRT asserts several key tenets that are modified according to the issue under examination. These seven tenets are: (a) interest convergence; (b) racism as an everyday phenomenon; (c) colourblindness as being insufficient; (d) race as a social construction; (e) whiteness as property; (f) racialized narratives as significant and telling, and (g) racialized realities as contextual (Crenshaw, Gotanda, Peller, and Kendall Thomas, cited in Griffin 2011, p. 2). However, other authors such as DeCuir and Dixson (2004, p. 29) indicate that another tenet of CRT is a 'critique of liberalism'.

Many scholars, such as Ladson-Billings (2012), Delgado & Stefancic (2001), Solórzano (1997) and Crenshaw, Gotanda, Peller & Thomas (eds 1995), adopt Critical Race Theory (CRT) to examine a variety of perspectives about the intersection of 'race', racism and power in a variety of specific contexts such as education and the legal sector, and in US society more generally. CRT 'can be summarised as a framework from which to explore and examine the racism in society that privileges whiteness as it disadvantages others because of their 'blackness'' (Hylton 2008, p. 22). CRT advances 'the notion that racism is normal in American society' (Ladson-Billings 1998, p. 7). CRT literature is predominantly from the United States (US) and the United Kingdom (UK). In New Zealand, Graham Smith has drawn upon critical theory, which has some similarities to CRT, to discuss ideas of self-

determination involving *Kaupapa Maori* (Smith, G 2012, p. 11). Some of these similarities, which are not specifically examined in this thesis, include:

... ideas that foreground both action and theory: the (political) action of social transformation, and the theory, or idea, of structural analysis that informs the action. The politics of social change, the basis of critical theory, mean giving close attention to *action* focused on Māori self-development as well as to a theoretical *analysis* of the social order, including the forces of capitalism and colonisation both of which have had negative impacts on our people. (Smith, G 2012, p. 11)

This theoretical approach would allow the marginalised to ‘speak back’ to the dominance of capitalism and colonisation. This could result in social change; it could counter these ingrained and continuing hegemonic approaches. Moreover, Crenshaw argued that, in developing CRT, commentators:

... were looking both for a critical space in which race was foregrounded and a race space where critical themes were central. We wanted the conversation to start at a point beyond questioning critical theory, on the one hand, or race on the other. (Crenshaw 2002, pp. 15-16)

Smith’s critical theory employs a ‘racialised epistemological approach’ but does not foreground ‘race’ (Rigney, Weiss Hanrahan, cited in Foley 2003, p. 45). It can be seen in ‘relations of governance in Australia, as in other former British colonies, [which] are informed by racialised knowledge and its associated understandings of difference’ (Larbalestier 2007, p. 127). Accordingly, the concept of ‘race’ and its ontological and epistemological meanings for a Federal Government in Australia, must be analysed to understand how politicians perceive ‘race’ and if this impacts their racialised knowledge in terms of designing Indigenous social policy, such as the NTER.

Literature on the NTER, however, has not been systematically critiqued through the lens of Critical Race Theory (CRT). While ‘race’ has been debunked as a theoretical truth, it nonetheless remains an influential social construct in everyday society. Aboriginality must be considered in how Indigenous policies are enacted. In Australian scholarship, CRT has been variously applied in the field of education. However, research that directly applies CRT to Indigenous policy in Australia has been limited. Nonetheless, Kelly (2010, p. 2) used CRT to analyse whether the NTER was a ‘land grab’ and the prominence of whiteness in NT ‘political interests’. However, Kelly’s analysis was limited to an examination of one root cause of the NTER. Other research by Gray and Beresford (2008, p. 214) focused on the NTER and the Howard Government’s approach to Indigenous affairs. Adopting CRT, they highlighted ‘Australia’s failure to reconcile over the past 25 years’. By drawing on Bell (2000), Ford (2013) also briefly discussed CRT’s application to the NTER by making a

linkage to the CRT tenet of interest convergence to the funding of Indigenous issues and the management of income.¹⁶

Howard-Wagner (2012b) has compared CRT to Critical Indigenous Theory. Similarly, other authors have also critiqued the NTER applying a postcolonial approach and Critical Whiteness Studies (Kelly 2010, p. 2), to critique neoliberalism (see for example, Howard-Wagner 2012b).¹⁷ According to Howard-Wagner (2012b) Critical Indigenous Theory (or Indigenous Critical Theory) is similar to CRT and Critical Whiteness Studies as it adopts a decolonising approach. Indigenous scholar Aileen Moreton-Robinson, refers to Critical Indigenous Theory, concluding that: ‘critical Indigenous studies as a mode of analysis can offer accounts of the contemporary world of Indigenous peoples that centre our ways of knowing and theorising’ (2009, p. 11). This gives Indigenous people a voice and illustrates how Indigenous peoples are resisting ‘dominant neoliberal discourses and practices’ (Yashar 1998; Postero 2005; Bargh 2007; Jackson 2007, cited in Howard-Wagner 2012b, p. 3). Similarities between Critical Indigenous Theory and Critical Race Theory include a decolonising method and a focus on giving voice to marginalised groups in society: in this case, Indigenous peoples.¹⁸ These critical approaches are important because they allow social groups to reply to and disrupt the dominant neoliberal discourse in Australian politics.

Whereas Indigenous Critical Theory has been developed for an Australian context and CRT is mainly employed in the US, Gillborn (2008, p. 41) sees no reason why it cannot be applied in other countries. Indeed, it can be used to understand the existent racism in Australian society, particularly in the design and implementation of the NTER and associated negative representations of Indigenous communities, peoples and culture. Like Gillborn (2005), who used CRT to analyse the role of racism in education in the UK, this thesis argues that CRT provides a valuable tool for problematising the NT Intervention and the intention behind it. In this sense, Gillborn (2005) argued that education policy is an *act* of ‘white supremacy’ –

¹⁶ The tenet ‘interest convergence’, developed by Derrick Bell, relates to the majority population allowing betterment for ‘racial justice’ only when it accommodates the majority interests (Delgado & Stefancic 2001, p. 149).

¹⁷ Postcolonial logic has been defined as beliefs associated with the self-determination era: a) the belief in the superiority of the spiritual, social and ecological aspects of Indigenous culture; b) the idea that the government should accept that the dispossession of people and destruction of culture caused health and other social problems in communities (Kowal 2010, p. 189). Thus, the government must take responsibility for these injustices and invest additional resources into communities so that community-controlled programs can be supported by Indigenous people themselves (Kowal 2010, p. 189).

¹⁸ In discussing the importance of decolonisation for Indigenous health, it is stated that a decolonising methodological approach involves Australian individuals in society to ‘acknowledge and comprehend the impact that invasion, imperialism, colonisation, research and policy have had on the Indigenous people of this country’ (Sherwood & Edwards 2006, p. 179). Moreover, the decolonisation process demands ‘all individuals to explore their own assumptions and beliefs so that they can be open to other ways of knowing, being, and doing’ (Sherwood & Edwards 2006, p. 188).

indeed, for the purposes of this thesis, policy in general can be seen as such. While Gillborn utilises the concept ‘white supremacy’, this dissertation draws on CRT to provide a more comprehensive investigation of acts of coercion, amalgamation and racialisation that developed over two hundred years of colonisation and have become normalised and imperceptible. This thesis therefore utilises CRT in the Australian context, despite its US origins and orientation (Gillborn 2006, p. 8).

Reynolds, Rizvi & Dolby (2009, p. 364) maintain that the racism observed through CRT can be subtle and nuanced, as ‘racism is experienced differently by different groups in places with different historical and political trajectories’. The discrimination experienced by Indigenous people in Australia, for example, differs from how racism is experienced by African Americans; however, CRT ‘...treats the Africa-American experience as paradigmatic, from the norms of which other forms of racism can be inferred’ (Reynolds, Rizvi & Dolby 2009, p. 364).¹⁹ Up to this time, CRT has not taken into consideration the experiences of other marginalised groups in societies across the world due to its US origin and focus (Reynolds, Rizvi & Dolby 2009 p. 364). Said (1983) indicated that there must be caution when theories designed for one country are utilised in a different context, and a theoretical framework may not be applied elsewhere in its entirety (Said 1983, p. 226). Consequently, this thesis will use CRT to examine government policy and the racialised basis of such policy as it applies to Indigenous people in the NT, rather than employing the entire CRT critique as is appropriate for the US. The application of CRT to analyse the NTER in an Australian context is discussed in further detail below.

By drawing on Brayboy (2005), Writer (2002b, 2008), Hermes (1999), Rains (2003) and Williams (1997, cited in Writer 2008, p. 3), Writer highlighted that CRT has formerly been utilised ‘to examine the effects of race, racism, and power in our [Indigenous] communities ... on ourselves and ... as a mechanism to perform truth-telling – to speak back to colonization and oppression’. This definition is based on the literature of Indigenous scholars. It illustrates how CRT can be employed in an Indigenous context and utilised in this thesis. The discussion in Chapter Three, while not exhaustive, focuses on the history of the NT and explains some of the findings of the publications under review.²⁰ These findings point to some of the historical issues in the NT that have resulted in ongoing social problems

¹⁹ Other forms of racism can include racialisation, a key component within CRT that involves targeting based on biologic characteristics – which might not always be the case, but historically this concept relates to the structuring of societal relationships by applying processes linking to explaining the ‘Other’ (Reynolds, Rizvi & Dolby 2009, p. 365).

²⁰ See for example, Memmott, Stacy, Chambers & Keys (2001) and Gordon, (cited in Al-Yaman, Van Doeland & Wallis 2006, p. 3).

within Indigenous communities. These problems include racism, oppression, dispossession and above all, colonisation – they are key factors in the New Zealand context (see for example, Smith, G 2000, p. 62).

Before applying a CRT framework to analyse the NTER, a historical analysis of the NT needs to be conducted, to understand the origins of social problems in Indigenous communities. This thesis will focus on the long series of social justice reports which have referred to the impact of colonisation, but cannot provide more than an overview of the experience of colonisation. It recognises that a social justice perspective ‘...requires the study of historical issues and events to understand the manifestations of oppression in its present form’, and argued that it could be utilised by Indigenous people to potentially disrupt colonization (Writer 2008, p. 5).

2.3.1 Applying CDA with CRDA and CRT

As noted in the introduction, several theoretical approaches are combined in this thesis to formulate a Critical Race Discourse (CRD) , as outlined in Table One. In an Australian context, CRD provides a focus on examining ‘race’ and racialisation centring around the Howard Government’s 2007 NTER policy, in particular on John Howard and Mal Brough. These political figures in the Federal Government are focused on as they played a significant role as the architects in devising the 2007 policy. CRD also privileges the respect of Indigenous culture and challenges the dominant discourse of integrationist Indigenous social policy. Thus, CRD provides a basis to critique ‘race’ and racialisation around the NTER policy. As such, CRD is more relevant and provides a useful theoretical approach for this analysis as it has been designed for a specific historical event in relation to Indigenous social policy in Australia.

As indicated earlier, three tenets of CRT are used in this thesis. Firstly, ‘racialized narratives as significant and telling’ gives voice to marginalised groups in society and makes use of significant storytelling to disrupt racially-based narratives (see for example, Razack & Jeffery 2002, p. 262). Secondly, ‘racism as an everyday phenomenon’ states that racism is endemic to society and is an everyday occurrence (DeCuir & Dixson 2004). This term will be interchangeably used with the phrase ‘racism as everyday’. The third tenet is that CRT is activist in nature and therefore committed to social justice and societal transformation. A social justice mechanism is central to CRT and to understanding the ongoing effects of colonisation on Indigenous peoples. As such, the social justice and activism mechanism within CRT that privileges voices of colour is applied in this thesis (Delgado & Stefancic

2001, p. 9). This mechanism is designed as a way to support a social justice praxis in relation to notions and acts (Stovall 2006, p. 232). Only these three have been utilised because the other tenets of CRT are not as wholly applicable in my study of the NTER in an Australian context. The key discourse of political leaders, in relation to Indigenous communities and the NTER's rationale, is interrogated by drawing interchangeably upon these tenets in Chapter Six.

'Racism as an everyday phenomenon', which is also called 'the permanence of racism' (DeCuir & Dixson 2004, p. 27) in this thesis, posits the endemic nature of racism in society (DeCuir & Dixson 2004, p. 27; Delgado & Stefancic 2012, p. 7). It 'can be both a conscious and [an] unconscious act' (Lawrence, cited in DeCuir & Dixson 2004, p. 27). If racism has a permanent place in society, then it can be argued 'that racist hierarchical structures govern all political, economic, and social domains. Such structures allocate the privileging of whites and the subsequent Othering of people of color in all arenas' (DeCuir & Dixson 2004, p. 27). Applying this tenet of CRT to the NTER will allow an assessment of whether the policy and the approach by the government to impose it had racialised underpinnings. This is to determine how entrenched the concept of 'race' is in the Australian community through the discourse that Australian politicians employed when designing and implementing the NTER.

The CRT tenet 'racialized narratives as significant and telling' refers to counter-storytelling which provides a space for groups that have been historically marginalized to voice their experiences, thus challenging the majority discourse (DeCuir & Dixson 2004, p. 27). This tenet is important to this thesis as it will afford an opportunity to hear stories and accounts from a personal and collective perspective about the NTER (DeCuir & Dixson 2004, p. 27). This allows these groups and individuals to remedy the discomfort produced through 'racial oppression' (see for example, Delgado, cited in Ladson-Billings & Tate 1995, p. 57). The result, according to Ladson-Billings and Tate, is that:

... the story of one's condition leads to the realization of how one came to be oppressed and subjugated and allows one to stop inflicting mental violence on oneself ... naming one's own reality with stories can affect the oppressor. (Ladson-Billings & Tate 1995, p. 57)

This draws upon experiences of Indigenous people who were affected by the NTER and Indigenous leaders and academics. A CRT approach includes the 'voices' of Indigenous people about the policy which, in turn, allows an opportunity to understand their experiences and perspectives of the NTER. These views might be positive, negative and ambivalent and will mainly feature in Chapter Six. This CRT approach will allow a new analysis of Indigenous policy, especially of the NTER and various Indigenous perspectives about it.

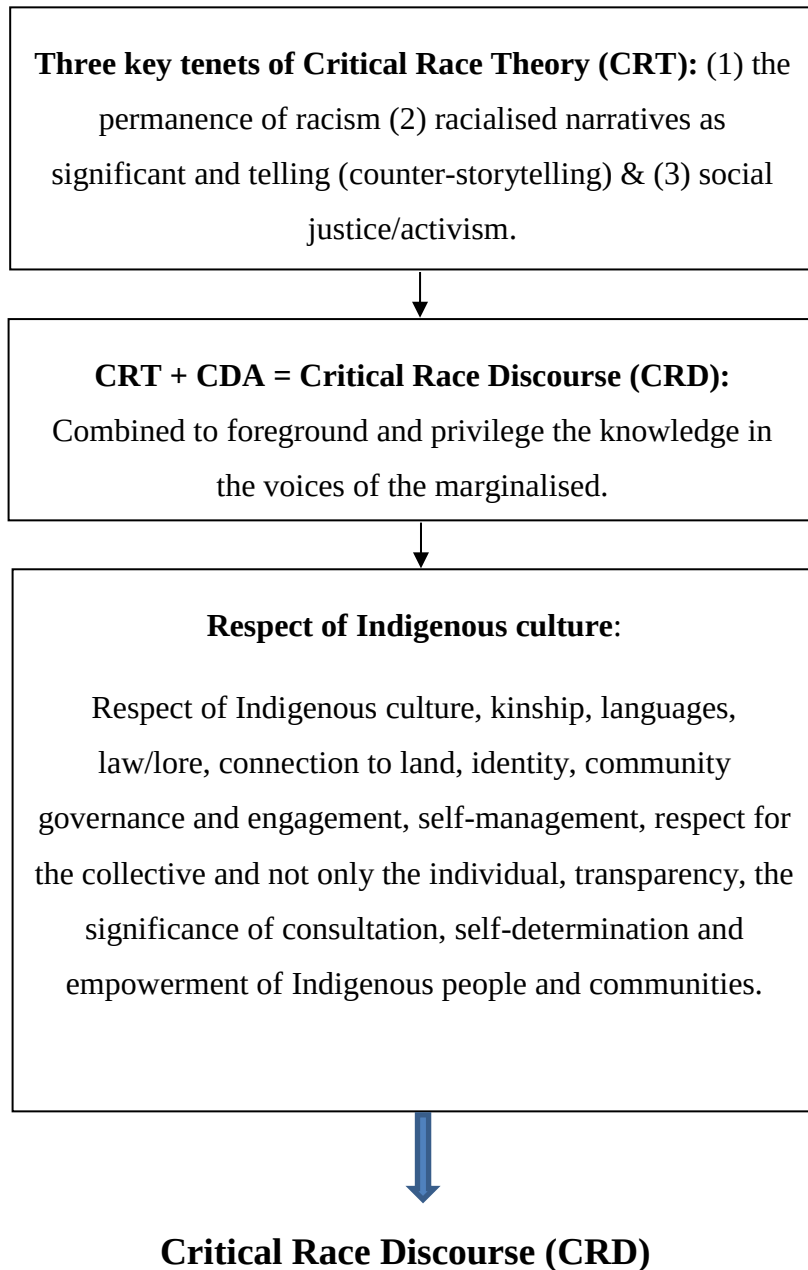
CRT has been utilised as an analytical framework within the discourse of sport, history, sociology, law and education (Griffin 2011, p. 2; Yosso 2005, p. 71). Most notable is Sophie Rudolph's (2011) dissertation, which analysed 'race' and whiteness in Australian education policy, and Kiara Rahman's (2009) research that focused on factors – including attendance – that contributed to the success of Indigenous high school students. In addition, Vass's (2013) dissertation takes an auto-ethnographical perspective by exploring a didactic 'gap' in which 'race' impacts the understanding of classroom practices on a daily basis.

While there has been much research applying CRT to education, there is limited research that applies it to the NTER (as noted earlier in this literature review). The closest theoretical framework that has been applied to Indigenous policy is Critical Whiteness Studies, or Whiteness and Indigenous Critical Theory. This theory is 'not an assault on white people *per se*: it is an assault on the socially constructed and constantly reinforced power of white identifications and interests' (Ladson-Billings & Tate 1995, pp. 58-60, cited in Gillborn 2006, p. 13; Perso & Hayward 2015, p. 3). This is an important approach to analysis due to 'the ways in which representations of the Intervention reassert white sovereignty' (Kramer 2015, p. 136). Further, the concept of whiteness is historically constructed in a social sense through economic and political relationships, among other areas (Frankenberg 1993, p. 204). However, this theory does not account for the permanence of 'race' and racism that limits a critique on the presence of these elements in society. In contrast, CRT provides an analysis of the longevity of racism.

Like Briscoe and Khalifa (2015) did, in this dissertation the theoretical frameworks of CRT and Critical Discourse Analysis (CDA) has been merged to become CRDA, as applied in education scholarship. This is to provide an added layer of validation of the voices of the minority, their knowledge and narratives (Briscoe & Khalifa 2015, p. 742). But this theoretical framework does not reveal the racialised mechanisms of the NTER and the concept of 'race' driving the Howard Government's NTER. As such, a Critical Race Discourse (CRD) has been formulated to 'speak back' and allow a space to disrupt and challenge these concepts. This enables an assessment of policies and practises which were designed to integrate Indigenous peoples into the mainstream. This targeted approach will uncover the broader uses of CRD, as identified in Table One, by Howard and Brough in the lead-up to the NTER, how they understood Indigenous communities, peoples and culture and why they believed an intervention was deemed necessary. Table One indicates what constitutes a CRD approach.

Moreover, this thesis argues that Australia is a colonised nation that is influenced by a discourse that has been continually (re)produced and which informed the NTER policy. This discourse, in its very essence, promotes individualism, competition, meritocracy, personal responsibility, limited government intervention and contributions to the economy. Such values, as will be expanded upon in the following chapters, are in stark contrast to Indigenous ways of knowing, being and doing (or Indigenous culture) (see for example, Martin, K 2003). The discourse called upon by the Howard Government in enforcing the NTER regarded Indigenous peoples and culture as inferior to what is identified as ‘mainstream’ Australia – in need of fixing. It reproduced the view that Indigenous people needed to give up their cultural ways and integrate into the mainstream Australian society. If Indigenous peoples chose not to surrender their cultural practices, then the government could justify an intervention into their lives. Following the diagram in Table One, the next section of this literature review will discuss some general critiques of the NTER from 2007 to 2015.

Table One: Aspects of a CRD



2.4 Critiques of the NTER

The NTER was a Federal Government Indigenous social policy designed and imposed by the Howard administration in 2007. The NTER was imposed on 73 NT communities by the Howard Government in 2007 (Calma 2009, p. 18) and the government took a ‘one size fits all’ approach that framed ‘all Aboriginal communities as dysfunctional, all Aboriginal people as abusers, and all Aboriginal children as abused’ (Brown & Brown 2007, p. 622). The NTER was criticised over the five years it was in force, from 2007 to 2012, and in following years when it was replaced with other, similar policies. This section will indicate some significant articles, reports and books that were published during and after this period to indicate the diversity of views that are relevant to this thesis. This thesis fills a gap in this body of scholarship. Although my research only focuses on the period when the NTER was in force, the publications following this period are still relevant as they provide a critical appraisal of the policy.²¹ The legislation replacing the NTER in 2012 – entitled the Stronger Futures legislation – was of similar design to the NTER, and concerns were raised that this new legislation would be discriminatory (see for example, Harris 2012).²² This is the current Intervention legislation in place in the NT and it is set to expire in 2022 (Gray, S 2015, p. 7). It can therefore be argued that the NTER has not ended, but has been re-branded. Only minor changes have taken place; the NTER continues to govern the lives of NT Indigenous people in the form of the Stronger Futures legislation.

The following sections focus on the various critiques of the NTER policy in the literature. They include: perceptions of Aboriginality and its link to the NTER; a critical analysis of the policy; different perspectives and debates about the evidence-base of the policy; effects and effectiveness of the policy; linking the policy to health, education, culture and law; the controversy surrounding the suspension of the RDA; different views of the NTER by Indigenous people and recommendations to amend the policy; the NTER’s restriction of Indigenous and human rights; that the special measures contained in the legislation breached human rights laws by failing to provide any material benefit to Indigenous people; the lack of consultation with affected Indigenous communities; and the racially discriminatory nature of the policy.

Following the implementation of the NTER, a number of media and journal articles critiqued the policy and considered why it was imposed by the Howard Government. Beyond the

²¹ Several publications reveal a strong emphasis on documenting the voices of Indigenous people in relation to this legislation. This literature was published by Harris (2012a; 2012b).

concern over the supposedly protracted response by the NT Government, there were a number of other factors which may have influenced the formation of the NTER. Altman (2007c, pp. 1-2) has explained that one of the reasons why the NTER was introduced, was John Howard's reaction to academic, lawyer and Indigenous activist, Noel Pearson's description of Indigenous children's experiences in abusive environments. According to 't Hart (2008, p. 168), hearing Noel Pearson's quivering voice could have led the PM to generate a picture of a child cringing and provoked him to act. Pearson had conveyed the message that action was urgently needed. Furthermore, Altman (2007c, p. 2) stated that John Howard, in an interview he gave on radio in June 2007, was sincerely touched by what Noel Pearson described.

The theory and ideology behind the NTER was seen by researchers as a way to increase votes in the polls. For example, Behrendt (2008c, p. 24) and Altman (2007c, p. 2) argue that in response to the upcoming election, the Howard Government designed and implemented the NTER to highlight that it was taking the initiative in Indigenous affairs. Similarly, Langton stated that it could have seemed evident that the Intervention was designed due to the upcoming election, even though there was increasing evidence regarding children being in danger (Langton 2008b, p. 62). Other researchers, such as Thompson and Hil (2009, p. 53) stated that the opinion polls indicated that the Howard Government was likely to be defeated in 2007, while Nicholson (2010, p. 7) argued that the Government seemed to be in a worrying position in regard to the polls. This could add to the argument that the Howard Government intervened in the NT to increase the likelihood that the public would vote Liberal. Maggie Walter (2010, p. 127) took a skeptical view of this and described it 'as a desperate political ploy to centre race at the forthcoming election in which opinion polls were firmly against Howard'. Nicholson (2007, p. 14) argued that as the LCAS report was released, it provided an opportunity for the Howard Government to further its Indigenous policies in relation to the upcoming election. In November 2007, Alexander Downer, the then Foreign Affairs Minister, made this link and publicly admitted on the ABC show, *Insiders*, that it was expected that there would be an increase in the opinion polls for the Government following the introduction of the Intervention (Downer, cited in Cassidy 2007). However, John Howard refuted this suggestion in an interview with John Laws on 2UE Radio on 6 August 2007 (Howard, cited in Laws 2007).

Other debates focused on the various discourse surrounding the construction of Aboriginality, its relationship to the NTER, and how these concepts were used in producing Indigenous policy and the NTER. For example, Macoun analysed notions of Aboriginality,

with a particular focus on the NTER, to examine the settler discourses that surround the concept of Aboriginality and its relationship to the NTER, highlighting that Aboriginality was regarded as being dysfunctional (Macoun 2012). This research adds to this discussion on the representation of Indigenous peoples and communities as dysfunctional, engaging in a similar thematic approach as Macoun. In contrast with Macoun (2012), this research specifically focusses on the racialised language of PM John Howard and the then Minister, Mal Brough. In addition, this thesis will assess the ways in which these particular politicians (re)produced the discourse of Indigenous communities as a crisis, Indigenous communities as a threat to children, and welfare as a problem.

Altman and Hinkson (eds 2007) provided one of the first critiques of the NTER from a political and policy viewpoint. Similarly, essays by Jon Altman (2013) focused on the NTER from its inception in 2007 and examined perceptions, effects and failures felt by communities in relation to this policy. Eva Cox (2012) wrote several critical articles in the *Journal of Indigenous Policy* which focused on the debate between evidence-based policy and the ideologically-driven approach to the NTER and income management (see also Behrendt 2010a; Altman & Johns 2008; Partridge 2013; Wild 2007).

A range of publications by Altman (2007c), Edmunds (2010), and others that were produced between 2007 and 2012, focused more broadly on analysing the effectiveness of the NTER and provided alternative arguments for why the NTER was implemented. These publications also discussed the human rights concerns of Indigenous people in the NT, the lead-up to the policy, and the Howard Government's decision to intervene.²³ Altman and Hinkson (eds 2010) investigated a range of concerns, such as health and education, in relation to the NTER, and cultural and anthropological responses to it.²⁴ Billings (2010a) edited a collection of chapters that focused on several areas relating to the NTER, such as child protection, law enforcement and the suspension of the RDA 1975.

Additional critiques of the NTER have included the *Will they be heard?* report by Nicholson, Behrendt, Vivian, Watson & Harris (2009) and *This is what we said: Australian Aboriginal people give their views on the Northern Territory Intervention* by Gilbert (2010). Both these

²³ Other notable authors that have produced publications which had an emphasis on the Intervention policy are (Watson, N 2009; Watson, N 2011a; 2011b; Marika 2007; Dodson, M 2007; Marika, Yunupingu, Marika-Mununggiritj, & Muller 2009; Arney, McGuinness & Robinson 2009; Nancarrow 2007; Young 2008; Atkinson 2007; Sorensen, Fowler, Nash & Bacon 2010; Evans 2012, Brady 2007a, 2007b; Brett 2007; Walter, J 2008; Boulden & Morton 2007).

²⁴ A focus on public health has also been undertaken by authors such as Anderson (2007a); Brown & Brown (2007); Brady (2007a, 2007b); Tait (2007); Evans (2012) (who also highlighted arguments for and against the intervention); and Sorensen et al. (2010).

publications focused on the views of Indigenous people affected by the NTER. Part of the criticism among Indigenous leaders was the way in which the Intervention treated all Indigenous communities in the same way even though they are very different (Watson, cited in Moreton-Robinson 2007, p. 15). Other research critiqued the NTER more generally, as well as certain special measures that constituted this policy. These include publications by Stringer (2007), the Central Land Council (2008), Yu, Duncan & Gray (2008), and Kunoth-Monks, Gondarra & Nicholson (2010). A journal article by Grube (2010) also included an examination of the NTER and argued that the rhetoric utilised in policy sequences contributed to the Commonwealth Government's intervention

Stringer (2007) provided a comprehensive and direct critique of this policy. She argued that the NTER had two aspects: 'an underlying economic agenda geared to assimilatory neoliberalism, and a moral cover geared to converting the issues of violence, abuse and neglect into bottomless sources of official legitimacy for that agenda' (Stringer 2007). Stringer went on to argue that the NTER was:

... a land grab, but it is also much more than this. Given its resumption of the politics of assimilation, revival of key aspects of the Protection Acts regime, systematic undermining of Indigenous authority, and blatant violation of fundamental human rights, the intervention is nothing less than a neocolonial endeavour. (Stringer 2007)

In addition, there have been a range of publications which focus on Indigenous community reactions and critiques of the NTER. These were mainly published in 2008. One such document, which was produced by the Central Land Council, an Indigenous organisation, differed from the Federal Government's commissioned report. This organisation was able to nominate the responses of specific communities to the Intervention, as opposed to the broader approach and responses in the government report. The document focused on six Indigenous communities – Titjikala, Papunya, Yuendumu, Ali Curung, Kintore and Hermannsburg – and their reactions to specific special measures. These measures included the abolition of CDEP, the increase in police numbers, the alterations to the permit system, the introduction of business managers in Indigenous communities, five-year leases over Indigenous land, children volunteering for health check-ups, the repair and maintenance of housing, preparation of the income management scheme, and ensuring that stores are licenced (Central Land Council 2008, p. 4). Some responses included improving the quality of stock in community stores following the NTER licensing processes, and balancing people's views about income management amongst the six communities (Central Land Council 2008, pp. 4–5). Additional responses to the NTER by Indigenous people are discussed in more depth in Chapter Six.

A government-sponsored review by Peter Yu, Marcia Ella Duncan and Bill Gray about the NTER's first year of operation was commissioned by the Rudd Government in 2008. Following the release of this report, a wide range of positive and negative media articles responded to the report (see for example, Toohey 2008a, p. 1; Toohey 2008b, p. 6; Karvelas 2008, p. 1). One article indicated that the government requested a revision after seeing the review's first draft, as the review requested that the CDEP program be continued. This was despite Jenny Macklin, the Rudd Government's Minister for Families, Community Services and Indigenous Affairs, announcing its abolition (Toohey 2008e, p. 2; Toohey, 2008d, p. 1). The review made a range of recommendations that were based on consultation with Indigenous communities, and it contributed to Indigenous community critiques and responses to the NTER. The report's all-encompassing recommendations were that:

- The Australian and Northern Territory Governments recognise as a matter of urgent national significance the continuing need to address the unacceptably high levels of disadvantage and social dislocation experienced by remote communities and town camps in the Northern Territory;
- Governments reset their relationship with Indigenous people based on genuine consultation, engagement and partnership; and
- Government actions respect Australian human rights. (Yu, Duncan & Gray 2008, p. 12)

This publication included viewpoints from Indigenous people and communities that had been affected by the NTER's first year of operation. These viewpoints could have provided significant feedback to the Federal Government about the policy, its reception in communities, and Indigenous outlooks about it. These views could then have been used to amend the NTER, or to inform the government about how policy should be designed in the future.

In 2010, the Melbourne University Law School conducted an open discussion forum where Indigenous leaders Rosalie Kunoth Monks and Rev. Dr Djiniyini Gondarra engaged in a critique of the NTER. In response to questions about Federal consultation prior to the implementation of the NTER, Monks revealed that:

... there were trips out into the remote areas that was said to be consultation. It was a one-way conversation. One-way conversation does not mean that you are giving consent, simply because you don't fully understand the language in which you are being addressed. Your first language is something different from that of the people that are consulting you ... So as far as I was concerned, in my area there was not a consultation. (Kunoth-Monks, cited in Kunoth-Monks, Gondarra & Nicholson 2010, p. 2)

Rev. Dr Djiniyini Gondarra discussed the government's lack of consultation with his community: 'there was no consultation. There was no dialogue with our people. I think the way that the system operates is that the decision is made somewhere on top and we are being

been [*sic*] left out' (Gondarra, cited in Kunoth-Monks, Gondarra & Nicholson 2010, p. 2). Further, Gondarra outlined his disapproval of the income management 'special measure' (cited in Kunoth-Monks, Gondarra & Nicholson 2010, pp. 9-10).

Research has been conducted into the restriction of Indigenous rights. The research examines the restriction of Indigenous rights and self-determination, and the ability of Indigenous communities to self-govern, as well as concerns over rights of employment – in particular, the abolishment of the CDEP – and alcohol restrictions. Moreover, a lack of community consultation over the NTER's implementation led to measures such as the quarantining of payments and the issuing of basics cards being imposed, restricting freedom of purchase (Behrendt 2007; Dodson, P 2007 & Sanders 2007, cited in Altman & Hinkson eds 2007; Howie & Edwards 2010).²⁵

A substantial amount of research has focused on the denial of human rights to Indigenous peoples under this policy, and on the NTER being racially discriminatory. With the implementation of the NTER, the Howard Government suspended the operation of the RDA, which ignited debate about whether the special measures were racially discriminatory. Vivian (2010b, p. 46) has noted that there were several international and Australian bodies, including the UN Committee on the Elimination of Racial Discrimination and the Aboriginal and Torres Strait Islander Social Justice Commission, which argued it was racially discriminatory. Vivian and Schokmen (2009, p. 79) argued that the suspension of the RDA leaves those affected by the NTER with no avenue of protection from the NTER's racially discriminatory measures. They contend that the special measures in the NTER policy do not afford Indigenous people the opportunity to enjoy the same rights as non-Indigenous peoples (Vivian & Schokmen 2009, p. 88). An analysis and critique of the suspension of the RDA has also been undertaken by Davis (2007b; Billings 2010c, 2010b & Mohr 2009).

Amnesty International (2011) produced a report that highlighted some issues with the NTER. This report discussed Indigenous people's reactions to the NTER; in particular, it analysed the policy's failure to comply with human rights standards. This report argued that Indigenous peoples have the right to live on their traditional lands, and that the government should not prevent Indigenous peoples having access to appropriate housing. Amnesty International recommended that the Territory and Federal Governments engage with Indigenous people by involving them with 'full and equal participation' (Amnesty

²⁵ Altman & Sanders (2008) have provided some contrasting arguments as to why CDEP should not be abolished. Other authors highlighted a lack of consultation either before its imposition or since it was instigated (National Congress of Australia's First People's 2012; Aboriginal Peak Organisations of the Northern Territory (APONT) 2011; Watson 2012).

International 2011, p. 11). James Anaya, who was the UN Special Rapporteur on the Rights of Indigenous People, investigated the human rights of Indigenous people in Australia. In his 2010 report, Anaya found that the NTER was incompatible with Australia's human rights obligations. He argued that the special measures which formed part of the NTER legislation were racially discriminatory (Anaya 2010a, p. 41; Nicholson, Harris & Gartland 2010, p. 18, Central Land Council 2010, pp. 3-4). An overall conclusion from Anaya's report was that:

... [t]he legislative and administrative measures that relate to the NTER should be revised so that those measures are in conformity with Australia's international human rights obligations, and the Special Rapporteur acknowledges the initiatives of the Government in this regard. (Anaya 2010a, p. 36)

Other publications have a similar focus on the NTER and Australia's human rights obligations (see for example, Davis 2007b, 2007c, 2009; Calma 2009; Schokman 2012; Libesman 2012; Billings & Cassimatis 2009).

The Yu, Duncan & Gray (2008) Northern Territory Emergency Response Review Board's publication included a section about human rights and racial discrimination concerns in relation to the NTER. This publication argued that if racially discriminatory special measures were enacted, then the human rights of Indigenous children and women would not be protected through the Convention of the Rights of the Child (CRoC) and the Convention on the Elimination of Discrimination against Women (CEDAW) (Yu, Duncan & Gray 2008, p. 46). It asserted that there were two special measures that conceivably infringed the RDA 1975. These measures were the five-year leases over Indigenous land, and the management of income (Yu, Duncan & Gray 2008, p. 46). Similarly, a briefing paper published in August 2010 by Amnesty International advanced several arguments. One argument held that the measures that formed the NTER were 'racially targeted'. Another asserted that human rights violations, including violation of 'freedom from discrimination', should not occur with a government policy designed to address child sexual abuse (Amnesty International 2010, p. 10).

Research was uncovered on the definition and classification of a special measure, which are the provisions designed to assist vulnerable and disadvantaged groups (see for example, Chappell, Chesterman & Hill 2009; Hunyor 2009). Marks (2008, p. 13) has argued that a special measure can only be intended to negatively discriminate with the consent of those people that will be affected by it. That is, the measure can be designed and implemented with consent and can impinge upon a group's rights only if it was intended in a way that would benefit them. McCausland (2008, pp. 7-9) debated whether the policies under the NTER actually constituted special measures in law and under human rights principles. She

concludes that it is unclear how the NTER legislation allowed the government to assess whether the special measures were beneficial to Indigenous people, and whether their human rights were being promoted (McCausland 2008, p. 9).

Widdowson-Kidd (2008) argued that, because the Howard Government suspended the RDA, the NTER legislation constituted 'special measures'. McCausland (2008) and Calma (2007) have examined whether the special measures in the NTER legislation impinged upon Indigenous people's human rights. McCausland (2008) confirmed that these measures were in breach of Australia's human rights responsibilities. Likewise, it was argued that enacting this legislation and suspending the RDA contravened the human rights which were designed to safeguard Indigenous people (Widdowson-Kidd 2008, pp. 119, 126-128). Similarly, Gruenstein (2008) and Vivian (2010a) observed that, in all likelihood, Australia violated international human rights responsibilities. These responsibilities relate to several treaties to which Australia is signatory, which include:

... the International Convention on Civil and Political Rights (ICCPR), the International Convention on Economic, Social and Cultural Rights (ICESCR), the International Convention on the Elimination of All Forms of Racial Discrimination (CERD) and the International Convention on the Rights of the Child (CROC). (McCausland 2008, p. 2; Marks 2008, p. 13; Gruenstein 2008, p. 469)

This raises concerns about the government's lack of engagement and consultation with Indigenous people as the legislation was being developed. But, this lack of respect and dialogue with Indigenous peoples is not surprising given the Howard Government's lack of support for the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) in late 2007 (see for example, Gruenstein 2008, p. 471). Widdowson-Kidd (2008) raised concerns about the Howard Government's lack of consultation with Indigenous people in the lead-up to the NTER. Other authors also evaluated the government's approach in relation to consultation (see for example, Manderson 2012; Partridge, Maddison & Nicholson 2012).

Indigenous researcher, Larissa Behrendt critiqued the NTER special measures, linking school attendance to welfare payments for Indigenous families. She opposed this program and proposed some alternatives that included:

...breakfast and lunch programs that attract children from dysfunctional families to school ... Aboriginal teachers and teacher aides who can also provide a support role for Aboriginal students and influence changes to curriculum and teaching methods, curriculum that engages Aboriginal children because it teaches them the essentials in a way that resonates with their culture, values and world views ... (Behrendt 2008b, p. 13)

Behrendt advocated for community driven-programs that did not punish families for not sending their children to school, but rather rewarded them for doing so.

Critiques of the NTER are diverse. This thesis includes Indigenous voices, in conjunction with a CRD approach encompassed with CRT, to analyse reactions to the NTER. This approach could alter how both Federal and NT governments might engage with Indigenous communities when formulating future policy.

The next section will analyse research on Indigenous social problems in NT communities from the 1970s to 2007, and will argue that this research focused on similar issues and ways to address these social problems. In addition, I argue that the initial 2006 report, the subsequent *Lateline* broadcasts and the reactions to these broadcasts by the Australian media and Parliament have not received in-depth attention.

2.5 Indigenous social problems and the 2006 Lateline broadcasts

This section discusses research dating back to the 1970s that examines Indigenous social problems in the NT. There are only minor differences in scope, aims and outcomes between these Indigenous social problems reports. This subsection examines the *Lateline* broadcasts of 2006 which contributed to the reactions by the Australian media and Parliament, and eventually to the NT Government response with a Board of Inquiry into the Protection of Aboriginal Children from Sexual Abuse.

There is a considerable body of research that relates to Indigenous social problems and ways to address these in NT communities and throughout Australia. This research has been published by Indigenous organisations, academics, State, Territory and Federal Governments, government organisations, the judiciary, and the NT coroner since the late 1970s. Chapter Three of this thesis analyses how the Territory and Federal Governments responded to these publications and to reports of Indigenous social problems, especially during the Howard years (1996-2006). This research seeks to understand the Federal Government's sudden response with the NTER. While the government used the *Little Children are Sacred* (LCAS) report by the Northern Territory Board of Inquiry into the Protection of Aboriginal Children from Sexual Abuse to justify the NT Intervention, this report did not differ markedly from past publications. A review of previous research suggested that inaction by the Howard Government was based on recommendations being inconsistent with the Howard Government's integrationist approach to policy. This raises questions about the Government's sudden response with the NTER. This analysis is conducted in Chapters Three and Five and draws upon the extensive body of past publications described above. In so doing, it also adds to commentaries on this literature by academics such as Lawrence (2006), Hands and Williams (2007), Dodson and Smith (2003),

Bell and Napurrula Nelson (1989), Writer (2008), Atkinson (1990), Bolger (1991), Homel, Lincoln and Herd (1999), Burbank (1994), and Davis (2007). Chapter Three contains a more detailed analysis of these studies, but a brief outline is made in this chapter.

Similar social problems were reported in this research: alcohol abuse, child sexual abuse, unemployment issues, and health problems. Recommendations to address these problems included increased funding, community empowerment, consultation, and self-determination. One recurrent theme was the need for Indigenous communities to gain self-determination and empowerment to overcome these issues.

Issues of low educational attainment and alcohol abuse contributing to higher incidence of sexual abuse were examined by Johnston (1991), Coorey (2001), Wild & Anderson (2007) and others.²⁶ Research by McGlade (2012), for example, has also investigated other reasons – including colonisation and racism – for social problems. McGlade’s analysis made a link to the key theoretical framework of CRT, as well as Tribal Critical Race Theory. Other research attributed social problems such as higher incidence of violent behaviour in communities to Indigenous people’s oppression and dispossession from their country.

Howard-Wagner (2007, pp. 243-245) undertook a brief but informative survey of publications on social problems in Indigenous communities. Although it was arranged in chronological order and drew upon authors such as Brady (1996) and Atkinson (1992), her review did not include a specific overview of the research on problems in NT communities. Rather, her review is broader and surveys research about Indigenous social problems across Australia. This thesis will fill this gap by focusing predominantly on the NT.

The same Indigenous social problems and recommendations were identified by Indigenous and non-Indigenous authors, and appear repeatedly in previous research. Maggie Walter (2010, p.125) identified a range of social problems that Indigenous communities were experiencing 30 years before the implementation of the NTER. Similarly, Behrendt (2007, p. 12) stated that there had been decades of reports before the announcement of the Intervention. Conor (2007, p. 12) also alluded to a number of federal reports which made a link to Indigenous social problems, and in particular to sexual abuse and violence (see also Howard-Wagner 2007, p. 244). Indeed, all levels of government in Australia have, since the 1980s, received reports identifying these issues. In sum, a number of reports have identified

²⁶ Other authors include Lawrence (2006), Homel, Lincoln & Herd (1999), Cavanagh (2005), and NACCHO (2006), Wild & Anderson (2007), Lawrence (2006), Bartlett (1995), Coorey (2001), Calma (2006), Lawrence (2006), Johnston (1991), Al-Yaman, Van Doeland & Wallis (2006), Marks (2008), Broadbent & Bentley (1997), York, Psychogios, Bricknell & Madden (2006) and Atkinson (1990).

domestic violence and child sexual abuse as issues – the LCAS report is only the most recent and contains nothing new (Hands & Williams 2007, pp. 11-12; Martiniello 2007, p. 124).

Flaherty and Goddard (2008, pp. 7-10), Reid and McCallum (2012, pp. 5 - 6), Merlan (2010, pp. 119 - 121) and McGlade (2012, pp 103 - 111) critique certain sections of the LCAS report and provided insights into its shortcomings. However, the question remains as to why the Federal Government responded to the LCAS report by introducing the NTER, when past research had identified the same issues. Moreover, further research is required on the findings from the LCAS report. In so doing, this thesis adds to research by Billings (2009, p. 8), McIntyre (2007, p. 83), Gruenstein (2008, p. 468), Watson, I (2009b, p. 45), Humphrey (2010, p. 1) and Short (2010, p. 56). Analysis has indicated that child sexual abuse exists in non-Indigenous communities, indicating that ‘white’ offenders also abuse children (Fawcett & Hanlon 2009, p. 89; Martiniello 2007, p. 124; Tedmanson & Wadiwel 2010, p. 9). Coram (2009, p. 208) stated that the LCAS report makes the connection between dysfunction in Indigenous communities and the incidence of child sexual abuse. However, Coram (2009, p. 208) argued that this reasoning does not take into consideration that people might live in similar Indigenous community environments with dysfunction and not have incidents of abuse.

Other research focused on examining and making reference to the LCAS report. t’Hart (2008, p. 166) stated that the LCAS report highlighted that child sexual abuse is very serious, that it is in existence and not acceptable in line with societal standards. Vivian (2010, p. 47) made reference to the LCAS report and stated that it found that how government and non-government departments had engaged with Indigenous communities in the past had left them feeling perplexed, misunderstood, overcome and disenchanted. Further, it was noted in reference to the LCAS report that Indigenous communities were in a more vulnerable state due to colonisation, and that Indigenous peoples, especially Elders, were not involved with decision making (Vivian 2010, p. 47).

The 2006 *Lateline* broadcasts reported on social problems in Indigenous communities, predominantly in Mutitjulu. These generated such a reaction that several subsequent *Lateline* reports were made that year. The wider Australian media, and politicians, also reacted to these programs. It was as a direct consequence of these broadcasts that the NT Government established a Board of Inquiry into the Protection of Aboriginal Children from Sexual Abuse. In-depth analysis of all these broadcasts has never been conducted. The research that has occurred related to the first broadcast, featuring Crown Prosecutor Nanette Rogers, and another report featuring Minister Mal Brough. Some exceptions that have focused on these

Lateline broadcasts were made by Flaherty and Goddard (2008, p. 6), Fieldes (2010, pp. 3-10), Langton (2008c, pp. 148-150), Martiniello (2007, p. 124), Coram (2009, p. 200), and Edmunds (2010, p. 4). However, a discourse analysis of representations of Indigenous communities following the imposition of the NTER in populist media accounts by Indigenous and mainstream media was undertaken by Proudfoot and Habibis (2015). Similarly, Reid and McCallum (2012) published a journal article that argued that the Australian news media played a significant role for viewers and policymakers in framing the LCAS report and the succeeding proclamation of the NTER policy in 2007. Correspondingly, Mesikämnen (2013) analysed mainstream media representations of Indigenous peoples and affairs in relation to the NTER, by investigating the existence of Indigenous perspectives in these media narratives. In addition, Mesikämnen (2016) employed a discourse analysis which focused on the significant relationship of power in mainstream media regarding the NTER policy. An in-depth analysis of the *Lateline* reports will be conducted in Chapter Four as well as some political and media reactions to these.

Research that examined the first 2006 *Lateline* broadcast focused on an interview with Nanette Rogers. The Crown Prosecutor spoke out about child sexual abuse and violence against women in central Australian Indigenous communities. This research includes analysis of this episode of *Lateline*, as well as several subsequent *Lateline* broadcasts which responded to the original broadcast. The *Lateline* reports, wider media reaction and questions in the Australian Parliament led to the NT Government's inquiry.

2.6 Methodology

The primary data materials, as highlighted in subsection 1.3.4, date from May 2006 to November 2007 and they have been primarily sourced from then PM John Howard and Mal Brough, the then Indigenous Affairs Minister. Although this timeframe is not lengthy, there was a substantial amount of primary data from both Howard and Brough that related to their views of Indigenous communities and culture, the NTER, why they deemed an intervention necessary and the concept of integration. Both John Howard and Mal Brough presented their views about Indigenous communities and culture in a negative light. This was uncovered by analysing legislation and parliamentary debates in Hansard and online, television, print and online media, newspaper articles and radio transcripts. This thesis focuses on these two political figures in particular, as they were the driving force within Federal Government in announcing, designing and imposing the NTER.

Other primary data from Indigenous figures was collected that related to their positive, negative and ambivalent views of the 2007 NTER, the related special measures, Indigenous communities and culture, and the *Little Children are Sacred* (LCAS) report. Primary source material was also included from the media and government which focused on the racialised representation of Indigenous communities and culture. In addition, the thesis included the *Lateline* broadcasts and responses to these broadcasts during 2006, including racialised representations in these episodes and in other reports in print, on television and on radio. These representations, by other government figures including Nigel Scullion and Clare Martin for example, were uncovered by analysing their views of Indigenous communities and culture, then placing the primary data from this analysis into the relevant discourse. Furthermore, other primary material was sourced based on themes relating to a lack of neglect and support to Indigenous affairs by the Howard Government, and the 2007 LCAS report, including from the long history of reports which identified Aboriginal social problems. Although these latter materials were not the main source of evidence, they made a significant contribution to the early chapters.

2.7 Method

In order to investigate the representation of Indigenous communities and culture and the decision to intervene in Aboriginal communities, this thesis focuses on the perspectives of then PM John Howard, and Mal Brough, the then Indigenous Affairs Minister. Data was organised into key themes relating to representations of Indigenous communities and culture, integration into the mainstream, economic development and contributions to the ‘real economy’. This discourse related to the representations of Indigenous communities in ‘crisis’, communities as dysfunctional and a threat to children, and welfare as the problem. It also related to the government’s ‘solution’: an intervention which would be the first step towards enabling Indigenous people to integrate into Australian society and take full responsibility for their own economic and social development. For example, some primary materials was sourced from key speeches and legislation in Hansard, television, print, radio transcriptions and online media, and newspaper articles. They provided evidence of John Howard and Mal Brough’s perspectives on Indigenous people, communities and culture and their position on how the situation in Indigenous communities could be resolved. This assisted with developing the argument that the PM and Minister represented Indigenous communities and culture negatively. For these politicians, integration into the mainstream provided a ‘solution’ to this ‘problem’. As such, an intervention was constructed and imposed by the Howard Government in 2007.

It was the period from May 2006 to November 2007, when the Howard Government proclaimed, planned and executed the NTER, which forms a key focus of analysis in this dissertation. Primary materials dating from November 2007, when there was a change in Federal Government under the leadership of Kevin Rudd and Julia Gillard were excluded. These sources are briefly referred to in an afterword in Chapter Seven. During this 2006-2007 time period, momentum was also building within the media which led the NT Government to respond to alleged Aboriginal child sexual abuse and other Indigenous social problems in the NT. This timeframe was also nominated because it best illustrated John Howard and Mal Brough's responses to allegations of child sexual abuse and representations of Indigenous communities and culture.

In assessing the context in which this policy was adopted I also identified significant events which contributed to the decision to intervene in Indigenous communities. These specific events included the 2006 *Lateline* broadcasts and the response to these broadcasts by the NT Government in establishing an Inquiry into alleged child sexual abuse, as well as the production of the LCAS report in 2007. This assisted with a pre-NTER analysis of the key discourse of 'social problems' and the representation of Indigenous peoples. Thus, my pre-NTER primary data was centered on what Federal and NT politicians were saying about Indigenous communities and culture, and how integration into the mainstream would allegedly solve Indigenous social problems throughout communities in the NT. In addition, Indigenous responses to how Indigenous communities and culture were being represented were also a key focus. This allowed the examination to include counter narratives as to how Indigenous communities and culture was being represented in the lead up to the 2007 NTER policy.

2.8 Conclusion

Extensive research has been undertaken about the NTER. This chapter demonstrated that Critical Race Theory (CRT) is a valuable alternative method of analysis. CRT provides an important way to examine the social construct of 'race', racism and power in society. By utilising CRT scholarship, this thesis aims to develop a new perspective on the NTER.

This chapter has reviewed research that has focused on the impact of neoliberalism on Indigenous policy, and neoliberalism and the NTER. The neoliberal nature of the NTER provides an argument as to why the Howard Government implemented the policy. This research adopts CRT to foreground 'race' and racism to disrupt the discourse on the integrationist NTER.

CRT and Critical Indigenous Theory are similar but not the same. Similarities include a decolonising approach and the importance of giving ‘voice’ to marginalised social groups. There is significant research on CRT, mainly from the US. CRT has been utilised in Australia to critique education policy in particular, but only briefly to critique aspects of the NTER.

There are many critiques of the NTER which raise concerns about the denial of human rights, and the racial discrimination inherent in this policy. This literature discussed the provision of special measures, and argued that those contained in the NTER policy were negative and directed only at Indigenous people. Other critiques used Aboriginality to analyse the NTER and assess its effectiveness, and to examine differing views about the NTER.

Finally, wide-ranging research between the 1970s and 2007 examined Indigenous social problems in the NT. Some parts of the LCAS report were analysed, and this thesis builds on this material by comparing the key themes and recommendations from the report to the NTER policy, and by contrasting representations of Indigenous people, communities and the recognition of underlying problems. The government claimed that the NTER policy was based on this report, but it was not.

The *Lateline* episodes have not been analysed in the literature, nor some of the key reactions from the Australian media and Parliament. It was these broadcasts and the reactions to them that influenced the NT Government to establish the Inquiry that resulted in the LCAS report. This thesis includes analysis of these incidents by drawing on the CRT tenet of ‘counter-storytelling’ in an attempt to demonstrate that this approach can be used as a way to challenge and disrupt the destructive normalised narrative portrayed in the Australian media. It does this by centring and privileging the experiential knowledge of Indigenous peoples in society.

This chapter also includes a review about the main methodological approaches applied in this thesis. It indicated that primary data materials from the then PM John Howard and Mal Brough, the Indigenous Affairs Minister, were included from a variety of different sources. Furthermore, other primary data related to Indigenous figures, the media and government figures with a focus on representations of Indigenous communities and culture. Similarly, the 2006 *Lateline* broadcasts were also included in order to analyse racialised representations of Indigenous communities and culture. Additional primary data was obtained from the theme on the lack of support by the Howard Government in relation to Indigenous Affairs, the LCAS report from 2007 and reports from a long history of publications highlighting Aboriginal social issues.

Finally, linked closely to the methodology was the method subsection on the timeframe of the primary data included, from May 2006 to November 2007. However, it was noted that primary data following this timeframe were not included as in November 2007 there was a change of the Federal Government. In addition, this particular timeframe was nominated due to the influences in media which contributed to the NT Government to act. This timeframe provided the greatest opportunity to analyse John Howard and Mal Brough's response to allegations of child sexual abuse, highlighting their perceptions of Indigenous communities and culture, their understandings of the NTER policy, and why they deemed an intervention necessary.

The following chapter includes analysis of a variety of government publications between 1996 and 2006 and discussion of the Howard Government's response to their recommendations. It also analyses other publications from Indigenous organisations, researchers and the NT coroner to examine representations of Indigenous social problems prior to and during the Howard Government's term. This raises other possible explanations for the government's 2007 decision to impose the NTER. Furthermore, an emphasis on the representation of Aboriginality and the framing of a discourse of social problems in the Northern Territory (NT) will be discussed.

3. Representations of Indigenous ‘social problems’

3.1 *Discourse on the NT*

In the previous chapter, key literature analysing the racialised discourse about Indigenous people was presented. Theories of neoliberalism, Critical Race Theory (CRT) and Critical Race Discourse Analysis (CRDA) were introduced as a basis for a critique of the NTER. More specifically, Chapter Two introduced a Critical Race Discourse (CRD) approach that argued that while each of the above theories provide valuable insights to the NTER, they do not adequately address the Howard Government’s agenda of the integration of Indigenous peoples into mainstream society.

This chapter analyses representations of Indigenous ‘social problems’ in the discourse on the Northern Territory (NT). ‘Social problems’ in Indigenous communities and ways to address these issues have been represented in a variety of publications from a range of government and non-government bodies, predominantly from the 1970s (see for example, Coombs 1977).²⁷ This created a narrative about social problems in Indigenous communities in the NT that represented, and indeed still represents Indigenous peoples and culture as being deficient. Although this was a predominantly negative discourse on the representation of Indigenous peoples and communities, it should be noted that this does not imply that the authors were necessarily and deliberately engaging in a racialised social problems discourse. Rather, this chapter exposes this discourse to uncover and disrupt how the literature has contributed to or challenged issues of the representation of Indigenous people, communities and culture.

However, many of these issues that were identified as social problems were not widely reported on and not drawn to *public attention*. According to Skelton and Stafford (2006), this was especially evident in the Northern Territory (NT) in relation to alleged child sexual abuse in remote communities. Skelton and Stafford (2006, p. 1) suggested that this was because it was a topic that was not publicly identified by Indigenous leaders as a significant issue and was never openly discussed by the government of the NT.

²⁷ Throughout this thesis the term ‘social problems’ is used to indicate a concept developed by non-Indigenous society and which contravenes non-Indigenous people’s accepted behaviour. The definition of a social problem is defined by non-Indigenous society; it determines what behaviour is socially acceptable and unacceptable across Australia. When discussing the debate around Indigenous rights claims, Moreton-Robinson (2009, p. 67) stated that in the discourse of the Howard Government, ‘social problems are considered to be any forms of behaviour that violate the norms of white civility’. I argue that the ways in which Indigenous social problems have been represented in the public consciousness has been detrimental to communities as it presents these communities in negative terms.

Nonetheless, it is evident that in the decade leading up to the NTER, the *Howard Government* was aware that social problems existed throughout Indigenous communities in the NT, such as the sexual assault of children, and more generally across other areas of Australia (see for example, McGlade 2012, pp. 96-128). This is to argue that while there may not have been public awareness of these matters, the Federal Government had been fully informed about these issues. There were many Commonwealth and State Government reports that identified Indigenous social problems in remote communities, concentrating on sexual abuse and violent acts in isolated Indigenous communities from the late 1980s to the early 2000s (Conor 2007, p. 12; see for example, Hunter 2008). This chapter reviews information about these social problems within publications coming from government departments or from bodies that had government funding but might not have been directly linked to the government. In addition, reports published by non-government researchers, Indigenous organisations, the NT Coroner, the judiciary and a significant speech given by an Indigenous leader highlighted a diverse range of social problems.

The findings from these publications included the existence of violence, alcoholism and child sexual abuse. However, the recommendations included acknowledgment of the importance of Indigenous self-determination, community consultations and empowerment. These recommendations focused on Indigenous communities playing a central role in addressing and overcoming existing problems, an approach that is aligned with a CRD framework of respecting Indigenous peoples and culture. The recommendations were inconsistent with the Howard Government's agenda of integrating Indigenous peoples into mainstream Australian society. Despite the reality that it was not in the best interest of the Howard Government to have supported these recommendations, the Government undertook a range of policy initiatives, including imposing a policy approach such as the Shared Responsibility Agreements (SRA) which linked behaviour change to welfare benefits in some NT Indigenous communities.²⁸

This chapter is organised into three sections. Firstly, the chapter will examine government publications prior to the Howard Government gaining power and up to 2006. It is argued that

²⁸ SRAs offered Indigenous communities the opportunity to enter into a partnership with the government based on what the community identified as priorities to be addressed. If communities enter this agreement with the government, then they would have agreed to behavioural changes, and in return they would have received from the government funding for 'infrastructure' (McCausland 2005a, p. 3; Robbins 2007, pp. 323-324). Government funding was provided based on agreeing to a SRA for projects which benefits the community (Norris 2006, p. 1). A trial of SRAs in the NT community of Wadeye was conducted between 2003 and 2006 (Gray, B 2006, p. 1); these agreements were inaugurated and became official Howard Government policy in 2005 (Strakosch 2009, p. 83). Connor (2007, p. 14) argued that the SRA agreements were part of an integrationist approach by linking conditional welfare allowances to 'assessments of children's hygiene and school attendance'.

these reports located the cause of identified social problems with Indigenous peoples and their communities. This dominant narrative contributed to the Indigenous 'social problems' discourse, portraying Indigenous peoples as being deficient. Moreover, this section explores some key findings and recommendations of the reports, contending that although a counter-discourse was in play, it rarely was acted upon. Finally, it is argued that as these findings and recommendations came from government publications, the Howard Government had access to this information prior to the Intervention. Such knowledge should have therefore prompted the government to take action earlier than it did in 2007. However, the Howard Government did not act on recommendations to address these issues as they were not consistent with the policy of integration.

The second section analyses non-government research which sustained the discourse of Indigenous social problems representing communities and people as being inferior to 'Western' culture. Thirdly, judicial and coronial reports are examined as well as Indigenous commentary on the discourse of social problems. This is to indicate the continuation of an Indigenous social problems discourse and the negative representation of people, communities and culture. However, by employing the methods of a CRD framework of analysis, in particular the CRT tenets of social justice and counter-storytelling, this chapter will privilege Indigenous voices and foreground a space to disturb colonisation. This provides a way to speak back to this destructive Indigenous social problems discourse. The following section begins with an examination of government publications.

3.2 The representation of Indigenous social problems in government publications

Prior to the Howard Government being elected in 1996 and until 2006, a variety of publications exposed information on Indigenous social problems. These reports and other publications (see below) were produced by the Federal, State or NT governments and their associated departments, with government-orchestrated conferences highlighting a number of social problems in some NT Indigenous communities and Indigenous communities Australia-wide. I argue that as these government publications were prepared by government departments, it could logically be expected that the Howard Government would have had access to this material.

Contrary to the dominant and often racialised discourse, social problems do not exist in every Indigenous community in the NT. In addition, not every Indigenous person in the NT is affected by these issues. Indigenous communities in the NT are diverse and are not

homogenous (Thomas 2008, p. 2).²⁹ This is not to deny that some issues have existed in some NT Indigenous communities since at least the 1970s. But the purpose of this section is to examine the discourse on Indigenous social problems that contributed to the depiction of peoples, communities and culture across the NT as inferior. This examination is focused on before 1996 up to 2006.

It is beyond the scope of this thesis to analyse every government publication produced in the lead-up to 2006 and during the time the Howard Government was in power. Rather, some of the more significant findings from a variety of government publications have been selected to illustrate the presence of a discourse that persistently presented Indigenous communities in terms of their social problems. However, it should be importantly noted that these authors and organisations throughout this chapter were not deliberately engaging in a racialised discourse on social problems. Rather, they were examining and exposing the social problems that are evident in some Indigenous communities in the NT.

This discourse was revealed in government-commissioned reports, which are reports undertaken externally with funding from the government, and in reports produced by government departments. These publications demonstrated similar findings prior to and during the Howard Government's period in office. One such theme coming from these publications related to studies on violence, including family violence, violence against women, and violence against children. Following a conference for the Australian Institute of Criminology, an Australian government agency, an article was published in 1992 that highlighted the issue of violence against women. The article titled 'Crossing the last frontier: problems facing Indigenous women victims of rape in central Australia' argued that violence against Indigenous women in Central Australia could be linked to issues with alcohol and that there had been reports of these problems since 1982 (Lloyd & Rogers 1992, p. 151, pp. 152-159).

Al-Yaman, Van Doeland and Wallis (2006) wrote a report titled *Family violence among Aboriginal and Torres Strait Islander peoples*, published by the Australian Institute of Health and Welfare, Canberra. This report argued that Indigenous women were more likely to be

²⁹ It has been argued that Indigenous peoples have lived in Australia for up to 100,000 years (Broome, cited in Behrendt 1995, p. 13), making their culture the longest surviving of any human culture (Carter 2006, p. 76). Indigenous groups in Australia are not homogenous: different language groups are spread across Australia; over 500 Indigenous nations were in existence before invasion (Broome, cited in Behrendt 1995, p. 13). Moreover, at the time of the invasion in 1788, there were 600 dialects belonging to in excess of 270 different Australian languages across the continent of Australia (House of Representatives Standing Committee on Aboriginal and Torres Strait Islander Affairs, cited in Amery & Bourke 1994, p. 122). Some languages were completely different from each other; others were focused around a certain dialect of that language (Trudgen 2000, p. 81).

victims of domestic violence and therefore had a higher risk of morbidity and mortality (Al-Yaman, Van Doeland & Wallis 2006, pp. 2-3).

In addition, in 2003, Janet Stanley presented a paper titled 'Child sexual abuse in Indigenous communities' at the *Child sexual abuse: justice response or alternative resolution conference* convened by the Australian Institute of Criminology. This paper did not specifically relate to child sexual abuse in NT Indigenous communities, but focused more broadly on this abuse across Indigenous communities in Australia. The causes of child sexual abuse were examined in the report by Stanley, Tomison and Pocock (2003). The report found it was connected to 'parental history, the nature of the interaction between parent and child, interaction with the community and broader societal issues (e.g. attitudes towards children)' (Stanley 2003, p. 6). Significantly, the paper argued that the contemporary response for addressing child sexual abuse did not take into account these elements, only 'the nature of the interaction between parent and child' (Stanley 2003, p. 6). Importantly, it indicated that:

CSA [child sexual abuse] in Indigenous communities needs to be understood in the context of the broader setting of trauma, deprivation and racism, in which the problem of CSA is completely entwined. This approach also conceptualises the solution – an holistic approach to address issues of violence, loss of cultural identity, substance abuse and the needs of women and children. It is suggested that it is within this context that CSA needs to be understood. This paper argues that this faulty conceptualisation (i.e. one of individual pathology) is a major contributor to the failure to adequately address CSA. (Stanley 2003, p. 6)

The Stanley (2003) paper focused on a variety of areas and problems that related to the sexual abuse of children in Indigenous communities. These areas included discussing the degree of the sexual abuse of children in Indigenous communities; why this problem is more difficult to comprehend throughout Indigenous communities, as opposed to non-Indigenous communities; and how past experiences and contemporary sufferings by Indigenous peoples play a part in the current issue of the sexual abuse of children (Stanley 2003, p. 2). The paper addressed the clashing of cultures within the system that protects children, where one model of child protection can overpower another. It also presented ideas about confronting the sexual abuse of Indigenous children into the future (Stanley 2003, p. 2). This paper highlighted that in the years 2001–2002, departments dealing with the protection of children reported proportionally fewer incidents of Indigenous child sexual assault than for those of non-Indigenous descent, although 'psychological abuse and neglect' were higher for children in the Indigenous population

Government-commissioned publications and publications from government departments revealed a higher rate of violence in Indigenous communities. A Queensland Government

report by Robertson (1999) titled *The Aboriginal and Torres Strait Islander Women's Taskforce on Violence report*, made reference to another key theme – that of Indigenous family violence. Although this report did not explicitly focus on violence in NT Indigenous communities, it did make reference to the amount of violence that is prevalent in Indigenous communities generally. The report stated that there was a correlation between the existence of violence and alcohol abuse (Robertson 1999, p. 15). Similarly, Al-Yaman, Van Doeland and Wallis (2006) argued that higher rates of violence in Indigenous communities existed and contributed to poor health, inadequate housing, unemployment and limited support services (Al-Yaman, Van Doeland & Wallis 2006, pp. 3-4).

This revealed that problems relating to family violence have existed for many decades and have been admitted by past Indigenous and non-Indigenous agencies, including the NT Government. The NT Liberal Government committed to eliminating and preventing violence by imposing the Domestic Violence Strategy 1994–2005, which included the Aboriginal Family Violence Strategy (Adriaansen & Jacob 2001, p. 32). The Data Collection Project Report 1999–2000, set up as part of this strategy, provided data highlighting the various forms of Indigenous family violence (see for example, Adriaansen & Jacob 2001). The findings by Stanley, Tomison and Pocock (2003), Robertson (1999) and Adriaansen and Jacob (2001) contributed to the narrative on the Indigenous social problems discourse, representing communities and peoples as violent and children being sexually abused.

As Social Justice Commissioner for the federally funded but autonomous Human Rights and Equal Opportunity Commission (HREOC), Tom Calma published a paper titled *Ending family violence and abuse in Aboriginal and Torres Strait Islander communities – key issues: an overview paper of research and findings by the Human Rights and Equal Opportunity Commission, 2001 – 2006*. It argued that violence, including family violence, occurred at greater amounts for Indigenous people than for non-Indigenous people over two decades with no recognisable change (Calma 2006, p. 6). However, a more detailed analysis of the amount of violence will be provided below. The HREOC paper maintained that violence should not exist in Indigenous communities and does not belong in communities, and that solutions to family violence and abuse were multi-layered (Calma 2006, p.4; p. 23).

The prevalence of family violence was also highlighted by Memmott, Stacy, Chambers and Keys (cited in Al-Yaman, Van Doeland & Wallis 2006, p. 2) in their paper entitled *Violence in Indigenous communities*. The authors' Federal Government-commissioned study through the National Crime Prevention Division of the Attorney General's Office, Canberra, focused on violence in Indigenous communities and made recommendations relating to this issue

(Memmott et al. 2001). This report drew some similarities to the *Little Children are Sacred* (LCAS) report. Memmott's assessment of the incidence of family violence was similar to other previous government publications, such as the 2004 *Family Violence and Sexual Assault in Indigenous Communities* briefing paper by Keel. Nonetheless, the report was with the Federal Government for at least 18 months (Kacha 2009, p. 7), with it reportedly being submitted in 1999 but not released until 2001 (Ramsey 2007, p. 35). There is no evidence to suggest that the Howard Government acted on this report in 2001.

The report by Memmott et al. (2001, p. 6) indicated that, while violence statistics varied, disproportionately high levels of violence were noted in some Indigenous communities and that this had increased in certain regions since the 1970s and the 1980s (Memmott et al. 2001, p. 6). Similarly, the Stanley (2003, p. 2) paper stated that abuse and neglect was higher in Indigenous communities. Memmott et al. (2001, p. 11) emphasised that the domestic violence in Indigenous communities was linked to the historical treatment of Indigenous peoples that included past dispossession.

In 1987, a Royal Commission outlined the causes of violence and made links between violence and alcoholism and between social problems and deeper social issues. This Commission, which is discussed further in section 3.2.2, was established by the Hawke Labor Government to investigate the deaths of 99 Indigenous people in custody during the 1980s. Consequently, in 1991, findings from the *Royal Commission into Aboriginal Deaths in Custody* (RCIADIC) were published (Johnston 1991). The report highlighted that a major cause of Indigenous over-representation in custody was alcoholism and substance abuse (Johnston 1991, pp. 1-2). The narrative about Indigenous social problems continued to represent people in Indigenous communities as violent and affected by alcoholism.

Lloyd and Rogers' (1992) acknowledged that due to high levels of drinking, Indigenous women were becoming more vulnerable to sexual assault (p. 151). This was highlighted in a presentation at the Australian Institute of Criminology conference and a subsequent publication, as indicated above. Similarly, Coorey (2001, p. 31), in a preliminary report from the Senate Select Committee on the Administration of Indigenous Affairs in Canberra titled *Child sexual abuse in rural and remote Australian Indigenous communities*, suggested that if alcohol was consumed by a victim, then there was a higher chance that sexual assault would occur. Prolonged effects for sexual assault victims included an impact on education, as well as alcohol and other substance abuse (Coorey 2001, p. 15).

One publication through the Australian Institute of Health and Welfare, Canberra, entitled *Child abuse and neglect Australia 1995–96* indicated a correlation between alcoholism and child abuse (Broadbent & Bentley 1997, p. 27). Broadbent and Bentley (1997) found that Aboriginal and Torres Strait Islander children were over-represented in relation to the statistics on child abuse and neglect during 1995–1996 (Broadbent & Bentley 1997, p. xiii). They further stated that the low number of abuse and neglect cases reported to territory departments may be due to under-reporting because of Indigenous people's distrust of community departments (Broadbent & Bentley 1997, p. 4). Similarly, a report for the National Child Protection Clearinghouse from the Australian Institute of Family Studies – an organisation funded by the Commonwealth Government Department of Family and Community Services – showed the connection between alcohol abuse and child sexual abuse (Stanley, Tomison & Pocock 2003, p. 9, 11).

During 2006, York, Psychogios, Bricknell and Madden (2006) highlighted a significant substance abuse problem among Indigenous people. They published a report titled *Drug use among Aboriginal and Torres Strait Islander peoples: an assessment of data sources* out of the Australian Institute of Health and Welfare, Canberra. The authors asserted that this was due to cultural and social problems such as unemployment, boredom, poor living standards and inter-family conflict (York et al. 2006, pp. 10-11). These findings demonstrate the correlation between substance abuse or alcoholism and deeper social problems. It provided an analysis of the problems of alcohol, illicit drugs and tobacco on Indigenous peoples, which included higher mortality rates, health issues, illegal drug use, among other problems (York et al. 2006, pp. 9-10). Similar findings on petrol sniffing, drug use, alcohol misuse, violence, adult mortality and morbidity, and tobacco smoking in some Indigenous communities in the NT were discussed in a range of federal and state-sponsored publications by d'Abbs, Hunter, Reser and Martin (1994), Measey, d'Espaignet and Cunningham (1998), and the Commonwealth of Australia (2006). Again, they served to contribute to a discourse on Indigenous social problems.

In 2006, the Australian Bureau of Statistics (ABS), an Australian Government agency, released a report titled *National Aboriginal and Torres Strait Islander health survey 2004–2005*, highlighting a range of factors that have negatively contributed to the overall health status of Indigenous peoples. These later reports highlight the causes of some social problems which was linked to the removal of children and past dispossession, among other factors. Furthermore, this report noted that alcohol, drug problems, discrimination and racism all contributed to long-term health conditions for Indigenous adults (Trewin 2006, p. 4; York et

al. 2006). Similarly, other publications included *Bringing them Home: the Report of the National Inquiry into the Separation of Aboriginal and Torres Strait Islander Children from their Families* which drew attention to a variety of social problems related to health and education, among other issues that subsequently resulted in the removal of children (1997, pp. 477-78, 395, 480-88). Yet another report relating to Indigenous health was released in 2005. This further report titled *Social justice report 2005* by Calma for HREOC analysed the health of Indigenous Australians and proposed a new direction to achieve equal health status for Indigenous and non-Indigenous peoples (Calma 2005). The report proposed a range of goals to improve the health of Indigenous Australians, including eliminating the health gap between Indigenous and non-Indigenous peoples in 25 years, creating equality in health status and ensuring equal access to health services (Calma 2005, p. 71). Calma (2006) later highlighted that substance abuse and petrol sniffing were higher in Indigenous communities and this had links to incidences of violence (Calma 2006, p. 19). Both publications designated a connection between alcoholism and deeper social problems. Although the Calma paper offered some goals, both of these publications indicated the existence of Indigenous social problems which (re)produced this negative discourse.

As this examination indicates, a conference and publications from government departments highlighted the existence of Indigenous social problems and contributed to the negative discourse on Indigenous communities. These were not isolated reports. There was mounting evidence of violence, child sexual abuse and alcohol problems throughout the duration of the Howard Government's time in office. As this information originated from government publications, the Howard Government would have had access to these details. However, as shown below, the Government failed to adequately address these issues.

3.2.1 Key recommendations from government-commissioned and government department publications

Many of the publications discussed in the previous section provided a range of recommendations to address their findings. Recommendations included: community development, an increase of funding, more staff training, self-determination, empowerment through education, and community consultation that must be supported and implemented throughout communities. Some of these recommendations presented a more positive discourse, seeking to overcome Indigenous social problems. It will be argued, however, that these recommendations did not align with the Howard Government's preferred policy of integration.

The RCIADIC was one of the first distinctive government investigations in Australia that examined a range of broad issues related to Indigenous peoples and the effect government policies had on them (Commonwealth of Australia 1992, p. 1). The report stated that Indigenous over-representation in custody was attributable to a range of social factors such as alcoholism, poverty, poor housing, education, and employment (Johnston 1991, pp. 1-3). It argued that these factors needed to be addressed to reduce Indigenous over-representation in custody. Moreover, the report found that these issues existed due to disadvantage and inequality and that these were linked to disempowerment.³⁰ To eliminate inequality and reduce incarceration rates, the report called for Indigenous ‘self-management’ or empowerment and ‘self-determination’ (Johnston 1991, p. 3). According to a CRD framework of respecting Indigenous communities, achieving this would involve giving control to Indigenous people, allowing them to implement strategies to address these underlying issues (Johnston 1991, p. 2).

Self-determination has been defined in the UNDRIP under Article 3 as: ‘Indigenous peoples have the right to self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development’ (United Nations 2008, p. 4). Article 4 also stated that:

Indigenous peoples, in exercising their right to self-determination, have the right to autonomy or self-government in matters relating to their internal and local affairs, as well as ways and means for financing their autonomous functions. (United Nations 2008, pp. 4-5)

These definitions of Indigenous self-determination clearly encompass ideas around Indigenous decision-making and responsibility that relate to their specific circumstances.³¹

³⁰ The Steering Committee for the Review of Government Service Provision produced two reports from 2003 to 2005 which were titled *Overcoming indigenous disadvantage: key indicators*. Since 2005, an additional five reports have been published, the most recent in November 2016 (see for example, Productivity Commission n.d.). These publications highlighted ways to address Indigenous disadvantage, its causes, how it could be checked, and important pointers of this disadvantage for governments and Indigenous collaborators.

³¹ As argued by Behrendt (2006, p. 6), however, the concept of self-determination ‘weakly promoted Indigenous participation but fell far short of *Indigenous* aspirations for self-determination’. This, Behrendt (2006, p. 6) argued, is linked to not giving Indigenous peoples at a community level the opportunity to make decisions based on their community needs. Maddison (2008) has provided an alternative argument about the limitations of Indigenous self-determination. She exposes the assumption that, by supporting self-determination, Indigenous peoples would become less dependent and would know how to manage ‘autonomy’ over their lives (Maddison 2008, p. 48). These assumptions led to a range of issues within communities and caused conflict ‘between traditional structures of community organisation and control and the newly imposed structures such as community councils, with their elected representatives’ (Maddison 2008, p. 48). Other issues related to problems defining self-determination, the formation of separate organisations to meet one aspect of community welfare, and the control of services and funding being held by federal and state governments (see for example, Robbins 2010b, pp. 22-23). These perspectives highlight the complexity of the concept of self-determination, and the issues in supporting and implementing such a concept at a community level.

Other government-commissioned and departmental reports echoed the RCIADIC recommendations or included recommendations that were targeted towards specific problems in some Indigenous communities. For example, Coorey (2001), as noted above, contributed to the discourse on recommendations that related to the interventions to address child sexual abuse. This included more trained and experienced child sexual assault workers in communities, more services that were culturally appropriate, and more opportunities for communities to be involved in prevention strategies (Coorey 2001, pp. 42-43, 49). Aligned with a CRD approach of valuing Indigenous people, this would involve communities being empowered and having self-determination to overcome these social problems (Coorey 2001, pp. 42-43, 49). Similarly, Stanley, Tomison and Pocock (2003, pp. 22-23) suggested that it is important for Indigenous communities to be included in the governmental process of addressing child sexual abuse. Other recommendations from Coorey included taking a holistic approach that would involve the community becoming empowered and having self-determination, Indigenous and non-Indigenous joint partnerships with increased funding to communities, and educational programs for individuals (Coorey 2001, p. 59).

Stanley's (2003) publication proposed similar ideas about addressing child sexual abuse in Indigenous communities, which included: implementing 'culturally appropriate' methods to address this abuse; tackling the effects of racism; and community consultation about future directions for addressing these problems (Stanley 2003, p. 7). Keel (2004, pp. 3-4) highlighted the importance of 'healing' in dealing with family violence from a community perspective. Affiliated with a CRD framework of analysis, these recommendations can be related to community needs; this healing process would be centred within the community. Although these reports did provide a positive way forward for communities, the narrative continued to (re)produce a racialised discourse of Indigenous people. They persisted in representing communities as being plagued by child sexual abuse and family violence.

Calma wrote an overview paper in 2006 for the HREOC that examined the context in which family violence and abuse occurred within Indigenous communities (Calma 2006). The paper repeated many of the findings of other government-commissioned publications in relation to areas such as substance abuse and violence. As such, it continued the normalised representation in the discourse of Indigenous social problems. Moreover, this overview paper stated that all governments should work collaboratively to develop and implement successful and achievable solutions to family violence (Calma 2006, p. 28). This report made recommendations similar to those identified by authors such as Coorey (2001) and Wild and Anderson (2007). This included the importance of Indigenous communities working with

the government so that local 'community initiatives' can be reinforced and educational programs on family violence and abuse can be implemented (Calma 2006, p. 5). A CRD approach to these recommendations would centre community engagement, self-management, empowerment and respect for the collective.

The report by Al-Yaman, Van Doeland and Wallis, as indicated above, argued that higher rates of violence in Indigenous communities contributed to deprived health, insufficient housing, and joblessness, among other factors (Al-Yaman, Van Doeland & Wallis 2006, pp. 3-4). The authors indicated that for family violence to be addressed in Indigenous communities, these particular socio-economic conditions must be addressed. This could be done by exploring ways to reconstruct communal structures and traditional Indigenous standards that were affected by colonisation, genocide, discrimination, losing languages, lands and spirituality (Gordon, Memmott et al. cited in Al-Yaman, Van Doeland & Wallis 2006, pp. 3-4). Although Indigenous social problems discourse points to communities having a high level of violence, the exploration proposed by Gordon, and Memmott et al. is worth considering, pointing to external issues that have affected Indigenous communities. This is mainly due to the imposition of European culture which brought genocide, colonisation and discrimination, among other negative factors. These factors clearly contribute to how Indigenous communities, culture and people are viewed and represented in the discourse.

York et al. (2006) provided an extensive review of the use and misuse of alcohol, illicit drugs and tobacco in some Indigenous communities. It found that the prevention and treatment of these problems had been difficult because programs were weakened when they were not administered and implemented by Indigenous peoples (York et al. 2006, pp. 11-12). By supporting a discourse of self-determination aligned with CRD, Indigenous peoples have the opportunity to make their own decisions based on their communities' needs, which could in turn be used as a means to overcome social problems.

These recommendations, however, would not have been supported under a Howard Government and in the NTER as they were in conflict with the aims of the government's Indigenous policy approach that focused on Indigenous individuals integrating into mainstream society by obtaining 'real' jobs. Community-led approaches contradicted the emphasis on Indigenous integration. The community-centred and driven programs were inconsistent with the Howard Government's policy approach for Indigenous peoples. On 27 August 2007 John Howard clearly demonstrated the Federal Government's integration policy approach. PM John Howard's speech racially asserted that Indigenous peoples must be made part of the mainstream in the future:

Their future can only be as part of the mainstream of the Australian community... unless they can get a share of the bounty of this great and prosperous country, their future will be bleak. (Howard, cited in Ravens 2007)

Although John Howard did not indicate that real jobs must be obtained in the mainstream to reap the benefits of living in Australia, he clearly indicated the belief that for Indigenous peoples to benefit financially, a contribution must be made in the mainstream. This research indicates and argues that, for this to be achieved, integration would be necessary.

The recommendations contained in the publications above, were incompatible with the Howard Government's shift in Indigenous policy that aimed at creating a viable economy for Indigenous individuals within mainstream society. This included Indigenous peoples relocating to larger townships to access employment and locate real jobs. This policy discourse was focused on by Philip Ruddock, the then Minister for Indigenous Affairs in 2002, at a conference with a focus on Indigenous affairs. Arguably, this new direction encompassed integration, as Behrendt (2003, p. 136), quoting Ruddock's integration schema in Indigenous affairs, rightly points out. Ruddock argued: 'We must aim for a future in which Indigenous people can share equitably in the social and economic opportunities of the nation' (Ruddock 2002, p. 13). Although Ruddock did not make reference to the term 'integration', his statement suggested that integration was necessary for Indigenous peoples to equally share in Australia's communal and financial opportunities. Furthermore, Minister for Aboriginal Affairs, Amanda Vanstone in 2004, indicated the importance of a Shared Responsibility Agreement (SRA) and that one of these was introduced in an Indigenous community. The then Minister made a reference to the Indigenous community of Mulan as receiving a petrol bowser, as part of a SRA, which also indicated the importance this had for economic integration. She stated: 'a petrol bowser ... gives them a chance for a bit of economic development' (Vanstone 2004a, cited in Howard-Wagner 2010, pp. 87-88). The comment by Amanda Vanstone indicated the Government's policy of integrating Indigenous communities into the mainstream economy.

The RCIADC's call to give back control to Indigenous peoples and the recommendations of reports on other Indigenous social problems would not have been supported by the Howard Government. Vivian Watson points out that this viewpoint was articulated by John Herron, the first Indigenous Affairs Minister in the Howard Government – as well as by other members of parliament, including Howard – when he referred to 'the 'failure' of 'separate' Indigenous institutions, programs and services to deliver improvements in the socioeconomic circumstances of Indigenous populations across the country' (Watson, V 2009, p. 92). This was due to the Howard Government Minister's belief that self-

determination-based programs and policies restricted Indigenous people's ability to integrate into the 'mainstream'. The aim of the Government's policy was to encourage Indigenous peoples to move into the wider community, being integrated into the mainstream through home ownership, private property and being employed in the 'real economy' (Dodson 2007b, pp. 22-23).

When the Howard Government designed the NTER, many Indigenous peoples believed that Howard was attempting to abolish all hope of self-determination in the NT (Dodson 2008, pp. 30-31). The Government's lack of support for self-determination was most evident when it abolished the Aboriginal and Torres Strait Islander Commission (ATSIC) in 2004 (Behrendt 2005, p. 4; Robbins 2010a, p. 257). This was not surprising, however, due to the Howard Government's neglect and lack of funding to Indigenous Affairs throughout its eleven years.³² ATSIC was represented by the Howard Government in negative terms; the government demanded reviews, called for external audits and attempted to separate its powers (Cunningham & Baeza 2005, p. 469). Aileen Moreton-Robinson stated that the corporation was characterised 'as being mismanaged, misguided and corrupt ... [and it] was blamed for the underperformance in Indigenous health and education; both policy and program areas were administered by mainstream departments' (Moreton-Robinson 2009, p. 66; McCausland 2005b, p. 3). Moreover, another main reason why the Howard Government was so adamant about eradicating the organisation was that, despite its lack of real autonomy (Maddison 2008, p. 53), ATSIC had the ability to be a detractor of government and to propose alternative and durable policy options (Behrendt 2005, p. 6). By abolishing ATSIC, the Howard Government limited Indigenous people's ability to determine their own affairs, even though while ATSIC was operational the Australian public believed that ATSIC had the potential to give Indigenous peoples a governmental right to speech (Tickner 2001, p. 58). John Howard argued of his decision to abolish ATSIC:

We believe very strongly that the experiment in separate representation, elected representation, for indigenous people has been a failure. We will not replace ATSIC with an alternative body. We will appoint a group of distinguished indigenous people to advise the Government on a purely advisory basis in relation to Aboriginal affairs. Programmes will be mainstreamed but arrangements will be established to ensure that there is a major policy role for the Minister for Indigenous Affairs. (Howard, cited in McGrath 2004, p. 1)

³² It is noted by many that during its time in power the Howard Government's funds for Indigenous affairs was significantly reduced, and there were further restrictions to land rights and Indigenous initiatives, while programs were 'mainstreamed' (Brown 2010, p. 294; Watson, cited in Mesikämnen 2013, p. 24; Robbins 2007).

The discussion of the ‘‘mainstreaming’’ of initiatives that previously sought to address the specific and unique needs of Indigenous people ... [was] now the key policy strategy, despite the manifestly different positioning of Indigenous communities and peoples in Australian society’ (Walter, cited in Moreton-Robinson ed. 2007, p. 161). This mainstreaming of initiatives process was a key approach and concern of the Howard Government (Moreton-Robinson ed. 2007, p. 94). This was especially evident following the abolishment of ATSIC, meaning that Indigenous services would now be part of the mainstream.

Definitions of Indigenous self-determination, as noted above, clearly encompass ideas around Indigenous decision-making and responsibility that relate to their own circumstances. However, the discourse of self-determination was in stark contrast to the integration policy approach and the NTER policy. This was also evident in a statement by Howard in 2007, when he claimed that:

I think we are united in our desire to see the Indigenous people of this country become in every way part of our mainstream Australian society while continuing to recognise their special place as the first Australians and continuing to recognise their right to treasure their own particular culture. But I have always held the view that the best way to help the Indigenous people of this nation is to give them the greatest possible access to the bounty and good fortune of this nation, and that cannot happen unless they are absorbed into our mainstream. (Howard, cited in Rudd 2007, p. 69)

For the Howard Government, community-led and designed programs contributed to what were identified as failed past policies. This particular government’s cuts to funding for community-based programs, including programs that sought to address Indigenous violence, clearly demonstrated their ideology.

In sum, the Howard Government policy was designed to ‘normalise’ Indigenous communities to make them more like non-Indigenous society so that Indigenous peoples would integrate and contribute to the economy. This neoliberal policy approach aimed for Indigenous peoples to have a ‘real job’, which was a major aim of the NTER. The shift in policy by the Howard Government is consistent with what was represented as a ‘crisis’ and a shift towards an interventionist-based policy founded on a discourse of integration. Participation in what was identified as the mainstream economy was a key aspect of the Howard Government’s Indigenous policy approach, an approach that was underpinned by racialised ideas of superiority and inferiority of one peoples over another.

3.2.2 The counter-discourse in government department and commissioned reports

While government-commissioned and departmental reports often referred to Indigenous communities in negative terms, a number of these reports revealed a counter-discourse. This

discourse brought forward issues of colonisation, marginalisation and racialisation. By way of an example, Robertson (1999) made reference to violence against children and the amount of violence prevalent in Indigenous communities more generally. It stated that child sexual abuse linked with violence caused by a range of factors including marginalisation, dispossession of lands, low unemployment rates, drug and alcohol abuse, poor health and educational outcomes (Robertson 1999, p. ix). Likewise, Stanley (2003, p. 7) reported that present-day Indigenous social problems, including violence in families, were a result of past suffering. The imposition of past policies that marginalised and oppressed Indigenous peoples in Australian society could have contributed to this. In addition, it is arguable that such policies, such as the policies that encompassed the Stolen Generations period and assimilation policies, were racially-based in a colonised Australia. Thus, the historical treatment of Indigenous peoples in the NT has continued as social issues were still in existence.

Another example of a counter-discourse was in the preliminary report by Coorey (2001) as noted above. It focused on the prevalence of child sexual abuse in rural and remote Indigenous communities in Australia. This report was unique as it used consultations with Indigenous Elders, as well as government and non-government stakeholders, to obtain information about child sexual assault (Coorey 2001, p. 5). As such, the report provided a counter-discourse by privileging the voices of the oppressed regarding the narrative of social problems.

Consistent with Critical Race Theory (CRT) Brayboy (2005); Haynes Writer (2002b, 2008); Hermes (1999); Rains (2003); Williams (1997) (cited in Writer 2008, p. 3) advocated counter-storytelling and privileging the voices of Indigenous peoples 'to speak back to colonization and oppression'. Utilising the social justice component of CRT, Writer (2008, p. 5) stated that it is important to understand how Indigenous peoples are continuing to be affected by historical atrocities such as oppression in a contemporary context. This social justice approach is important as it can provide the opportunity for Indigenous peoples to disturb colonisation (see for example, Writer 2008, p. 5). This approach challenged the normalised discourse on Indigenous social problems and provided a counter-discourse to how and why the representation of Indigenous social problems have continued to be produced.

The next section highlights further documentation produced by other bodies on Indigenous social problems in the NT. A review of this work highlighted the negative discourse and mounting concern over the situation in Indigenous communities. Nonetheless, I have

included this information to indicate the *ongoing* existence of Indigenous social problems in the NT. This illustrates the Howard Government's lack of response to recommendations in many reports over the first 10 years of Government. Such recommendations did not align with an integration approach to Indigenous affairs before the introduction of the NTER in 2007.

3.3 Non-government research on Indigenous social problems

Indigenous and non-Indigenous research has focused widely on social problems throughout Indigenous communities in the NT; however, they were not studying the *discourse* but rather they are studying *social problems* and are *part* of the discourse. This continued to (re)produce the discourse on Indigenous social problems. There have been some striking similarities between these reports and those of government publications. Although other Indigenous peoples, including Maori groups, have claimed that they are the 'most researched people' around the world (Tuhiwai Smith 2012, p. 148), it is also the case that Indigenous peoples in Australia have been subjected to numerous research reports and it is out of the scope of this thesis to examine every research piece written about Indigenous social problems. This section draws attention to research contributing to this area.

Firstly, such research has discussed the issue of child sexual abuse and the causes of violence, suggesting ways for it to be eliminated. For instance, non-Indigenous researcher Carmen Lawrence (2006, p. 29) stated that 'Indigenous law and culture' did not include child sexual abuse or 'family violence' – if people are exposed to disadvantage and social breakdown, then it is probable that crime and violence will be evident. Non-Indigenous researchers Tatum Hands and Victoria Williams (2007, p. 11) also discussed the incidence of child sexual abuse and family violence, stating that these social problems are at a catastrophic level in Indigenous communities. Furthermore, to make a difference to the levels of violence in Indigenous communities, Lawrence (2006) asserted that there needed to be an understanding about its causes. This would include addressing alcohol and substance abuse, unemployment, mental health concerns, educational issues, poverty and welfare dependency, as well as examining historical circumstances (Lawrence 2006, pp. 32-33). Similarly, McGlade (2012, p. 34) stated that dispossession and colonisation, which has had a negative impact on Indigenous peoples, is directly linked to Indigenous violence, in particular family violence. Education, poverty and unemployment have also been identified by Behrendt (2006, p. 1). A commitment from the government to address these issues and the involvement of Indigenous peoples in decision-making processes was highlighted as necessary in order to eliminate violence against children (Lawrence 2006, p. 33). Some government publications

by Stanley, Tomison and Pocock (2003, p. 9, 11, 26), Coorey (2001, pp. 81-82), Lloyd and Rogers (1992, p. 151), Robertson (1999, p. ix) and Stanley (2003, p. 6) have made reference to these findings. Despite some of these positive recommendations, which can be linked to a CRD framework of empowerment, self-determination and self-management in which the authors advocated a re-framing of the social problems discourse with productive ways forward, this research contributed to the destructive discourse on social problems, representing Indigenous peoples and communities negatively.

Similarly, additional research has focused on ways to reduce child abuse and family violence by understanding its causes. Indigenous researcher Mick Dodson and non-Indigenous researcher Diane Smith (2003, p. 5), stated that Indigenous peoples are continuously affected by high rates of poverty, low levels of education, unemployment, and the under-funding of communities, which has resulted in below-average living standards. Poverty, education and employment issues have contributed to low socio-economic conditions (Behrendt 2006a, p. 1). Lawrence (2006, p. 32) has similarly discussed the causes of family violence and child abuse and suggested ways to address these social problems. Lawrence (2006, p. 33) stated that some significant recommendations to address family violence and child abuse included a government commitment to provide results while Indigenous peoples must be involved with the decision-making process to eliminate these social problems, a process that is linked to self-determination, thus aligning with CRD. Family violence and child abuse and what contributed to these issues are similar areas to those discussed in government publications by authors such as Calma (2006, p. 6), Broadbent and Bentley (1997, p. xiii), Al-Yaman, Van Doeland and Wallis (2006), Robertson (1999), Memmott et al. (2001, p. 6), and Keel (2004). Although this research pointed to ways to address some of these issues, these studies further contributed to a discourse of social problems.

Research that focused on domestic violence and sexual abuse was undertaken by both Indigenous and non-Indigenous researchers, including Maggie Brady, Marcia Langton, and David McKnight, among others (Sutton 2001, p. 142). Other research by non-Indigenous and Indigenous researchers Bell and Nelson (1989) reported on the incidence of rape throughout Indigenous communities in the NT and suggested that intra-racial rape has increased to the extent that it is 'everyone's business' (Bell & Nelson 1989, p. 404). This paper drew a notable response from twelve Indigenous women.³³ Indigenous researcher Judy

³³ In response to this paper, Indigenous researcher and leader Jackie Huggins and eleven other Indigenous women dismissed this view and proposed that rape in Indigenous communities should only be the business of these communities (Huggins, Willmot, Tarrago, Willetts, Bond, Holt, Bourke, Bin-Salik, Fowell, Schnider, Craigie & McBride-Levi 1991, pp. 506-507). Another key paper by Rebecca Stringer (2012) also analysed the Bell-Huggins debate and linked Bell's position of 'everyone's business' to practical reconciliation and the

Atkinson (1990, pp. 6-7) discussed the incidence of violence in Indigenous communities and stated that different communities have been affected in different ways by violence. Atkinson (1990, p. 8) also explored the different conditions that led to violence, citing 'dispossession' and 'colonisation', among other factors. This approach is central to a CRD framework because it encompasses social justice which is a dominant mechanism driving a CRT approach (Writer 2008, p. 5). Employing this social justice tenet helps reveal the ongoing impact of colonisation and assists with explaining past oppressive practices as well as present-day racialised social problems discourse.

Research has focused on violence, its causes, and the underlying issues which results in violence, as well as providing recommendations to address it. Non-Indigenous researcher Audrey Bolger (1991, p. 3) reported the existence of violence 'in town camps and communities nearby to towns'. Like Atkinson (1990), Bolger (1991, pp. 43-49) stated that violence could be attributed to colonisation, which involved dispossession, poverty and issues with alcohol abuse. Researchers Ross Homel, Robyn Lincoln and Bruce Herd (1999, p. 20) have similarly discussed the underlying causes of crime and violence. Alongside Atkinson (1990) and Bolger (1991), they stated that these problems are the result of the process of colonisation, which has adversely affected Indigenous culture, communities and social organisations (Homel, Lincoln & Herd 1999, p. 20). They argued that to overcome crime and violence, Indigenous communities must have self-determination, empowerment and community-designed and controlled services (Homel, Lincoln & Herd 1999, pp. 21-23). United by a CRD analysis, these recommendations were also made in government publications by authors such as Johnston (1991, p. 3) and Coorey (2001, pp. 42-43, 49). Furthermore, the social problems prevalent in Mangrove in the NT, including the problem of petrol sniffing among adolescent males and females, were discussed by non-Indigenous researcher Victoria Burbank (1994, p. 40). The above discussion about violence and sexual abuse was also identified in other government publications by Johnston (1991, pp. 1-2), Lloyd and Rogers (1992, pp. 151-159), Memmot et al. (2001, p. 6), Robertson (1999, p. ix, 15) and Al-Yaman, Van Doeland and Wallis (2006, pp. 3-4). Like previous government research, these works represented Indigenous people, culture and communities in an inferior state.

Intervention. Indigenous academic Aileen Moreton-Robinson also weighed into the Bell-Huggins' debate, stating that the debate was 'about who could speak for whom' (Moreton-Robinson 2003, p. 68). She indicated that Bell did not have the authority to speak for all Indigenous peoples in relation to intra-racial rape in Indigenous communities. And McGlade (2012, p. 89-91) stated that Bell's perspective was incorrect as Indigenous women had been at times outspoken regarding Indigenous male violence against children and females.

Indigenous researcher Megan Davis (2007a) stated that over a 30-year period, Indigenous women have mostly highlighted the issue of child abuse, family violence and alcoholism (Davis 2007a, p. 2). Nanette Rogers (1997) produced a briefing paper and was interviewed about Indigenous child sexual abuse and violence against women in Central Australian Indigenous communities some nine years later on Australian Broadcasting Corporation (ABC) television's *Lateline*.³⁴ She raised the issue of family violence by drawing upon statistics from the Supreme Court in Alice Springs. Rogers (1997, p. 100) observed that out of 60 Supreme Court cases in Alice Springs from January 1986 to December 1995, 20 related to the killing of a wife by a husband. Rogers (1997, p. 100) similarly reported that since 1990 the courts in Central Australia had been issuing court orders against husbands who approach, threaten, or assault their wives, further highlighting the prevalence of family violence and social problems in Indigenous communities in the NT (Rogers, N 1997, p. 100). The similarities of these social problems and ways to address them have also been highlighted in government publications, such as by Broadbent and Bentley (1997, p. xiii). The repetition of such narratives across media and government publications led to the normalisation of a story that represented Indigenous males as inherently violent and family homes as violent environments. For this reason, Indigenous communities and culture could be perceived as inferior to 'Western' culture and in need of refinement.

Researchers have continued to study health conditions within Indigenous communities. Non-Indigenous researcher Maggie Brady (2003, p. 36) wrote about the health of Indigenous peoples in remote communities, while Robertson (1999, p. ix) and Al-Yaman, Van Doeland and Wallis (2006, pp. 2-4) highlighted that poor health was linked to violence, and York et al. (2006, pp. 9-10) identified the linkage between alcohol and health issues. However, Calma (2005, p. 71) detailed ways to improve and provide an equal health status. Brady asserted that differences in life expectancy between Indigenous and non-Indigenous people was substantial in Australia, as compared with other Indigenous people from New Zealand and Canada (Brady 2003, p. 36). This was likely due to how Europeans viewed the social organisation of Indigenous people at colonisation, the presence of treaties, and the humanitarian and societal attitudes at colonisation, among other factors – all of which could affect policy development in health (Brady 2003, p. 36). Brady stated that difficulties arose when Indigenous people needed to relocate for treatment, such as language barriers affecting

³⁴ Rogers' briefing paper was utilised on the *Lateline* episode which aired on 15 May 2006. Her appearance will be interrogated in the next chapter of this thesis.

treatment procedures (Brady 2003, p. 36). Despite the fact that Brady's work contained useful academic research, it also privileged a discourse on Indigenous social problems.

3.3.1 A counter-discourse to non-government research

As noted in the section above, non-government research by both Indigenous and non-Indigenous researchers continued the Indigenous social problems discourse. This contributed to and (re)produced negative stereotypes about Indigenous people. As such, Indigenous communities, people and culture were viewed negatively. On this view, Indigenous communities needed to be normalised like the non-Indigenous population to participate in the mainstream. This is so Indigenous peoples could obtain real jobs in the real economy.

Nonetheless, within these studies there was an important counter-discourse. This challenged the dominant research by privileging the voices of Indigenous researchers. This can be linked to counter-storytelling (Razack & Jeffery 2002, p. 262), a key CRT tenet within a CRD analysis. This is important as it disrupted the narrative of Indigenous social problems. As such, Indigenous voices in the research can help challenge a historically racialised and oppressed people speak back to the oppressors. Non-Indigenous researchers can assist with this also.

This non-government research found that Indigenous social problems were caused by a range of factors, including colonisation, which brought with it violence and dispossession. To counter these problems, the studies advocated Indigenous-controlled and operated programs, empowerment and the involvement of Indigenous peoples in decision-making. This research challenged the integration, interventionist and racialised nature of NTER by the Howard Government in 2007, which was in direct contradiction to these findings. The next section analyses judicial and coronial reports that highlighted a discourse of Indigenous social problems in the NT.

3.4 Judicial and coronial reports

The judiciary and the NT Coroner contributed to the racialised Indigenous social problems discourse by identifying similar issues that were discussed in government publications and non-government research. To begin with, the *Jabaltjaril v Hammersley* (1977) court case focused on adolescents in and around Alice Springs. This case found that young people were in need of care and attention, they were struggling with alcohol problems, and were growing up confused as to how their culture functions in relation to non-Indigenous society (*Jabaltjaril v Hammersley* 1977, cited in Wild & Anderson 2007, p. 13). Similar social

problems were apparent more than 20 years later, as evidenced in the 1998 inquest into the suicides of four Indigenous people on the Tiwi Islands (Cavanagh 1999; Farquhar 1999). The judge in this inquest stated that these deaths could be related to a variety of underlying problems in these communities. These problems included alcohol and marijuana abuse, domestic violence, loss of culture and identity, lack of employment, and boredom (Cavanagh 1999, pp. 9-13; Farquhar 1999, pp. 3-9). Such problems were highlighted in government publications, such as those of Lloyd and Rogers (1992, p. 151) and Robertson (1999, p. ix, 15), discussed earlier in this chapter.

In 1998, the NT Coroner investigated the death of a 14-year-old Indigenous male who died due to a loss of blood from a wound to his left arm (Donald 1998) – this case was the *Inquest into the Death of Esky Muller*. It was deemed that this injury occurred as a result of petrol sniffing (Donald 1998, pp. 1-4). The coroner referred to the prevalence of petrol sniffing in the NT and stated that people engaged in petrol sniffing because it is cheap, easy to obtain, was caused by limited job opportunities, and that a shortage of youth workers meant that the problem was not being solved (Donald 1998, pp. 45-47). This verified Burbank's findings on the situation in Mangrove, further subscribing to a discourse of the social problem of petrol sniffing in NT. The coroner recommended overcoming this social problem by establishing dwellings for people to safely detox from petrol sniffing; monitoring and assisting petrol sniffers through NT health services after their return to communities; designing strategies through the NT, South Australia (SA) and Western Australia (WA) governments to address the problem of petrol sniffing; and funding Commonwealth Government programs for rehabilitation facilities for petrol sniffers (Donald 1998, pp. 52-54). Petrol sniffing, as a social problem, was alluded to by Calma (2006) and by the Commonwealth of Australia (2006).

During 2005, a coronial inquest was undertaken to investigate the deaths of three Indigenous people in remote Central Australia (Cavanagh 2005). This case generated media attention, in particular by the ABC and *The Australian* newspaper. The title of this case was the *Inquest into the deaths of Kumanjay Presley, Kunmanara Coulthard and Kunmanara Brumby* and it found that these three deaths were a result of petrol sniffing. Again, this case was partly responsible for the racialised narrative on Indigenous social problems. The inquest stated that petrol sniffing was a dangerous social problem and was caused by Indigenous disadvantage and cultural misperception in communities, 'a lack of physical and human resources', a 'breakdown of community governance', and 'cross-generational problems' of petrol sniffing (Cavanagh 2005, p. 33). These findings provide clear evidence that petrol

sniffing was still an ongoing social problem in Indigenous communities in the NT, as well as in SA and WA, as noted above. A significant recommendation coming from the inquest was for communities and Indigenous peoples to overcome this problem by themselves, an action that can be linked with self-determination and CRD (Cavanagh 2005, p. 33). But, as previously argued in this chapter, this recommendation would not have been supported by the Howard Government due to its lack of connection to an integration approach. Further strategies to combat petrol sniffing included implementing a three-stage process. This would involve primary intervention, to reduce engagement in this abuse; secondary intervention, which would seek to achieve self-denial and recovery; and finally, tertiary intervention, which would provide assistance to the permanently disabled (Cavanagh 2005, p. 34). To successfully address petrol sniffing, this inquest recommended establishing night patrols, youth activities, additional policing and disability services (Cavanagh 2005, p. 34). The inquest observed that for these strategies to be successful, however, they must be connected to strategies that deal with socio-economic problems (Cavanagh 2005, p. 34). Further recommendations included ensuring that there were qualified youth workers in remote Indigenous communities, and that the Commonwealth Government support the induction of 'Opal Fuel', which was designed to inhibit the sniffing of petrol (BP Australia 2016, p. 2) throughout the Central Desert region. Moreover, another recommendation was that governments establish and finance treatment recovery facilities for petrol sniffers (Cavanagh 2005, p. 20, pp. 35-36).

These judicial and coronial reports from the late 1970s contributed to and (re)produced a racialised Indigenous social problems discourse, representing Indigenous people, communities and culture negatively. Nonetheless, a significant counter-discourse was evident which focused on Indigenous community-based approaches, and included recommendations that were linked to self-determination, community-based activities, and increased youth and disability services.

Despite this, the representation of Indigenous people as petrol sniffers, drug users and violent offenders contributed to the sense that Indigenous culture was inferior to 'Western' culture. As such, the push by the Howard Government for Indigenous people to integrate into the mainstream was advocated for. The next section focuses on a diversity of Indigenous-based commentary regarding social problems in communities in the NT.

3.5 Indigenous commentary

Alongside the government, non-government, judicial and coronial research identifying Indigenous social problems and making recommendations to address these issues, a number of Indigenous organisations have published a range of works that have drawn similarities to these studies over the decades. In this section, the similarities between these publications and their bearing on Indigenous social problems discourse will be assessed. The aim is to critically analyse the extent to which Indigenous works repeated the racialised discourse by government and government-initiated reports as well as coronial and judicial findings.

To begin with, in 1995, the Central Australian Aboriginal Congress (CAAC) produced a book on Indigenous family, community and public health that emphasised the prevention of health issues among Indigenous men, women and children (Bartlett 1995). This book identified several issues, including the existence of environmental health problems due to inadequate waste disposal, and the occurrence of poor housing, penury and joblessness (Bartlett 1995, pp. 34-35). The Wild and Anderson (2007) report discussed similar findings, which are examined further in Chapter Five. Bartlett noted that there were alcohol issues, for which 'night patrols' were recommended; petrol sniffing; and cigarette smoking problems in Indigenous communities (Bartlett 1995, p. 38, 41). These issues have been similarly explored by Lloyd and Rogers (1992) and d'Abbs et al. (1994). Measey, d'Espaignet and Cunningham (1998), Commonwealth of Australia (2006), York et al. (2006), Trewin (2006), Wild and Anderson (2007) and Marks (2008) have highlighted the existence of similar social problems in Indigenous communities in the NT. This illustrated how the same social problems were still prevalent 10 years before the implementation of the Howard Government's Intervention. However, the Indigenous commentary narrative disrupts the discourse from government and non-government research by privileging the voices from an Indigenous perspective, which is discussed further below.

CAAC-appointed author Ben Bartlett (1995, p. 45) stated there were higher levels of diabetes and heart disease among the Indigenous population. This could be attributed to the process of colonisation causing a changed diet for Indigenous peoples (Bartlett 1995, p. 45). This strong focus on colonisation was similarly highlighted in past research by government and non-government publications. Further findings included that baby and child morbidity remained high, the mortality of babies had increased, life expectancy was between 20 to 30 years less than the rest of the Australian population, and Indigenous maternal death was approximately eight times higher than the rest of the population (Bartlett 1995, p. 7; York et al. 2006, pp. 9-10). It was found that Indigenous groups formed the lowest socio-economic

group in Australia in relation to health, education, work, financial position and accommodation (Bartlett 1995, p. 8; Wild & Anderson 2007, p. 6). According to Bartlett (1995, pp. 10-12), a variety of factors have contributed to these low socio-economic conditions, including colonisation, diseases, massacres, assimilation and the Stolen Generations. These external factors were a result of the imposition of European culture and policies over Indigenous communities. Bartlett's book further recommended that a community development approach be adopted and that communities should operate health programs (Bartlett 1995, pp. 31-32). These community-focused recommendations, which can be linked with a CRD framework, were in line with the concepts indicated in government publications by Coorey (2001) and Keel (2004). Bartlett also developed recommendations relating to men's health and employment in Indigenous communities, including organising a meeting for men and making a unit in health clinics a men's abode (Bartlett 1995, p. 36). Other recommendations included developing more appropriate mental health programs to deal with issues such as liquor and substance abuse (Bartlett 1995, p. 42).

In 2001 the CAAC prepared a report on domestic violence throughout Indigenous communities in the NT (CAAC 2001). Titled *NT Aboriginal Family Violence Strategy Evaluation*, this report stated that there was an increase in domestic violence in the NT against men and women in the period from 1995/96 to 1998/99 (CAAC 2001, p. 2). Using a CRD framework of self-determination, the report echoed a number of previous reports in its recommendation for Indigenous people to control programs such as health services to prevent domestic violence in Indigenous communities in the NT. It indicated that an Indigenous-initiated alcohol restriction program (see for example, Smith, Langton, d'Abbs, Room, Chenhall & Brown 2013, p. 3) that had been introduced as early as 1995 in Tennant Creek had successfully restricted sales of alcohol and had a positive effect on curbing the levels of violence (CAAC 2001, pp. 4-5). Other Indigenous-initiated alcohol restriction programs were implemented from 1997 in towns such as Curtin Springs and Elliot in the NT, and both were deemed successful (d'Abbs & Togni 2000, p. 46). Although this is another Indigenous published report which privileged the voices from Indigenous communities and made important recommendations, the social problems discourse was normalised and (re)produced.

In 2006 the National Aboriginal Community Controlled Health Organisation (NACCHO) published a position statement. It highlighted Indigenous child abuse and violence in Indigenous communities (NACCHO 2006). This document repeated the findings of other reports by observing that violence was higher than that found within the non-Indigenous

population (see for example, Calma 2006; CAAC 2001; Coorey 2001; Keel 2004; Lloyd & Rogers 1992). Like the Lloyd and Rogers' report (1992), it argued that sexual assault rates were high and were greatly under-reported compared with rates within the non-Indigenous population (NACCHO 2006, p. 7).

NACCHO argued that addressing this problem required a whole-of-government and community response and needed to be guided by self-determination (NACCHO 2006, p. 3). In addition, this position statement provided evidence that sexual abuse resulted in mental disorders such as depression and substance abuse (NACCHO 2006, p. 6). To address these issues, the organisation suggested that cultural resilience and strength was needed. It recommended a collaborative response from organisations outside of the community that could assist the community with addressing employment problems, crime prevention and justice (NACCHO 2006, p. 7). The publication confirmed Coorey's (2001, p. 22) view that when abuse occurred, the victim did not feel that they could report it due to their preconceived ideas that the authorities are racist and ignorant, and their fear that the authorities think that the abuse is part of Indigenous culture (NACCHO 2006, p. 8). This view is analysed further in Chapter Five. One significant recommendation from this position paper was that a holistic approach was needed, as well as empowerment and healing (Coorey 2001, p. 59; NACCHO 2006, pp. 3, 4, 9; Wild & Anderson 2007, p. 13). The organisation argued that it was only by addressing poverty, land rights, health, education, housing and employment (NACCHO 2006, pp. 8-9) that family violence and sexual abuse would cease.

In addition to this Indigenous commentary, on 11 June 2003, at the National Press Club, Indigenous leader Mick Dodson gave a speech that indicated the existence of Indigenous social problems and suggested ways to address these issues. The importance of his speech was that it foregrounded these issues from an Indigenous perspective. Dodson spoke on the various forms of violence that affect Indigenous communities, how the collective had allowed violence to impact Indigenous peoples seriously, how it is being addressed and his views about how it should be addressed (Dodson 2003, p. 1). He stated:

I am talking about violence that is now so entrenched in our relationships that the victims become the perpetrators of violent acts which continue to the next generation of children, so that even before those children reach adulthood, they in turn become perpetrators of violence against members of their own families. I am talking about violence that traumatises entire families and communities that is sometimes referred to as 'dysfunctional community syndrome'. Where people are traumatised even by association and the knowledge of, and the witnessing of acts of violence. (Dodson 2003, p. 2)

Dodson discussed how violence transpired in some communities, suggesting that the violent nature of colonisation and the policies forced upon Indigenous peoples by violent approaches ‘result[ed] in transgenerational trauma’ (Dodson 2003, p. 5). Trauma was also discussed in Stanley’s report (2003). Importantly, Dodson made a link to the issue of ‘psychological violence’ that Indigenous people experience due to ‘racism, through misguided public policies, through exclusion and limited opportunities for economic integration and participation in Australian life’ (Dodson 2003, p. 2). Dodson’s reference to Indigenous peoples being unable to ‘integrate’ into the mainstream Australian society and economy might have highlighted his support for this approach. Dodson was advocating for the Howard Government’s approach for Indigenous peoples to integrate into the mainstream and contribute to Australia’s economy by locating a real job.

Dodson highlighted a number of solutions to some social problems. Firstly, he emphasised the concept of personal responsibility that Indigenous peoples must take in relation to the abuse of children and women (Dodson 2003, p. 2). Personal responsibility was a concept that was also supported by Indigenous leader Noel Pearson, as discussed further in the following chapters. Dodson emphasised that Indigenous customs and ‘culture’ are not inherently violent (Dodson 2003, p. 2). Secondly, Dodson spoke about solutions relating to leadership and partnerships. Dodson stated:

There have been our own individual experiences of violations and violence as children; our continued collective social marginalisation and economic exclusion and impoverishment, all of which combine into a volatile cocktail of despair, anger, powerlessness, and a sense of hopelessness. Our collective experiences form deep scars within each of us individually. And we become over-whelmed by emotions of insecurity, hurt and shame that often manifests itself in silence, sickness and isolation, or violence. (Dodson 2003, p. 5)

In order to address violence in Indigenous communities and ways of dealing with it, Dodson highlighted his belief that leaders in Indigenous communities should request the Federal Government to partner with Indigenous leaders to ‘acknowledge the centrality of violence induced trauma and its debilitating effects, and to combat family violence as a national priority’ (Dodson 2003, p. 5). Finally, Dodson referred to a number of solutions in the form of programs that had proven to be successful such as education in relation to violence and ‘night patrols’ (Dodson 2003, p. 6). These programs were also alluded to and advocated by Cavanagh (2005, p. 34) and Bartlett (1995, p. 38), as noted earlier in this chapter. Approaches that could be undertaken, as Dodson stated, ‘require[d] strong political leadership from the Prime Minister and from State and Territory Premiers and Chief Ministers to properly prioritise policies addressing domestic and other violence in Indigenous communities’ and to take a ‘‘whole of government – whole of community’ response’ (Dodson 2003, p. 7).

Notably, about one month after this speech, Mick Dodson was one of a number of Indigenous peoples who met with John Howard as PM as he convened a summit of sixteen Indigenous leaders that focused on discussions that centred on violence in a domestic context in Indigenous Australia (Colvin, cited in McGrath 2003). This summit and the reporting of it fortified the narrative of Indigenous social problems. It was reported that Indigenous leaders wanted ‘to begin to bring an end to sexual abuse and violence in indigenous communities’ (McGrath 2003). Furthermore, they advocated for Indigenous communities to be assisted with overcoming and finding a solution to these issues with the help of government departments (McGrath 2003). As this summit was convened by the PM it can be argued that he and his government were aware of various Indigenous social problems.

By means of the continuation and (re)production of this Indigenous social problems discourse, Indigenous communities, culture and people were represented negatively. However, there were a number of useful community-based recommendations, like previous research, to address these social problems. Thus, this research added to the racialised dominant story about Indigenous social problems. This discourse continued to marginalise and oppress Indigenous peoples and communities.

Even so, this commentary also disrupted the normalised discourse on Indigenous social problems by privileging Indigenous-based research. This provided an important counter-discourse by speaking back to the predominantly non-Indigenous assertions on Indigenous social problems. Moreover, the research included recommendations to address social problems from an Indigenous standpoint, which considered what works best from a community perspective as opposed to a governmental ‘top down’ approach. This included community-based and operated programs that were related to self-determination. Like other research, it showed that colonisation, assimilation, the Stolen Generations, massacres and diseases contributed to some of these social problems. As previously discussed, however, the Howard Government would have ignored these recommendations as they did not align with an integration approach.

3.7 Conclusion

This chapter has demonstrated that government and non-government reports prior to and throughout the period of the Howard Government highlighted the existence of Indigenous social problems in some NT communities, and through some parts of Australia more generally. These reports (re)produced a racialised discourse on social problems, focusing on issues that were associated with alcohol and substance abuse, child sexual abuse and

violence. Some reports included recommendations to address these issues, including self-determination, more culturally appropriate programs, empowerment, community-operated and owned programs and consultations. It was argued that the Howard Government could have had access to reports, findings and recommendations to address these issues in the NT.

As shown, the Howard Government did not support the recommendations arising from previous government and non-government reports as they were inconsistent with the shift in policy towards integration. This approach centred on integrating Indigenous peoples into the mainstream economy. The Howard Government sought to 'normalise' Indigenous peoples, to 'modernise' their culture into the mainstream, and to create viable economies for remote communities.

The opportunity to implement a policy of intervention was identified following the *Lateline* broadcasts during 2006 and the public release of the LCAS report in 2007. Based on the heightened level of interest generated by these broadcasts reports, the Howard Government claimed that there was a 'crisis' in Indigenous communities in the NT and therefore government intervention was required. Chapter Four will analyse the 2006 *Lateline* broadcasts to argue that these episodes stimulated the Australian media and the subsequent Federal Government response.

4. The impact of the 2006 *Lateline* broadcasts

4.1 *The Crisis*

Chapter Three focused on the racialised discourse on Indigenous social problems in government research and other non-government documents. The Howard Government could have intervened to address Indigenous social problems in communities in the Northern Territory (NT) prior to the NTER policy in 2007. Nonetheless, the Australian Federal Government failed to adopt measures to adequately address the social problems that had been identified in numerous sources over a 30-year period as they were not integrationist in nature. This chapter focuses on the media discourse that eventually led to the NT Government responding with an Inquiry and subsequently the Howard Government's implementation of the NTER.

On 15 May 2006, *Lateline*, an ABC current affairs program that attracts approximately 300,000 viewers per episode, aired the first of many programs that reported on the alleged high rate of physical and sexual abuse that existed in specific Indigenous communities in the NT, predominantly from the Indigenous community, Mutitjulu (Sales 2010). The heated response to the *Lateline* coverage about Indigenous social problems was primarily related to comments made on the program the following evening by Mal Brough, the then Federal Minister for Families, Community Services and Indigenous Affairs. At that time he claimed that there were paedophile rings operating in Central Australian Aboriginal communities. This comment was supported by a subsequent *Lateline* broadcast with comments by an anonymous youth worker later identified as Gregory Andrews, leader of the Communities Engagement Branch in the Office of Indigenous Policy Coordination in Canberra (Graham, Johnstone & McQuire, cited in Fieldes 2010). These media narratives sustained the racialised discourse about Indigenous social problems in the NT. As Malin and Ngarritjan (1999, p. 3) argue, these televised current affairs programs strengthened stereotypical views about Indigenous peoples, thus allowing the racialisation of the 'other' (MacArthur, cited in Reid & McCallum 2012, pp. 3-4). In addition, McMullen (2013b, p. 5) argued that there was a strong emphasis by the mass media on presenting Indigenous children in need of 'saving' or 'protecting' which could be willingly promoted, in turn, stereotyping men and women of Indigenous descent.

The *Lateline* broadcasts are significant because they present a narrative in which the viewer is given information about alleged Indigenous social problems and a range of peoples' opinions about these issues. Such broadcasts have far-reaching impacts in (re)producing

normalised and racialised perspectives on Aboriginality. Austin-Broos argued that this is particularity evident in pathological representations of remote Indigenous communities, narratives that need to be altered (Austin-Broos 2011, pp. 51-52). Given the media's limited understanding of Indigenous peoples, there is potential for the media to represent them in negative terms (Parker, cited in Little 2012, p. 43).

The *Lateline* program mainly reported on the alleged child sexual assault and violence towards Indigenous children and women. These narratives ignited debate from the wider Australian media which resulted in substantial coverage on these communities. However, this was not a new media narrative. The Australian media had been engaging in a destructive racialised narrative about Indigenous social problems for a prolonged period of time. By way of an example, in 1994 Rosemary Neill published an article with a focus on Indigenous domestic violence (Neill 2006, p. 14).³⁵ Politicians and public servants in the NT contributed to this discussion and debate, in turn, privileging the racialised destructive stories from the media.

This chapter has four main sections: the first focuses on the initial reporting on Mutitjulu prior to the first *Lateline* broadcasts; the second examines the pivotal 2006 *Lateline* broadcasts about Mutitjulu and contends that these racialised narratives contributed to the normalised destructive accounts of Indigenous communities in the NT, and argues that the stories had a significant influence on the NT Government and Australian media response; the third includes an analysis of the media response to these *Lateline* broadcasts; and the final section analyses the Federal Parliament reactions to the *Lateline* broadcasts and argues that members of parliaments echoed the dominant narratives promoted by the *Lateline* broadcasts.

The chapter adopts a Critical Race Discourse (CRD) framework which problematises how these narratives represented Indigenous peoples and culture. It illustrates that these narratives drew national attention to alleged Indigenous child sexual abuse and violence towards women in some Indigenous communities, thus, perpetuating the damaging racially-based narrative. The chapter highlights a counter-discourse on Indigenous peoples by employing the CRT approach of counter-storytelling.

³⁵ In 2002, Rosemary Neill also published a book titled *White out: how politics is killing black Australia*, which contributed further to the issues that she discussed in her 1994 article. In this book, she discussed Indigenous social problems of violence and unemployment.

4.2 Media discourse on Mutitjulu

In 2006, *Lateline* honoured the racialised reporting of alleged Indigenous child sexual abuse and violence towards women. Van Rijswijk (2014, p. 118) argued that the battered Indigenous child has been important to the construction of mythologies of the Australian state. This was utilised to defend the sustained management of Indigenous communities through the NTER (Van Rijswijk 2014, p. 122). Notably, *Lateline's* racialised narrative focused on the community of Mutitjulu in the NT in ways that represented Indigenous children as being neglected and abused. But Mutitjulu had been discussed in the media prior to that point in relation to inquiries taking place in that community.

The first inquiry took place in 1998 and determined that a petrol sniffing clinic should be established (Wilson 2005b, p. 6). Articles by *The Australian* newspaper in 2001 (Wilson 2005a, p. 1) and again in 2005, as well as by the ABC, reported on petrol sniffing in this community.³⁶ Although *The Australian* newspaper did not focus on Indigenous child sexual abuse and violence towards women, it sought to draw attention more generally to Indigenous social problems in this community. So began the racialised destructive narrative about Mutitjulu. The next section focuses on the 2006 *Lateline* reports that continued to (re)produce a racialised discourse, favouring the destructive narrative about Indigenous social problems in the media.

4.2.1 The *Lateline* broadcasts, 2006

In May 2006, *Lateline* obtained a confidential briefing paper. This paper, titled 'Child sexual assault and some cultural issues in the Northern Territory' was meant for high-ranking NT police officers and was produced by Nanette Rogers, the Crown Prosecutor in Alice Springs during this time (Jones, cited in Smith, S 2006b). Suzanne Smith subsequently filed a *Lateline* report which aired on 15 May 2006 about this briefing paper. In 2006, this narrative was the first in a string of *Lateline* broadcasts as well as additional media reports which

³⁶ On January 6 2001, Paul Toohey for the *Weekend Australian* produced a news story about two Aboriginal brothers aged in their twenties who had been sniffing petrol in Mutitjulu (Toohey 2001a). This led to them both being confined to wheelchairs and one brother having to be relocated to Alice Springs to a house where there were carers present to assist him on a daily basis (Toohey 2001a, pp. 1–2). This article also highlighted the prevalence of other petrol sniffers who have been adversely affected from Central Australia. Another article by Toohey on January 8 2001 focused on these additional cases (Toohey 2001b). Following the first news story, John Howard committed one million dollars to redirection programs for petrol sniffers. However, several Indigenous leaders, such as Marcia Langton and Jackie Huggins, stated that this was an insufficient amount and that these funds had come too late to deal with the issue (Saunders 2001b, p. 3). Interestingly, on November 27 2001, it was reported in *The Australian* that the Howard Government would contemplate sending the army into Indigenous communities to assist with taking action to reduce the issue of petrol sniffing (Saunders 2001a, p. 3). This 'sending in the army' approach was used by the Howard Government in rolling out the NTER in 2007.

outlined the alleged severity of Indigenous child sexual abuse and violence towards Indigenous women in the NT (see for example, Rothwell & Wilson 2006, p. 17). Although these *Lateline* broadcasts reported about Indigenous social problems, I argue they represented Indigenous culture, peoples and communities negatively.

Importantly, this *Lateline* broadcast and the other narratives, as discussed below, led to the NT Government responding with an inquiry that produced the *Little Children Are Sacred* (LCAS) report. It initiated a response by the Howard Government with the enforcement of the Northern Territory Emergency Response (NTER) in 2007, which is not surprising given a recent research project uncovering the influence the media has on Indigenous policy development in Australia (see for example, McCallum et al., cited in Mesikämnen 2013, p. 25). Other writers indicate that the media coverage of Central Australian Indigenous communities in the mid-2000s impacted perceptions from a public and political viewpoint of the problems in these communities, thus assisting with the positioning of the Intervention as appropriate (see for example, Partridge 2014, p. 169).

This first *Lateline* broadcast included information (assumed factual) about the high, and often unreported, incidences of sexual abuse and violence towards Indigenous women and children particularly in Indigenous NT communities (Jones, cited in Smith, S 2006b; Edmunds 2010, p. 4). It reported that some Indigenous communities in the NT were affected by problems such as ‘poverty, boredom, alienation, and discrimination’, and this created other social problems such as substance and drug abuse and violence (Smith, S 2006b). Smith stated that this led to an increase in ‘murder and sexual assault’ (Smith, S 2006b). To illustrate the severity of this issue, the journalist used a large excerpt from Rogers’ briefing paper that highlighted a case of sexual assault with a promised wife by an older male:

He ordered her to shut the door and then told her to take off her clothes. He had intercourse with her. This man had a conviction for murder of a previous wife. She was aged about 12 and sexually immature. The older wife regularly beat the husband when he was having sex with the promised wife. She also beat the girl. No-one noticed the child was missing. He penetrated her anus and vagina and some hours later, he returned to his parents' house with the now naked child. (Rogers, cited in Smith, S 2006b)

This extract supports the stereotypical view that Indigenous peoples were violent and that sexual abuse was common. In addition, this example was taken as a ‘typical’ case of what happens in Indigenous communities and contributed to a generalisation about Indigenous people and violence.

During the same *Lateline* episode, program host Tony Jones highlighted the problem that Indigenous people were being silenced due to kinship ties and therefore not able to report

the violence and sexual assaults in their communities (Jones, cited in Smith, S 2006b). This problem of under-reporting occurred when there were no police present in a community, which Rogers alluded to in her briefing paper (Smith, S 2006b). Therefore, the perpetrators of such crimes were not punished and were able to keep reoffending. This information about under-reporting had previously been discussed in publications by Broadbent and Bentley (1997, p. 4) and NACCHO (2006, p. 7).

The same May 2006 *Lateline* broadcast was accompanied by a separate story titled 'Crown Prosecutor speaks out about abuse in Central Australia'. This report, which included an interview with Nanette Rogers, went into further detail about the alleged Indigenous social problems in Central Australia (Jones 2006b). Rogers focused on social problems including alcohol and violence – child sexual assault, and the effects of violent acts on children and women. Rogers detailed cases across a number of years which all highlighted child sexual abuse and suggested that the problem had not been adequately addressed by past governments. In a specific instance, Rogers referred to a case in 2004:

... the two-year-old was playing outside with some other children. Her mother was away from the house, drunk in a small town. The offender woke up, took the small child, carried it out bush, had the child out bush for some hours. Undressed the child and inserted, simultaneously, two fingers in her vagina and two fingers in her anus and moved his fingers up and down a number of times causing injuries. He then – I'm sorry, he had his trousers off while this was happening. Then he placed the child on his lap and had his penis next to the child's vagina and tried to masturbate and so on. And eventually returned the child back to his father's camp. He was carrying the child with its legs on the side. The child was crying throughout the assault. The child was still crying and bleeding. He handed the child to his drunken father. He himself had been drinking. The father then took the child back to the area that the child had been removed from and when the mother returned from town, where she'd been drinking, the child was crying and the other children indicated that the offender had taken her away some time before and it was then that the bleeding and so on was noticed in her nappy. (Rogers, cited in Jones 2006b)

According to Rogers, there were three main causes of abuse of women and children. She stated:

... the first is that violence is entrenched in a lot of aspects of Aboriginal society. Secondly, Aboriginal people choose not to take responsibility for their own actions. Thirdly, Aboriginal society is very punitive, so that if a report is made or a statement is made implicating an offender, then that potential witness is subject to harassment, intimidation and sometimes physical assault if the offender gets into trouble because of that report or police statement. (Rogers, cited in Jones 2006b)

Interviewer Tony Jones responded by asking Rogers:

... given what's in your paper and what you've told us here tonight, are you worried that the information itself may be abused by tabloids and racists even, shock jocks – the sort of people who will take information like this and exploit it? (Jones 2006b)

Rogers' reply indicated that she agreed with Jones, with the Crown Prosecutor stating:

Yes, because one of the features of the paper is that I say that Aboriginal people in central Australia must take more responsibility for not only talking about the general issues surrounding Aboriginal male violence and the violence of men in remote communities, but also taking responsibility for following through if they're a witness to a matter, following through and giving the correct evidence in court. When I say 'correct evidence', the evidence that's contained in their police stories. Because often what we get is that Aboriginal people will provide a statement about a particular offence and then refuse to come to court or when they're in court, refuse to give the evidence because they say, 'No, I didn't see it. No, it's not my responsibility'. (Rogers, cited in Jones 2006b)

Although Rogers did not fully answer Jones's last question, instead opting to place an emphasis on Indigenous violence and retribution, and their lack of responsibility, the concern about the information being abused was well founded. This exploitation did occur; additional media broadcasts, including further broadcasts from *Lateline*, were used by the Australian Government and media to continue to create a racialised discourse about Indigenous communities. These initial *Lateline* reports were sensationalised, representing Indigenous communities in the NT as havens for child sexual abuse and violence towards women. Moreover, reports represented Indigenous men as child abusers and communities as violent, and Indigenous culture as punitive and part of the problem. This contributed to a destructive narrative of Indigenous communities. These accounts continued to represent violence, particularly towards women and children, as characteristic of Indigenous culture and law (Watson, I 2009a, p. 3).

Some Indigenous communities in the NT during this period were not affected by social problems, however the existence of these problems in some communities were identified as significant. Media reports such as *Lateline* represented violence in communities as normalised, (re)producing a racialised discourse. The media and public focus on Indigenous children and women being assaulted and abused contributed to a sense of 'crisis', which Langton described as being played out publicly in a 'reality show' (Langton 2008c, p. 145). This racialised 'reality show' narrative moved attention away from the daily 'crisis' and sorrow of Indigenous women and children that may or may not have experienced such violence and abuse (Langton 2008c, p. 145). The alleged 'crisis' initiated a response that resulted in further reports about Indigenous social problems in Central Australian communities, particularly Mutitjulu. While it is important to note that the *Lateline* narratives led to an Intergovernmental Summit on Violence and Child Abuse in Indigenous communities in June 2006, which focused on law and order, and in which the then Indigenous Affairs Minister, Mal Brough, sought to curtail the recognition of Indigenous customary law,

this was the first stage in a process of inquiry that resulted from the *Lateline* reports.³⁷ A long line of inquiries followed which eventually led to a Board of Inquiry being established by the NT Government that produced the LCAS report in 2007.

Following the *Lateline* broadcasts, on 16 May 2006 Tony Jones interviewed Brough, about the alleged problems of violence and substance abuse in Indigenous communities. It is important to note that as Mal Brough was the Indigenous Affairs Minister during this time, it was imperative to obtain his opinions about these alleged Indigenous social problems given that his department had a responsibility for addressing these issues. The interview provided Mal Brough with an opportunity to affirm what he thought was necessary to eliminate these alleged problems. Brough discussed instances of a lack of police presence in Indigenous communities and the importance of law and order in addressing these problems (Brough, cited in Jones 2006e). However, the Northern Territory's Chief Minister, Clare Martin, emphasised in the media that issues such as health and housing should *also* be addressed, as will be noted in Chapter Five. This 'law and order' approach was even more evident at the Intergovernmental Summit in June 2006, as discussed above. It focused closely on establishing control in communities as a way to address Indigenous social problems.

Mal Brough argued on *Lateline* that the NT Government was mishandling its monies in overcoming these issues (Brough, cited in Jones 2006e). He blamed the NT Government for not financially handling Indigenous Affairs, which is elaborated on more clearly in the next

³⁷ The 'Intergovernmental summit on violence and sexual abuse in Indigenous communities' was organised by the federal government, with eighteen ministers from state, territory and federal jurisdictions attending. The summit was convened on 26 June 2006 soon after Rogers' appearance on *Lateline* (Cripps 2007, p. 6) with the priority given to law and order, as indicated by Gilmore (2006). This law and order approach established the foundation of Brough's thinking about the best way to address Indigenous social problems, as illustrated with the militaristic approach of the NTER the year after. The Federal Government committed \$130 million for additional police, narcotic and liquor action schedules and provision for victims of lawbreaking (Jones, cited in Gilmore 2006). The Federal Government wanted the \$130 million complemented by these different jurisdictions in the form of \$50 million for additional drug and alcohol rehabilitation centres and \$40 million to build additional police stations and dwellings for police personnel (Gilmore 2006). As part of this plan, Brough also expected States and the NT to alter laws so that when sentencing occurred, customary law would not be taken into consideration (Khadem & Gordon 2006, p. 1). Sentencing would then occur under western law. This confirmed Brough's representation of Indigenous culture and law as weak; Indigenous communities would not be able to adequately punish perpetrators under customary law and therefore prevent such acts. It should be noted, however, that Clare Martin, the NT Chief Minister at the time, was reluctant to support this summit (Martin, cited in Peatling 2006b, p. 8; Martin, cited in Kerin 2006b; *Sunday Territorian* 2006a, p. 20). In addition, Jones (2006d) asked the question, 'if it weren't for the Alice Springs prosecutor Nanette Rogers, today's political summit probably wouldn't have taken place. Why do you think she was able to so effectively prick the national conscience?' In response to this comment, the then National Indigenous Conference Chair Sue Gordon responded by stating that it was because Rogers was a prosecutor and that she was non-Indigenous – a statement that Indigenous academic Marcia Langton agreed with (Gordon & Langton, cited in Jones 2006d). The comment by Jones and responses by Gordon and Langton highlighted the significance of the initial *Lateline* broadcast, Rogers' appearance, and the important effect it had on the Federal Government to convene this Intergovernmental Summit.

chapter, and it is an example of conflicting federalism. Brough stated that when he met with the NT Chief Minister, she suggested that the Federal Government work with the NT government, specifically in relation to Alice Springs, to put in place measures to overcome housing and alcohol problems (Brough, cited in Jones 2006e). While Brough indicated that he agreed with Martin that the government should work in conjunction with the NT Government, when pressed by Jones about whether the Federal Government would intervene by creating laws in the NT (Jones 2006e), the Minister stated that he would like to work with the NT Government but if that was not possible then other solutions would be investigated (Brough, cited in Jones 2006e).

In this *Lateline* interview on 16 May, Brough foreshadowed the Howard Government's potential involvement in the NT if the Federal and NT Government could not work together. This put added pressure on Clare Martin's government to publicly respond to these societal problems in some Indigenous communities. Minister Brough stated:

I would first and foremost want to work with the elected government of the Territory. If that fails to produce what I think are the only workable solutions, which is good governance and law and order, then we shouldn't close our minds to any alternative that is possible to the Federal Government. (Brough, cited in Jones 2006e)

Brough also stated:

I would simply say to you ... that the Australian public should demand of the Howard Government that if the Territory Government doesn't deal with these issues with us in a cooperative fashion, then we should not at any stage rule out every alternative. (Brough, cited in Jones 2006e)

It appears from these responses that Mal Brough sought Federal intervention, which was the position the Federal Government took almost one year later with the enforcement of the NTER. At this stage, however, it needed to *appear* to want a collaborative approach with the NT Government. It was only after he was questioned by Jones that Brough's real agenda became clear.

In the same interview, Minister Brough claimed that there existed 'paedophile rings' in operation within these communities, an assertion that he backed away from as reported by *Lateline* the following evening (Iggulden 2006a). Such claims significantly continued the (re)production of the negative narrative about Indigenous peoples, communities and culture. Mal Brough's comments was later proved to be untrue via the police force and the Australian Crime Commission (Pilger 2013; McKenzie 2009, p. 1; O'Reilly, cited in Senate Standing

Committee on Community Affairs 2008, p. 461; Wild & Anderson, 2007, p. 61).³⁸ But, the Commission's findings did echo the prevalence of Indigenous social problems, under-reporting and inadequate sharing of information between government agencies, among other conclusions (as has previously been alluded to by Rogers). These views were repeated in the LCAS report (see for example, Langton 2010, pp. 110-111). Mal Brough stated:

Everybody in those communities knows who runs the paedophile rings. They know who brings in the petrol and they know who sells the ganja. They need to be taken out of the community and dealt with, not by tribal law, but by the judicial system that operates throughout Australia. We're all equal in this country and we should all be treated the same way. (Brough, cited in Jones 2006e)

Over a year later in an interview for the *PM* program, Brough stated that he did not regret using this phrase despite the publication of the LCAS report that found no proof of the existence of 'paedophile rings' (Colvin 2007a). During the 16 May 2006 broadcast, Brough was asked by Jones what evidence there was to support his claims. Brough responded – presumably in reference to the *Lateline* reports – by saying, 'you only have to look at your own reports over the last two days' (Brough, cited in Jones 2006e). From this response it is clear that Mal Brough had no evidence to support his claim of organised child abuse. Conceivably, the Minister might have made this unsubstantiated claim to draw attention to the alleged existence of Indigenous social problems in the NT more broadly. Nonetheless, it is clear that Mal Brough's claim directly represented Indigenous communities as having paedophile rings in operation, as environments where children were being abused, and where Indigenous people brought in petrol – presumably to sniff – and the drug ganja.

Minister Brough's indication that Indigenous perpetrators should be taken out of the community to be dealt with under western jurisprudence implied that Indigenous culture had failed. He suggested that customary laws was inferior to the western legal system. In discussing narratives of dysfunction in some Indigenous communities, Behrendt (2006a, p. 2) argued that communities must firmly state that violence and sexual abuse does not form part of Indigenous culture. However, this negative assessment of Indigenous peoples, communities and culture became the basis for the Minister's support for integration and push to modernise and normalise Indigenous people.

³⁸ This commission, which formed part of the National Indigenous Intelligence Task Force, was set up in 2006 following earlier allegations of child sexual abuse and amendments by the Howard Government, which reflected the classification of Indigenous people by the Government as 'criminal', 'savage' and unable to care for their children', to the Australian Crime Commission Act 2002 (Kramer 2015, pp. 130-132). Further, there has also been criticisms of this crime commission (see for example, Manderson 2008, p. 244).

On 17 May 2006, *Lateline* subsequently investigated Brough's claims about paedophile rings operating in NT Indigenous communities. In this particular interview, Clare Martin weighed in disapprovingly about Mal Brough's assertion of these rings functioning in communities:

Under our law, if you know of paedophile activity you have to report it to police – so, I'm calling on Mal Brough today to put up or shut up. This is a very serious allegation he's making. (Martin, cited in Iggulden 2006a)

This comment illustrated that there were differences of opinion about Minister Brough's allegation. Importantly, it reveals a counter-discourse to Brough's allegations and to the representation of Indigenous peoples, communities and culture. Martin's comments clearly disrupt the destructive narrative. This is highlighted in her response when she challenged Brough's remarks that alleged paedophile activity was occurring in the NT.

A follow-up episode on *Lateline* on 21 June 2006 focused on an Aboriginal man in Mutitjulu who had allegedly traded sex for petrol (Jones, cited in Smith, S 2006c). This episode contained evidence and a range of opinions from people that had lived in Mutitjulu between 2000 and 2006. They revealed the complexities of opinions about Indigenous social problems in Mutitjulu, indicating that Brough's version of 'paedophile rings' was not a reliable piece of information. The evidence was from a collection of individuals in various roles: an originally anonymous former youth worker (Gregory Andrews) who worked in the Communities Engagement Branch in the Office of Indigenous Policy Coordination in Canberra; former doctor, Dr. Geoff Stewart; domestic violence worker, Jane Lloyd, of the Ngaanyatjarra, Pitjantjatjara and Yankunytjatjara (NPY) Women's council; a park ranger; a school principal and an Aboriginal Elder, Mantitjara Wilson (Smith, S 2006c).³⁹ These individuals all focused on the same problems in this community: alcohol abuse, petrol sniffing and marijuana use, and the failure of governments to address community issues (Smith, S 2006c). Excluding Andrews, they all alluded to one predatory paedophile, but not paedophile rings, as indicated by Minister Brough. These contradictory accounts meant that it was difficult to determine if there was just one or a number of predatory men. This was highlighted by Andrews' statement that:

It's true that there are predatory men in the central deserts who are systematically abusing young children. I've been told by a number of people of men in the region who go to other communities and get young girls and bring them back to their community and keep them there as sex slaves and ... exchange sex for petrol with those young petrol sniffers. ('Former youth worker', cited in Smith, S 2006c)

³⁹ Gregory Andrews was identified by Mark Metherell of the *The Sydney Morning Herald*, on July 13 2006 (Metherell 2006b, p. 5), and his identity confirmed in a *Lateline* episode on 1 August 2006 (Jones, cited in McDonnell 2006).

In response, Jane Lloyd was asked by Jones if she would label it as a paedophile ring in Mutitjulu. She replied by stating:

Not in the sense that we understand a paedophile ring, but in a sense that they are organised. They are protected by their relationships to these – to their victims. They are protected by their relationships to other men in the communities and to other women. (Lloyd, cited in Smith, S 2006c)

While she disagreed with the view that there was a paedophile ring, Lloyd's view that perpetrators were organised might be regarded as supporting Andrews' argument that men freely targeted young children and females for sex. Nonetheless, we can see that Brough and Andrews were essentially contradicted by other individuals living in Mutitjulu, which indicated the complexities of opinions by the individuals in this *Lateline* episode. However, both these comments by Andrews and Lloyd continued to racialise the narratives, representing Indigenous peoples, particularly Indigenous men, as child abusers and Indigenous children as dysfunctional petrol sniffers. Moreover, Indigenous culture is represented as normalising such violence through kinship relationships in communities.

The statement by Lloyd was referred to by Tony Jones in another *Lateline* report on the same night. In this particular report, Jones questioned Dr Geoff Stewart, who was a medical practitioner in the NT Indigenous health sector, about Lloyd's aforementioned comment to determine whether she was correct. Stewart responded by saying:

I don't believe that's the case and I don't believe they exist with the connotations that go with that term. I mean, we've described one – an individual who's been engaged in that sort of paedophilic behaviour. So, no, they don't exist and I'm confident that they don't exist in that way, but Jane is correct in saying that there are systemic and structural issues at play within the community that have allowed his behaviour to continue and in some ways to be – well, it's never officially condoned, but they've certainly been inactive in terms of dealing with it. (Stewart, cited in Jones 2006f)

This response by Stewart indicated that he was opposed to the use of the term 'paedophile ring' as he believed that this was a loaded term. He did, however, agree with Lloyd that there were organised or systematic problems that were enablers for perpetrators. This comment by Stewart continued the disparaging racialised account about Indigenous communities by representing an Indigenous community as having paedophilic behaviour engrained in its social structures and its members being reluctant to address it.

In this particular *Lateline* broadcast, there was also discussion centring on the sexually transmitted infections (STIs) of children who had been allegedly sexually abused in Central Australia. This generated additional debate about who was abusing these children. This furthered the sense of a 'crisis' that existed in Central Australia around Indigenous child sexual abuse. In this report, Jones questioned Stewart about child sexual abuse and STIs. The

medical practitioner admitted that there were STIs in 12–14-year-old children, and in some cases in children under ten (Stewart, cited in Jones 2006f). Following this statement, Jones asked, ‘are they always indicative of sexual abuse?’ (Jones 2006f). Stewart responded by saying, ‘certainly they have to be taken as such, yes’ (Stewart, cited in Jones 2006f). Stewart stated that the cases that he examined indicated STIs in children and that these particular cases needed to be treated as if these children had been sexually abused. Also in this broadcast, Jones asked: ‘So it was common or more common to find gonorrhoea in young girls aged between 12 and 14?’ (Jones 2006f). Stewart responded by stating:

Yes ... STI levels in Central Australia particularly are some of the highest rates that occur nationally ... [They] are seen in that younger age bracket, and certainly form one of the bases on which we become aware of childhood sexual abuse. (Stewart, cited in Jones 2006f)

Stewart did not, however, clearly indicate that the infections in these children had been contracted from a man belonging to this alleged paedophile ring. At no point was it claimed that these children were given petrol to have sex or to perform sexual activities with a single man or group of people. Nonetheless, the interview generated further controversy about the alleged cases of child sexual abuse in Mutitjulu. It should be noted, however, that public debate depends on stereotypical and racialised images and simplified versions in relation to social problems in Indigenous communities (Cowlshaw 2004, p. 63). Arguably, the media portrays these conditions as threatening and adopts a ‘moral panic’ framework – Australian-based newspapers perpetuated this through stories that condemned these conditions (Sutton, cited in Cowlshaw 2004, p. 63). This will be discussed later in this chapter.

The most problematic claims from the first *Lateline* episode were made by former youth worker Gregory Andrews, who was later exposed as providing information to Clare Martin in 2004 about child sexual abuse in Mutitjulu. In his view the ‘people who are in control are the drug dealers and the petrol warlords and the paedophiles’ (‘Former youth worker’, cited in Smith, S 2006c). This claim by Andrews corroborated a similar statement by Brough that paedophile rings were operating in Indigenous communities (Fieldes 2010). These claims were further reported by *The Australian* on 1 August 2006 (Overington 2006, p. 3). The article indicated that Andrews covered up his association with Brough and used his appearance on the program ‘to back controversial claims’ about paedophile rings (Overington 2006, p. 3). Andrews insisted, however, that:

My appearance was not sought or prompted by the minister responsible for my department. I decided that I would only appear anonymously and I informed *Lateline* and my employer of the condition. *Lateline* accepted this condition and my employer agreed. (Andrews, cited in Overington 2006, p. 3)

Although Andrews claimed that Brough's department had nothing to do with his anonymous appearance, questions still remained about whether he in fact appeared to support the minister's initial claim of the existence of paedophile rings in Indigenous communities, or draw attention to Indigenous social problems in the NT. Nevertheless, Andrews represented a stereotypical view of Indigenous communities and culture as condoning and supporting child sexual abuse, drug dealers and individuals addicted to petrol sniffing.

Clare Martin reacted disapprovingly to Andrews appearing on *Lateline* in support of Mal Brough's claim of paedophile rings. It emerged in October 2006 that she was aware of young girls selling sex for petrol and contracting STIs in Mutitjulu as early as 2004. In 2004, Andrews had referred information to Clare Martin about child sexual abuse in Mutitjulu, which she then mentioned in a memo to Paul Henderson, the then NT Police Minister. This memo was uncovered in 2006 and is discussed in Chapter Five of this thesis. In response to Andrews appearing on *Lateline*, Martin stated in the NT Parliament on 11 October 2006:

The allegations he made, very, very sadly have had very little substance, and the fact that he appeared on the *Lateline* program supporting the Indigenous Affairs Minister in his claims of paedophile rings, when there was never any evidence of that, has really disappointed me about the work of Greg Andrews, and the trust, Madam Speaker, that we as a Territory had in him to do a very important task at Mutitjulu. (Martin, cited in Barker 2006, p. 1)

Clare Martin suggested that leading figures in government and in social and medical services did not lend full support to Andrews' claims of paedophile activity and the alleged child sexual abuse in Mutitjulu. Indeed, as indicated above, Martin discredited his evidence. This calls into question how meticulous the evidence was that he presented to Clare Martin in 2004 and her reliance on that evidence.

Despite Clare Martin's comments, Andrews continued to defend his anonymous *Lateline* appearance. On another *Lateline* program on 1 August 2006, he identified a number of other reasons why he wanted to remain nameless. He argued that he sought anonymity due to individual and family sacrifices associated with speaking out at a Coronial Inquest in 2005 in relation to the deaths of three Aboriginal males. These males died of petrol sniffing in Mutitjulu and Willowra, NT. He stated that:

[b]ecause of the personal costs incurred by me and my family when I spoke out during the NT Coronial Inquest ... [a]fter my evidence to the Coroner, I was threatened with violence and intimidated on a number of occasions. This abuse extended to harassment of my wife and me when we were in hospital with our newborn son. (Andrews 2006)

In this report, Andrews indicated that he wanted to remain anonymous to protect his family from potential threats, and to draw attention to the human rights violations of Indigenous

peoples in some of these communities.⁴⁰ He highlighted the importance of this by suggesting that ‘the resulting media attention could focus on the issue of the egregious human rights abuses being suffered by Indigenous Australians in dysfunctional communities, not on me’ (Andrews 2006). Although Andrews was attempting to draw attention away from his anonymous appearance, he nonetheless contributed to a narrative that associated Aboriginality with violence and dysfunction.

According to parliamentary documents during this time, Brough’s office was aware that Andrews, an assistant secretary in their department in the Office of Indigenous Policy Coordination, was to appear on *Lateline*. Andrews was subsequently instructed on his responses and his comments were prepared by Mal Brough’s department and Wayne Gibbons, Andrews’ manager at the time (Snowdon 2006a, p. 107), presumably at the Communities Engagement Branch in the Office of Indigenous Policy Coordination. These details support the argument that Mal Brough was made aware of Andrews’ appearance before the interview, and that Andrews appeared on *Lateline* as part of a government strategy to support his claims of alleged paedophile rings. Andrews and Minister Brough both provided an inaccurate image of paedophile rings. In so doing, they also represented Indigenous communities as condoning child sexual abuse, implied that all Indigenous males were abusive and suggested that Indigenous culture was inferior.

The 21 June 2006 *Lateline* broadcast was not the only instance in that year when comments about child sexual abuse in Indigenous communities and an alleged paedophile in Mutitjulu were raised. In February 2006, a nameless unidentified letter with no date was sent to the NT police in Alice Springs regarding child sexual abuse and offences in public (Murdoch & Gordon 2006, p. 3). Further investigation by the NT police uncovered that the letter was sent by Minister Brough’s department (Murdoch & Gordon 2006, p. 3). I speculate that because it came from his department, Mal Brough could have read this document before it was sent to the NT police or he could have possibly written it. As such, Brough – or his department – might be suspected of engaging in a sustained attempt to pressure the NT Government to act on these problems. On 22 June 2006, Brough was interviewed on the ABC radio station *PM* where he indicated to reporter Alexandra Kirk that he had known about the existence of an

⁴⁰ During the time of these interviews, Andrews worked in the Communities Engagement Branch in the Office of Indigenous Policy Coordination in Canberra. Andrews stated that when *Lateline* contacted him to be on the broadcast, ‘I weighed my moral duty to speak out about serious human rights abuses against possible consequences for my family and my current employment’ (Andrews, cited in Overington 2006a, p. 3). He went on to say, ‘after much agonising, I decided to speak to *Lateline* about the neglect and abuse of children and violence against women in central Australia because of my deep concern for the victims’ (Andrews, cited in Overington 2006a, p. 3).

alleged paedophile in Mutitjulu who exchanged petrol for sex: ‘I had heard about this. My department actually sent a full report to the Northern Territory Police in February this year outlining names, circumstances’ (Brough, cited in Kirk 2006). It should be noted, however, that Paul Henderson, the NT Police Minister during this time, would later dismiss this letter as having no basis. He stated, ‘For Mal Brough to say that his department provided substantial information to the police ... – it’s just not good enough (Henderson, cited in Murdoch & Gordon 2006, p. 3). It is presumed Henderson was indicating that the information about child sexual abuse was not as substantial as Brough claimed.

In an interview on the ABC *PM* program, Brough went on to indicate his frustration with the NT Government and police force for ignoring pleas from people in Mutitjulu and his department about this alleged abuse. He referred to the *Lateline* broadcast from the previous evening:

And I guess it's the frustration that you heard of those people last night on *Lateline*, youth workers, health workers, doctors, et cetera, who felt that no matter how hard they knocked on the door of the Northern Territory Government's Family and Community Services, or how much they told the police, that nothing was actually resulting from that and children continued to be abused. (Brough, cited in Kirk 2006)

In these comments, Mal Brough blamed the NT Government and police for not addressing the initial claims about an alleged paedophile and child sexual abuse as raised by his department in February 2006. While expressing disappointment that the NT Government and police had failed to act, Minister Brough’s claim about alleged paedophile rings and child sexual abuse was able to generate extensive public discussion about safety within communities. This racialised media narrative and increased public awareness placed pressure on the NT Government to respond.

4.2.2 Challenging the racialised narrative about Mutitjulu

A major inquiry was announced following the 21 June *Lateline* episode. The NT Government wanted to investigate the narratives generated by *Lateline* about Indigenous child sexual abuse in Mutitjulu. As will be proved below, this investigation discredited comments from both Brough and Andrews, in turn presenting a counter-narrative to what was presented in the media about Indigenous child sexual abuse.

The publicity generated by the *Lateline* reports led directly to a linked investigation between the NT Police and Family and Community Services (FACS) taskforce. It was to conduct a six-month inquiry into alleged Indigenous sexual abuse and the inquiry would have ‘the power to access documents and call witnesses’ (Cowan 2006b). The taskforce conducted

interviews with nearly 300 people in relation to assertions of the sexual abuse of children in Mutitjulu. However, no arrests were made by the taskforce following the research they conducted. Colleen Gwynne, the NT Police Superintendent stated in July 2006:

There's still no direct evidence that identifies anyone who has sexually abused any children in Central Australia. There's a lot of hearsay, 'This is what we were told, someone else told me this'. You go from one person to another and then you finally get someone and they say 'That's not what I said'. (Gwynne, cited in Michelmore 2006, p. 11)

This taskforce indicated that there *was* evidence of children receiving petrol; however, it was found that petrol was not given to children to lure them to do sexual acts (Gwynne, cited in Mission & Justice 2007). Even after interviewing children, none indicated any incidents of abuse. The taskforce publicly stated that 'at this stage, there's certainly no direct evidence to support even interviewing anyone over alleged sexual abuse' (Gwynne, cited in Michelmore 2006, p. 11). As Gwynne indicated:

We have found some evidence of petrol being provided to children ... There's certainly no evidence there that the petrol is being provided to entice children to provide sexual favours, none whatsoever. (Gwynne, cited in Michelmore 2006, p. 11)

This evidence provided an important counter-discourse that challenges the dominant story presented in the Australian media. This is important as the mainstream media might be seen to have played a role in presenting Indigenous identity as 'uncivilised', 'lacking' or a 'problem' (Carlson 2016). Importantly, this counter-story, which forms a key tenet of a CRT framework, is a:

... method of telling the stories of those people whose experiences that are not often told ... the counterstory is also a tool for exposing, analyzing, and challenging the majoritarian stories of racial privilege. (Yosso, Villalpando, Delgado Bernal & Solórzano 2001, pp. 94-95; Solórzano & Yosso 2001, p. 475)

The storytellers here were several hundred interviewees, some of whom were children, who indicated that there was no sign of sexual abuse. As such, this counter-storytelling is important because it challenged the destructive representation of Indigenous peoples, culture and communities in the *Lateline* broadcasts.

4.2.3 The continuation of a racialised media discourse of Mutitjulu

On 22 June 2006, there was another *Lateline* broadcast, initiated by the 21 June *Lateline* broadcast which had focused on a man in Mutitjulu allegedly selling petrol for sex. In this report, Mal Brough continued to make claims about the alleged Aboriginal man from Mutitjulu buying sex; he argued that a national approach was needed, as this particular man was purportedly seen in South Australia (SA). I argue that Minister Brough wanted to

continue to build the momentum about this alleged paedophile in Mutitjulu, and was referring to child sexual abuse as ‘a national issue’ to deflect attention from the problems around Andrews’ appearance, which in turn built pressure for an Inquiry (Brough, cited in Jones 2006c). This *Lateline* broadcast reported that a man with a similar description to the person who allegedly sold petrol for sex from Mutitjulu had been seen in Amata, SA. In commenting on the supposedly national issue, Mal Brough stated that there were other people such as this man in other communities. He concluded: ‘so I think let’s understand that it’s widespread, it’s insidious, and it must be dealt with on a national level’ (Brough, cited in Jones 2006c).

On 22 June 2006, a *Lateline* interview with Dr Richard Janus initially appeared to support claims about the alleged exchange of petrol for sex. This story furthered the racialised media narrative during this time about Mutitjulu and this alleged paedophile. Janus, a doctor who had worked at Mutitjulu, claimed that this alleged offender had come to him requesting a prescription for Viagra (Jones, cited in Smith, S 2006a). Although the claim of petrol for sex seemed plausible, it was only hearsay and could not be confirmed. But as this report was broadcast by the reputable *Lateline* program, it enhanced public interest in this story and built further pressure for an inquiry.

On 23 June, *Lateline* broadcast another story that focused on the inquiry into Indigenous child sexual abuse along with some varied reactions on this topic. I argue that this episode amplified concerns around the severity of this problem, adding further pressure on the NT Government to respond to these claims. The broadcast included debate between a range of individuals – among them, Dr Richard Lim from the NT Opposition, and Delia Lawrie, the NT Community Services Minister – about investigations into child sexual abuse and the alleged paedophile being seen in SA (Cowan 2006b). Cowan notes that, as in the 22 June broadcast, it was reported that SA police had stated that a man with a similar description to that of the man from Mutitjulu had now appeared in Amata. However, Jay Weatherill, the Aboriginal Affairs Minister in SA during this time, stated this was only an allegation and that only evidence would be acted upon (Weatherill, cited in Cowan 2006b). Overall, however, these negative claims largely remained unchallenged. The next section analyses some key arguments around a counter-discourse to the destructive *Lateline* narratives examined above.

4.2.4 Counter-discourse to the *Lateline* stories

In response to the *Lateline* report aired on 21 June and eight subsequent reports from 22 June to 29 August 2006, the Mutitjulu community lodged a formal complaint to the program's producers on 30 August 2006 (Mutitjulu Community Members 2006, p.1; *Sunday Territorian* 2006b, p. 5). This highlighted the protracted interest from Mutitjulu about the broadcasts from *Lateline* and provided a significant counter-discourse to what had been previously reported on the program. A counter-narrative challenges destructive narratives, which is why it is important for silenced and marginalised voices to be heard. Counter-storytelling can be used to recast matters in a new light and to view things through a new perspective (see for example, Ladson-Billings & Tate 2006, p. 176). Such voices give insights into community life through experiential knowledge. In turn, an alternative belief system is established as a new story is made visible (Delgado 1989; Lawson 1995). In the Australian context, this assists with privileging the voices of Indigenous people from Mutitjulu.

In the lodged complaint, members of the community outlined 21 assertions made in the *Lateline* episodes.⁴¹ The complaint noted that men in leadership positions had been portrayed as 'violent criminals and protectors of paedophilic activity ... [who] cover-up the sexual violence, drug and petrol trafficking' (Mutitjulu Community Members 2006, p. 1). They complained that *Lateline* showed that 'the parents and leaders of Mutitjulu are so delinquent that they allowed a 'predatory paedophile' to go about his activities unchecked and actively assisted by male leaders in the community' (Mutitjulu Community Members 2006, p. 2). Community members highlighted that flawed evidence was used in these *Lateline* broadcasts. Nonetheless, at an NT awards ceremony for the media in October 2006, Tony Jones defended the broadcasts with a bold statement about their social importance: 'we at *Lateline* are not the story ... this is, overwhelmingly, about the children and how to save them' (Jones, cited in Wilson 2008, p. 35). Jones appeared to be drawing attention away from the ABC's responsibility for accurate reporting by focusing on the significant issue of saving the children. This "save the children" assertion was taken up by the Howard Government when announcing the NTER in 2007.

⁴¹ A review by the ABC in relation to the lodgement by the Mutitjulu community was later established. This review indicated some problems associated with the *Lateline* broadcasts. In response to this lodgement, the ABC established an Independent Complaints Review Panel to investigate the complaints made by members of Mutitjulu (Sales 2008). It 'found no breach of editorial policies in 29 out of 30 complaints against the program' (Wilson 2008, p. 35). One complaint that was confirmed by this review related to *Lateline* showcasing footage of petrol sniffing that was not current. It acknowledged that 'it conveyed the misleading meaning to viewers that the petrol-sniffing footage was of recent origin' (cited in Wilson 2008, p. 35).

A further issue with these *Lateline* broadcasts and narratives, which was not addressed by the complaint nor by the review undertaken by the ABC, was that the majority of interviewees were non-Indigenous peoples. Subsequently, these racialised narratives that were presented by *Lateline* could not always be challenged by Indigenous people. Plater (1992, p. 30) asserted that non-Indigenous people are often consulted over Indigenous sources; for example, interviews contained in some *Lateline* reports were from Nanette Rogers, Mal Brough and Gregory Andrews, which meant that a point of view from an Indigenous perspective was not included. This is not desirable. In some of these instances, however, *Lateline* did interview Indigenous people. For example, Indigenous academic Larissa Behrendt (Jones 2006a), and other Indigenous leaders like Mick Gooda and Betty Pearce (Iggulden 2006b) provided alternative views on Indigenous child sexual abuse and violence.

Behrendt stated that Indigenous culture does not condone the violent or sexual abuse of women and children and that cultural practices should be valued in ways that are aligned with the rights of Indigenous children and women. Behrendt argued that contemporary Indigenous culture values ideas of human rights even though over a period of time, it has accepted different ideas as to what those rights are (Behrendt, cited in Jones 2006a). In addition, she also specified that some offenders are utilising traditional culture as a defence for their actions and hiding behind it (Behrendt, cited in Jones 2006a). Furthermore, Gooda stated that the problems prevalent in Central Australia warranted a relative reply by the Federal Government and that it was up to the men in these communities to voice their concerns about these issues, as women had also been doing (Gooda, cited in Iggulden 2006b). Betty Pearce echoes Behrendt's comments by suggesting that Indigenous males were using their cultural ways as an excuse for violent and abusive behaviour (Pearce, cited in Iggulden 2006b). This delivered some Indigenous voices on the key themes under investigation by *Lateline*.

Essentially, however, *Lateline* spoke to only non-Indigenous people about Indigenous social problems. The *Lateline* programs did not draw on Indigenous perspectives from Mutitjulu and the negative narratives remained unchallenged by the very people who were its subjects. Although there were some Indigenous viewpoints as indicated above, the *Lateline* episodes that predominantly focused on Mutitjulu did not allow Indigenous people to control their own images and words, so contributed to negative perceptions about the media representation (Plater, cited in Eggerking & Plater 1992, pp. 28-29). Studies have shown that the representation of Indigenous peoples in the media have been shaped by non-Indigenous

journalists that employed ‘Western’ reporting practices (Jennett, Meadows & Ewart, cited in Mesikämnen 2013, p. 25). This is problematic because the lack of Indigenous knowledges conveyed through storytelling perpetuates the media’s reliance on racialised narratives (see for example, McCallum 2010; Meadows 2001b; Mickler 1998, cited in Mesikämnen 2013, p. 25). In addition, the lack of Indigenous voices in these *Lateline* broadcasts and the media’s disregard for privileging storytelling from an Indigenous standpoint, contributed to the public’s lack of knowledge and awareness of a particular Indigenous community being reported about in the media. The following section discusses some of the reactions from the media regarding the 2006 *Lateline* broadcasts.

4.3 Australia’s media reaction to the racialised Lateline narratives

Within 24 hours of the first *Lateline* episode, newspapers, radio programs and websites across Australia and internationally reported the social problems occurring in Indigenous communities. As Hunter (2008, p. 376) argued, the initial reporting by the media regarding the National Emergency in the NT centred around child sexual abuse – as such, the debate drifted away from neglect, physical abuse and the maltreatment of children. Subsequent *Lateline* broadcasts were covered by the media in the following months and these reports furthered the damaging racialised account that these *Lateline* broadcasts established. Importantly, one such article reported on the potential Federal Government Intervention. This article, published on 17 May 2006 in *The Age*, stated that ‘[t]he Federal Government last night threatened to intervene in the affairs of the Northern Territory to tackle the epidemic of sexual abuse and assaults against women and children in Aboriginal communities’ (Skelton & Milovanovic 2006, p. 1).

The article indicated that Mal Brough had ‘signalled Canberra could intervene if the NT did not take stronger action to curb the spread of sexual abuse and violence in remote communities’ (Skelton & Milovanovic 2006, p. 1). Although this article was only reporting on what the Federal Government *threatened* to do, it drew attention to and added *pressure* on the Howard Government to intervene. It is beyond the scope of this thesis to analyse every media response to these broadcasts, but an assessment of a range of reports provides insights into the far-reaching impact of the racialised *Lateline* broadcasts. These stories had the potential to influence the public’s perception about Indigenous social problems in the NT and the need for drastic measures to be taken to resolve them.

Similarly, articles published on 16 May 2006 in *The Age* (Skelton & Stafford 2006, p. 6) and *The Australian* (Kearney & Wilson 2006, p. 1) and on 18 May in *The Australian* (McClellan

2006, p. 17) reported extensively on Crown Prosecutor Nanette Rogers' first appearance on *Lateline*. Even the British Broadcasting Corporation (BBC) on 16 May 2006 reported Nanette Rogers' appearance on *Lateline* (Mercer 2006). These narratives privileged what *Lateline* had reported, in turn, stressing and (re)creating the racialised narrative of Indigenous social problems in NT communities. Also on 18 May 2006, an opinion piece was published in the *Sydney Morning Herald* (SMH) by Miranda Devine which focused on Rogers' comments from 15 May 2006. Devine's article focused on the outrage in the week following Rogers' comments in the *Lateline* episode (Devine 2006, p. 13) and included Dr David Rose's criticisms about the broadcast. Rose had described the story 'as sinking to 'new depths of shock-jock journalism'' (Rose, cited in Devine 2006, p. 13). Devine noted that Rose lambasted Rogers for having a 'poor understanding of the social and historical background that produced [the crimes]' and had criticised *Lateline* for broadcasting 'obscene, graphic details of child sexual abuse' (Devine 2006, p. 13). Although this article focused on some of the criticisms of the *Lateline* episode, providing a counter-discourse to the negative racialised story as portrayed by Rogers, the opinion piece was very much in favour of the *Lateline* episodes' content and comments. Devine concluded by stating: 'Full marks to *Lateline* for pursuing the story so vigorously' (Devine 2006, p. 13). This article gave the public another means to learn about Rogers' appearance and her reasons for doing so, but at least provided some different perspectives about the *Lateline* broadcast.

On 18 May 2006, *The Australian* reported that the demise of Indigenous culture had led to these social problems. It claimed that the Australian Federal, NT and State governments were responsible for the problems as they had not actively imposed a solution (Aird 2006, p. 12). A similar report was printed in *The Australian* on 19 May 2006 (Karvelas & O'Brien 2006, p. 2). Marcia Langton highlighted Brian Johnstone's article from *The National Indigenous Times* as a report which 'jumped in to defend 'Aboriginal culture', accusing ABC journalists of racism'. She claimed that the ABC had racially targeted Aboriginal culture (Langton 2008a, p. 6).

On 17 May 2006, *The Age* reported about substance abuse among Indigenous men and the effect this had on women (Skelton & Milovanvic 2006, p. 1). This first report came to light as the Federal Government stated that it would intervene if the NT Government did not take the necessary action to address sexual abuse and violence against Indigenous women and children (Skelton & Milovanvic 2006, p. 1). A similar article was published in the SMH on the same day (Skelton 2006a, p. 5). This article reported Brough's view that he would like to work with the NT Government but would explore other alternatives (Skelton &

Milovanvic 2006, p. 1). The article also reported that Jane Lloyd, the chairperson of the Chief Minister's Family and Aboriginal Violence Council, commended Rogers for publicly confirming the violence and sexual abuse (Skelton & Milovanvic 2006, p. 1). These articles indicated that the media's initial reaction following the *Lateline* episodes focused on highlighting Indigenous social problems and how the Federal Government would respond. This was a positive development: the public was being educated about the problems that existed in communities and how the Federal Government intended to react to address these issues. However, these narratives added to the racialised dominant story as portrayed in *Lateline*; they confirmed the stories about Indigenous social problems and represented Indigenous culture and communities as inferior to 'mainstream' culture.

Other reports, however, moved away from highlighting the existence of Indigenous social problems in NT communities. *The World Today*, an ABC news and current affairs radio program, reported that Brough had not ruled out taking control from the NT Government to deal with these social problems, and that the minister questioned whether the NT was taking these issues seriously (Kerin 2006c). In response to these comments, Clare Martin accused Brough of 'grandstanding'. She stated that if Minister Brough wanted to make a difference, he should work with the NT (Kerin 2006c). Furthermore, the program reported that a number of NT leaders had challenged Brough to provide evidence about the operation of the alleged paedophile rings (Kerin, 2006c). Again, this highlighted the lack of substance behind this allegation. Jane Lloyd, from the Ngaanyatjarra Pitjantjatjara Yankunytjatjara (NPY) Domestic Violence Service in Alice Springs, stated that in her 12–14-year experience, she was aware of paedophilic activity but not aware of any paedophile rings (Kerin 2006c). This again illustrated that there was no evidence of paedophile rings and that Brough needed to prove that his claim was accurate. The program reported that NT Police Minister Paul Henderson had never heard these claims in the four years he had been minister (Kerin 2006c). Although *The World Today* was reporting about Brough's claim of paedophile rings, this story had diverted attention away from the Indigenous social problems in question and towards his allegation.

Other narratives appeared across the country in the following days. *The Weekend Australian* reported on incidences of alcohol-fuelled violence in Indigenous communities. It reported on Rogers' example of this kind of violence – as highlighted on *Lateline* – as well as the incidence of silence in Indigenous communities and how this problem might be resolved (Wilson 2006b, p. 17). In addition, on 20 May, *The Age* discussed the briefing paper from Rogers (Skelton 2006b, p. 3). This same article reported on the existence of sexually

transmitted infections (STIs) in one in three young women between the ages of 15–25 (Skelton 2006b, p. 3). It noted that these ‘rates significantly underscore’ comments by Rogers and that violence and sexual abuse had reached calamitous levels (Skelton 2006b, p. 3). Therefore, Rogers’ comments were not perceived as startling; these social problems had been known about in the past (Skelton 2006b, p. 3). Similarly, the *SMH* observed on 21 June that Rogers’ *Lateline* comments merely corroborated accounts about violence against Indigenous women and children; in fact, the levels of violence in some Indigenous communities had been known for years (Abbott 2006, p. 15). On 23 June 2006, *The Australian* also reported on sexually transmitted diseases and the existence of this in Indigenous children (Wilson, Barrass, Karvelas, Salusinszky, Ong & Gerard 2006, p. 1). By focusing on Rogers’ appearance on *Lateline*, these reports continued to represent Indigenous communities, peoples and culture as being plagued by social problems.

Following *Lateline*’s racialised narrative of alleged sexual abuse and violence towards Indigenous women and children, the public in the NT began to submit opinion pieces to local newspapers and there was a public website, titled the *World Socialist Web Site* which reported on the ‘storm of outrage’ Rogers’ story had created within childcare and health organisations, the police, Indigenous leadership and political circles (Allan 2006). On 21 May 2006, an opinion piece by the *Sunday Territorian* (2006a, p. 20) drew attention to Rogers’ evidence on social problems in Central Australia. This generated further public debate on these issues. These public narratives not only privileged the destructive stories by *Lateline*, but they normalised the racially-based content published in the Australian media. On 25 May 2006, an opinion piece in the *Northern Territory News* focused on Rogers’ comments and noted that the social problems that Rogers had raised still remained following the public uproar (Svikart, cited in *Northern Territory News* 2006c, p. 13). Another opinion piece highlighted the shame that was felt by the NT on these issues (Siebert, cited in *Northern Territory News* 2006c, p. 13). Other opinion pieces in the same newspaper stated that children should be taken away from communities that have these problems (Hall, cited in *Northern Territory News* 2006c, p. 13), or supported Mal Brough’s attempts to highlight the problems in Indigenous communities (Marquis, cited in *Northern Territory News* 2006c, p. 13). In these opinion pieces, Indigenous social problems in the NT were at the foreground of debate and discussion. Although these opinion pieces could have raised additional public considerations in the NT regarding people’s views about what had been presented in *Lateline*, they uncritically responded to the information in the *Lateline* broadcasts as if it had presented facts.

Correspondingly, on 25 May 2006 *The Australian* published an opinion piece addressing alcohol use in communities and suggesting that the reporting of this issue was generated by Rogers' appearance on *Lateline* (Simper 2006, p. 18). On 29 May 2006, *The Age* reported the existence of abuse and violence in Indigenous communities (Haywood 2006, p. 10). It reported that since the first *Lateline* episode, more reports of similar social problems were surfacing (Haywood 2006, p. 10). It argued that underlying issues must be dealt with to address these problems and explored options for resolving these social problems (Haywood 2006, p. 10). These narratives highlight how significant the *Lateline* broadcasts were, and although this might be viewed as positive, the content in *Lateline* remained unchallenged.

Increasingly, however, the narratives focused on the commotion about the alleged paedophile in Mutitjulu and referred to the lack of government action to address this issue (Murdoch & Gordon 2006, p. 3). This furthered the racialised story about alleged Indigenous social problems in Mutitjulu. The *Centralian Advocate* (2006a, p. 1) and the *Daily Telegraph* (Maguire 2006, p. 9) contained reports about the 21 June *Lateline* episode. By 23 June 2006, it emerged in the *Northern Territory News* that a national parks ranger was involved in trading petrol for sex (referring to the same Aboriginal man from the *Lateline* episode who was alleged to have traded petrol for sex). The *Northern Territory News* noted that there were issues with reporting such abuse, as individuals within Mutitjulu were threatening further abuse if people began to speak out (McClean 2006, p. 4). On 23 June the *Centralian Advocate* (2006b, p. 4), and Madden and Wilson (2006, p. 5) for *The Australian* reported on similar problems, but the *Northern Territory News* reported that the alleged claims of a paedophile living in Mutitjulu were false (King 2006a, p. 5). On 5 August 2006, the *SMH* reported that Mantitjara Wilson stood by her comments on *Lateline* in June 2006 indicating that there had been a man willing to provide petrol for sex in Mutitjulu (Skelton 2006c, p. 5). This was in direct contradiction to what was reported in the *Northern Territory News*, which challenged the story about whether there was or had been a man in Mutitjulu that was allegedly a paedophile.

Other articles in the *Centralian Advocate* reported on false allegations of a paedophile still living in Mutitjulu and the reactions about this from the community (King 2006b, p. 4). Furthermore, the *Sunday Territorian* reported on a similar topic on 3 September (*Sunday Territorian* 2006b, p. 5). On 16 July 2006 the *Sunday Territorian* reported that the NT Police and Family and Community Services (FACS) taskforce visited Mutitjulu to investigate *Lateline*'s claims, and found no evidence that petrol had been traded with children for sexual favours (Michelmores 2006, p. 11). On 22 July, *The Canberra Times* reported that the

community members of Mutitjulu ‘...has been slandered – portrayed in the national media as the home of drug dealers, petrol warlords, paedophiles and thugs’ and that ‘...the Federal Government and ABC – are lined up against them’ (*The Canberra Times* 2006, p. 5). The first two articles demonstrated contrasting views about the alleged paedophile from Mutitjulu; it was unclear whether the paedophile still lived at Mutitjulu or had lived in the community in the past. These articles questioned how accurate *Lateline* had been in reporting about Mutitjulu. The final article by *The Canberra Times* was an opinion piece firmly against the negative representations of the Mutitjulu community by the ABC and the Federal Government. These narratives provided an important counter-discourse to the disparaging racialised accounts presented in *Lateline* about Mutitjulu and members of this community. They questioned the accuracy of these accounts about Indigenous peoples in the Australian media.

On 13 July 2006, the media narrative centred on the *SMH* reportage on the suppression of Gregory Andrews’ identity as an anonymous youth worker (Metherell 2006b, p. 5). It revealed that Brough’s office would not confirm whether they had known about the real identity of this person (Metherell 2006b, p. 5). Skelton (2006a, p. 5) for the *SMH* highlighted that Andrews’ appearance on *Lateline* essentially did not add any substance to the points made by Lloyd and Stewart. In a related article, Skelton indicated why Andrews was filmed in a certain way:

The lengths taken to disguise the bureaucrat’s identity have been described as farcical: although he lived and worked in Canberra he was shot in silhouette complete with a boundary rider’s hat and made to look as if he was on location in central Australia. (Skelton 2006a, p. 5)

On 1 August 2006, *The Australian* reported on the anonymous appearance of Andrews and the reasons why he wanted to remain anonymous (Overington 2006, p. 3). On the same day, the *SMH* reported that Andrews admitted he was the anonymous youth worker, that Brough was alerted in advance to his appearance on *Lateline* and that Andrews had previously notified his employer before going on *Lateline* (Metherell 2006a, p. 3). Furthermore, Andrews’ claims had been contested by *The National Indigenous Times*, which observed that they had provided strong evidence to support Brough’s statements (Metherell 2006a, p. 3). These reports are important as they provide the reader with some in-depth knowledge about the background of Andrews’ interview and his connection with Mal Brough. This knowledge was not publicly known and the *Lateline* episode overlooked this information. As such, these facts provided some clarity to what had been presented on *Lateline* and challenged how the narrative represented Andrews and his relationship with Mal Brough.

In July and August of 2006, Kia Mistilis from the *SMH* spent five weeks in Mutitjulu. In that period, she interviewed Mutitjulu women Elders, councillors and residents about the allegations made by *Lateline* (Mistilis 2006, p. 6). Mistilis reported on 16 September 2006 that there was a significant difference between what was reported in *Lateline* and what the Elders were claiming (Mistilis 2006, p. 6). They rejected allegations on *Lateline* about the existence of a ‘paedophile ring, child sex slaves, petrol warlords, murder, kidnappings, gangs, arson and cliques of violent Aboriginal men’ (Mistilis 2006, p. 6). Moreover, the female Elders referred ‘to the joint [NT] police and Family and Community Services investigation, which ... had found no evidence of [sic] pedophilia’ after interviewing 300 people at Mutitjulu (Mistilis 2006, p. 6). As noted above, this investigation uncovered evidence that children *had* been given petrol. It did *not* find evidence that petrol had been used to trade for sex (Mistilis 2006, p. 6). Judy Trigger, Mutitjulu’s community council vice-chairperson, stated that there was no paedophile ring in the community and that individuals entering the community with alcohol or marijuana were reported to the NT police (Mistilis 2006, p. 6). This article provided the reader with strong evidence that no paedophilia or paedophile rings existed at Mutitjulu as illustrated by *Lateline*, and that this was supported by the joint investigation. Moreover, in contrast to the *Lateline* episode, this article provided an alternative view that took into account evidence from the community about the issue of paedophilia. It provided a counter-discourse to *Lateline*’s presentation of Indigenous people and the community of Mutitjulu. This was achieved by drawing upon the voices of Indigenous Elders and referring to the taskforce investigation which had disrupted the racialised destructive narrative of *Lateline*. The next section will focus on the Australian Federal Parliament’s narrative in response to the 2006 *Lateline* broadcasts.

4.4 The Australian Federal Parliament’s reaction to the Lateline broadcasts

Between June and December 2006, the Australian Federal Parliament reacted both positively and negatively to what had been broadcasted on *Lateline*. This indicated that these racialised narratives had a far-reaching impact on Parliament. The Parliament’s reaction included a discussion of Andrews’ appearance as an anonymous youth worker and Mal Brough’s claim about the alleged existence of paedophile rings operating in Central Australian Aboriginal communities in the NT. Between June and December 2006, these particular *Lateline* episodes were discussed on several occasions in Federal Parliament. It is out of the scope of this thesis to focus on a more extensive time period. Nevertheless, even though this subsection only focuses on one area of reactions from the Federal Parliament, it indicates some significant accounts from politicians regarding the *Lateline* broadcasts.

Following the 21 June *Lateline* broadcast, there was discussion about what had appeared in this report. On 22 June 2006 in the House of Representatives, Minister Brough responded to a question by David Tollner, Member of Parliament (MP), in relation to issues in Indigenous communities (Tollner 2006, p. 74). In response, Brough referred to the previous night's *Lateline* episode on Mutitjulu that highlighted Indigenous social problems, making particular reference to the importance of restoring law and order in communities (Brough, cited in Tollner 2006, p. 74). Brough's response continued to support and (re)produce the racialised destructive narrative about the alleged Indigenous social problems in Mutitjulu. Similarly, on 8 August 2006, Labor Senator Trish Crossin documented *Lateline*'s broadcasting about allegations of paedophile rings (Crossin 2006a, p. 68) in the Senate as did Greens Senator Andrew Bartlett on 8 August 2006 (Bartlett 2006, p. 70). Crossin discussed the existence of a range of social problems in NT Indigenous communities (Crossin 2006a, p. 68). The Senator argued that the professional reputation of *Lateline* had been tarnished due to the 21 June *Lateline* episode because it only provided one side of the story and the majority of interviewees were non-Indigenous people (Crossin 2006a, p. 68). She pointed out that *Lateline* did not go into Mutitjulu to report the other side of the story and if it had, it would have found that the claim that a paedophile still lived at Mutitjulu was false (Crossin 2006a, p. 68). Furthermore, Crossin stated that after these accusations were made on *Lateline*, the NT police interviewed 200–300 people in Mutitjulu and found nothing to substantiate these claims. As such, the reliability of *Lateline* had been weakened (Crossin 2006a, p. 68). On 8 August 2006, Bartlett highlighted the issues with this *Lateline* broadcast and stated that they had been wholly exaggerated (Bartlett 2006, p. 70).

Crossin and Bartlett's stories disrupted the racialised narrative that *Lateline* presented. Instead, Crossin supported previous claims in the Australian media that there was no paedophile living in Mutitjulu and that there was no evidence to support this claim. Crossin and Bartlett agreed that *Lateline* had provided its viewers with one half of the story and that the report itself was produced using little or no prior research about Mutitjulu and may not have been credible. This provided an important counter-discourse to the 21 June *Lateline* story. Moreover, these discussions provided other MPs with important insights into this *Lateline* broadcast, what it reported and what it failed to report.

On 9 August 2006, Labor MP Kelvin Thomson questioned Brough in Parliament about Andrews' appearance on *Lateline* (Thomson 2006a, p. 81). A day later, Thomson asked Brough to confirm whether Andrews was coached by the minister's office and lawyers before appearing on *Lateline*, and Mal Brough responded that he could not confirm this point

(Thomson 2006b, p. 78). Similarly, Warren Snowdon MP (2006a, p. 107), who was the Indigenous Affairs and Northern Australia Shadow Parliamentary Secretary during this time, highlighted that Brough and his department misled the ABC and the wider community over the appearance of Andrews in the *Lateline* episode. In addition, on 10 August 2006, Snowdon discussed the serious allegations that *Lateline* made, and noted other people who were interviewed in this program did not substantiate Andrews' claims (Snowdon 2006a, p. 107). Snowdon claimed that Andrews' comments were 'inflammatory, sensational and totally unsubstantiated hearsay allegations' and that Andrews' 'appearance on *Lateline* was part of a government-sponsored strategy' (Snowdon 2006a, p. 107). These parliamentary narratives provided the Senate with information relating to the *Lateline* story. They provided Parliament with evidence that disregarded Brough's claim of paedophile rings, questioned the allegation that a paedophile still resided in Mutitjulu and exposed Andrews' cover-up. This challenged the critical racialised interpretation presented in the *Lateline* account. These discussions had the potential to allow MPs the opportunity to examine the validity of the issues and scrutinise these claims in more depth.

Four days later on 14 August 2006, Kelvin Thomson MP again questioned Brough about Andrews' relationship with the minister's office. Thomson asked Brough whether Andrews was assisted by the minister or his department when preparing for the interview on *Lateline* and if Andrews was provided with coaching in relation to the subject matter (Thomson 2006c, p. 37). Brough responded by saying that Andrews received assistance from his ministry to ensure that the Public Service Code of Conduct would be followed and so he would not make any defamatory comments (Brough, cited in Thomson 2006c, p. 37). Similarly, in response to discussion by Snowdon on 17 August 2006, it was uncovered that Mr Gibbons, Andrews' boss, assisted in the preparation of what Andrews discussed in the *Lateline* interview (Snowdon 2006b, p. 154). We might speculate that Thomson believed or had known that Andrews and Brough had a connection through a government department. This provided additional information regarding their professional interactions and how Brough's department influenced what Andrews stated on *Lateline*. It allowed significant questioning to take place about the veracity of their claims. The revelation that Brough and Andrews were affiliated could have exposed the claims that both Brough and Andrews made on *Lateline* as unfounded.

Several months later, on 6 December 2006, Trish Crossin, in the Senate, discussed Mal Brough's appearance on the 16 May *Lateline* broadcast. She labelled it as 'a media smear campaign aimed at sullyng the reputation of the Mutitjulu community' (Crossin 2006b, p.

63). Crossin discussed the 21 June episode in which Andrews appeared, and the ‘serious allegations about Mutitjulu’ that were made. She noted that the community of Mutitjulu had since complained directly to the ABC (Crossin 2006b, p. 63). Crossin made reference to Andrews’ anonymous appearance and questioned why he wanted to remain anonymous when Wayne Gibbons, Andrews’ boss, and later Brough’s department, was made aware of his appearance before it occurred (Crossin 2006b, p. 63). According to Crossin, this is based on evidence that Gibbons gave at a Senate Estimates Hearing ‘on or about 2 November 2006’ (Crossin 2006b, p. 63). The significance of these *Lateline* broadcasts and their connection to the Federal Government were still reverberating through the Australian Federal Parliament six months after the first *Lateline* broadcast. Crossin’s comments indicated that there was still some questioning of *Lateline*’s representation of Mutitjulu, the allegations made by Andrews, and Gibbons’ knowledge about Andrews appearance on *Lateline*.

4.5 Conclusion

This chapter has focused on the racialised media narrative that emerged in 2006. More specifically, it has concentrated on the ABC program *Lateline* that reported on Indigenous social problems, but particularly on child sexual abuse and violence towards Indigenous women in Central Australia and the Mutitjulu community. There were several reports that sparked controversy and continued to represent Indigenous peoples, communities and culture as being inferior to ‘Western’ culture. I argued that these *Lateline* reports were pivotal in raising awareness of problems in some Indigenous communities in the NT; however, these narratives continued to present a racialised discourse about Mutitjulu, Indigenous peoples and culture.

While the evidence that was presented in these *Lateline* reports was discredited by a number of sources, there was mounting pressure on the Federal and NT Governments to address this alleged ‘crisis’. The *Lateline* stories resulted in a joint NT police and community taskforce being established. It found no evidence that petrol was used to lure children into engaging in sex nor evidence of sexual abuse; however, it did substantiate the claim that petrol was given to children. This provided a counter-discourse to the damaging narrative as presented on *Lateline*. In the following chapter, it is argued that these *Lateline* reports contributed to the Martin NT Government establishing a Board of Inquiry into the Protection of Aboriginal Children from Sexual Abuse, which resulted in the production of the *Little Children are Sacred* (LCAS) report.

Following the first *Lateline* broadcast, various media outlets such as newspapers and radio programs across Australia reported on the social problems occurring in Indigenous communities. I argue that this highlighted how important the broadcasts were in shaping media reporting about Indigenous social problems. The influence of the media cannot be underestimated, especially in relation to the media's role in presenting Indigenous issues to the Australian public (Meadows 2005, cited in Mesikämnen 2013, p. 25). The media is generally the most influential source of information regarding Indigenous peoples (Meadows 2001a; 2005, cited in Mesikämnen 2013, p. 25). The media reports generated discussion and debate about the *Lateline* broadcasts and the social problems that existed in some NT Indigenous communities. However, in doing so, the majority of these media reports contributed to normalising the negative racialised narrative about Indigenous social problems that remained unchallenged.

From June 2006 to December of that year, politicians in the Federal Parliament of Australia debated the *Lateline* reports. In particular, politicians discussed the appearance of Andrews as an anonymous youth worker and the paedophile rings claim by Mal Brough. I argue that this allowed political leaders to openly share their thoughts about these topics, as well as providing the opportunity to learn more about the *Lateline* reports and the content of these broadcasts. The attention politicians gave to these *Lateline* broadcasts illustrated just how significant these were and at times both challenged and furthered *Lateline's* dominant narrative.

The *Lateline* stories paved the way for the Federal Parliament's response. Significant pressure was then placed on the NT Government to respond and produce positive results for NT Indigenous communities. The NT Government reacted in August 2006 by forming an Inquiry to explore the nature and extent of Indigenous child sexual abuse in NT Indigenous communities. The Inquiry subsequently produced the LCAS report, which was publicly released in 2007.

Chapter Five analyses the NT Government's initial response to the public broadcasts on *Lateline* which led to this Inquiry. Analysis of the LCAS report provides a basis to compare the recommendations and findings with how Indigenous peoples, communities and culture were represented. The chapter will assess the extent to which the Howard Government followed the LCAS recommendations, and the solutions it put forward to address Indigenous social problems.

5. The *Little Children Are Sacred* Report

5.1 Representations of Indigenous peoples, communities and culture

While chapter four focused on the racialised representations in the *Lateline* stories of 2006 and the reactions from the Australian media and Parliament regarding these narratives, this chapter discusses the *Little Children are Sacred* report. It was argued that the *Lateline* accounts represented Indigenous culture, communities and peoples as inferior to mainstream Australia. Media narratives about Indigenous social problems (Anaya 2010b, p. 2) and Federal Parliament reactions also contributed to the negative representations which had a far-reaching impact in the NT.

This impact was most notable when the then NT Chief Minister Clare Martin admitted in late May 2006 that a range of social problems existed in Indigenous communities as the media highlighted these issues (Martin, C 2006a, pp. 2-3). The speech was conducted in response to Crown Prosecutor Nanette Rogers' comments on *Lateline* and Minister Brough attributing the problems to 'past policy and organisational failures' (Sanders 2007, p. 69). However, in her speech Clare Martin did not indicate that for many years Indigenous women had been highlighting the existence of social problems, in particular violence toward women and children (Howe 2009, p. 54; Atkinson 2002, p. 233; Rothwell & Wilson 2006, p. 17).

The racialised *Lateline* television reports contributed to the Martin NT Labor Government in appointing a Board of Inquiry into the Protection of Aboriginal Children from Sexual Abuse in the NT (see for example, Thill 2009, p. 545; Graham, cited in Partridge 2014, p. 75). The Board of Inquiry was appointed on 8 August 2006 (Wild & Anderson 2007, p. 1). This Inquiry resulted in the *Ampe Akelyernemane Meke Mekarle: "Little Children are Sacred"* (LCAS) report. Following the release of the report, the Federal Government intervened by implementing the Northern Territory Emergency Response (NTER) in 2007, in turn contributing to, and reinforcing the racialised narrative of Indigenous communities being havens for child sexual abuse and violence.

Nonetheless, it should be noted that sexual abuse rates were higher in other areas of Australia (see for example, Australian Institute for Health and Welfare, 2006 cited in Manderson, 2008, p. 241; Harris 2013, p. 2). At the time the government intervened, the NT had some of the lowest rates of Indigenous child abuse assertions, with Western Australia (WA) and Tasmania having fewer amounts (Tedmanson & Wadiwel 2010, p. 10; West & Murphy 2010, cited in Keenan 2013, p. 467), and Victoria having the highest (Hunter, cited in Tedmanson

& Wadiwel 2010, p. 10). This data contradicts the Howard Government's justifications for imposing the NTER.

This chapter is organised into four sections drawing upon the Critical Race Theory (CRT) tenet of social justice (Writer 2008, p. 5; Delgado & Stefancic 2001, p. 9) within a Critical Race Discourse (CRD) analytical framework. This approach is employed as a counter-discourse to 'speak back' to, challenge and disrupt the negative discourse on Indigenous communities and culture. Firstly, the chapter discusses the response of the Martin Government to earlier Indigenous social problems, allegations of Indigenous child sexual abuse in 2006, and to the Federal Government's criticism of a lack of funding and neglect in NT Indigenous affairs. Secondly, the chapter discusses the terms of reference of the LCAS report, how the Inquiry was conducted, and the trialing of the Federal Government's 99-year leases. Thirdly, the chapter analyses some of the report's key findings and recommendations and the representations of Indigenous communities, culture and peoples by adopting a counter-discourse similar to Tomison (cited in Young 2008, p. 107). The chapter provides exploration of a counter-narrative to how the NTER policy represented the problems in communities.

5.2 *The normalised narrative*

In the lead-up to the 2006 Inquiry into the Protection of Aboriginal Children from Sexual Abuse, the Clare Martin NT Government was aware of the level of 'social problems' in some Indigenous communities. For example, in the 'Eyes Wide Open' speech in May 2006, Clare Martin indicated that issues in Indigenous communities were known about within government and in the wider NT community: 'sadly it's come as no great surprise to Territorians' (Martin, C 2006a, p. 3). She claimed that Territorians had firsthand experience of the supposed 'dysfunctionality' of Indigenous communities and had seen the coverage about Indigenous social problems in the Australian media, including the *Lateline* broadcasts. Martin alluded to the fact that the NT general public was aware of abuse of children (Martin, C 2006a, p. 3). Indeed, as will be argued later in this chapter, there had been an 18-month delay by Martin in responding to social problems in the community of Mutitjulu.

In this speech, Martin highlighted how the government would seek to address these issues, stating that 'less crowded living conditions, education and sustainable jobs are the keys to long term change' (Martin, C 2006a, p. 6). In addition, Martin noted that, 'while some may have only just discovered the problems of Aboriginal Australia, we have been dealing with it in real and practical ways for years' (Martin, C 2006a, p. 6). The then Chief Minister

emphasised how the NT Government was committed to and had been dealing with alcohol abuse, working with the mining sector, assisting with skills training, and addressing the education needs of Indigenous communities (Martin, C 2006a, pp. 6-11). Clare Martin's speech highlighted that her Government had responded to social problems in areas that would allow Indigenous peoples in the NT to contribute to the economy. Conceivably, the establishment of a Board of Inquiry was another way of attempting to address these community issues. This demonstrated to the broader public that Martin's government was positively responding to Indigenous social problems in the NT.

One example of this was in 2005 when the Federal and NT Government both agreed to provide funding to back two key projects to prevent and reduce violence in families. In funding these projects, Clare Martin stated that 'the funding will enable the service to continue to provide important family violence services to Indigenous people in Alice Springs and the surrounding area' (Martin, cited in Patterson & Martin 2005). It demonstrated how the then Martin Government responded to Indigenous social problems before announcing the Inquiry in 2006. Indeed, Sanders (2007) claimed that Martin aimed to 'defend her government's record, but essentially take the criticism being handed out in the hope of gaining more resources from the Commonwealth' (Sanders 2007, p. 70). The statement by Sanders supports what occurred over a year later as the Martin Government argued that they lacked the resources to respond to the LCAS report because of a lack of financial support from the Federal Government. The Federal Government's lack of support and neglect for Indigenous affairs prior to the release of the LCAS report will be discussed next.

5.2.1 Neglect and a lack of support for Indigenous affairs

The Howard Government intervened in the NT in 2007 claiming that the Martin Government had a sufficient amount of time to respond to the LCAS report. Former Prime Minister (PM) John Howard later stated that:

... they had the report for eight weeks before they released it and then having released it, she said that she was going to take another six weeks to indicate the response.
(Howard, cited in Howard & Brough 2007, p. 8)

Irene Watson (2009a, 4) argued that this response by Howard indicated that he and his government wanted to draw attention away from their poor resourcing of Indigenous communities which had increased during the Howard years. The lack of financial resources for areas such as health, housing, education and employment was evident, with the

Intervention providing no additional monies to these areas (Conor 2007, p. 12; Manderson 2008, p. 258).⁴²

The lack of action for funding from the Federal Government to the NT Government was highlighted when the Howard Government boasted of funding arrangements that did not directly target Indigenous communities. The Howard Government claimed to spend around 3 billion dollars or more, much of which was dedicated to defending Native Title cases and operating the National Native Title Tribunal, as well as to administrative costs associated with implementing programs such as Shared Responsibility Agreements (SRAs) (Behrendt 2008a; Behrendt 2006a, p. 4). Evidently, funding was not always targeting Indigenous communities. Behrendt (2006b) highlighted that the Federal Government claimed to have devoted resources to address abuse and violence even though they stated that they would not dedicate any more funds to this area, and that under-funding of nearly half a billion dollars was occurring in the Indigenous health sector.

In 2006, Martin further indicated her dismay at the lack of funding from the Federal Government for the alleged ‘crisis’ that existed in remote communities in relation to Indigenous housing:

There's a \$10 billion surplus in the Commonwealth budget, \$10 billion. What I've asked for is \$50 million additional [sic] into the backlog of remote housing – \$50 million by 10 years. Now, that's not an outrageous commitment to ask from the Federal Government. The Federal Government's saying what can we do, this is a dreadful problem. You put 16 to 20 people in a house, and you've got the basis of a dreadful problem. (Martin, cited in Kerin 2006a)

This demonstrated the lack of funding from the Federal Government to address the shortage of housing in the past and the problem of overcrowded conditions that existed in some Indigenous communities.

In 2006, there was a ‘blame game’ occurring in the government. Warren Snowden, the Labor spokesman for Indigenous Affairs, blamed the sexual abuse epidemic on the prior Liberal Government’s neglect for Indigenous policy (Rothwell & Wilson 2006, p. 17). Indigenous researcher Larisa Behrendt (2006a, p. 1; 2006b) also alluded to this ‘blame game’ between both the Territory and Federal Governments in relation to policy initiatives directed at the areas of housing, employment, health, and education and the inability to tactically work together. Behrendt (2006b) argued that this ‘blame game’ between both Territory and Federal

⁴² These key areas related to ‘practical reconciliation’ which had been adopted by the Howard Government, following the Keating Government’s adoption of ‘symbolic reconciliation’. Howard believed that the Keating Government focused too closely on Indigenous rights, as opposed to achieving practical outcomes in Indigenous socio-economic areas of health, housing, education and employment (Altman & Boyd 2003, p. 2).

Governments was ignited by politicians' indignation toward Nanette Rogers' comments. Contrary to these arguments, Langton (2008c, p. 146) asserted that the imposition of the NTER was not unanticipated, based on the NT Government's neglect in apportioning financial resources in Indigenous affairs. The assertion by Langton is notably at odds with previous arguments which focused on the Federal Government financially neglecting these key socioeconomic policy areas.

Similarly, Indigenous perspectives directed criticism at the Federal and NT Governments for financially neglecting Indigenous affairs. Behrendt (2006a, p. 2; 2006b) identified that the dysfunction that exists in some Indigenous communities stems from the neglect by both governments over a number of decades to bring about financial investment in 'infrastructure' and 'human capital', as well as 'to deliver adequate services'. Underfunding in areas such as health, education and housing, by all governments (Behrendt 2006a, p. 3), but especially evident from the Howard Government, was a result of a discourse from the Federal Government to put the accountability, expenses and culpability on the NT Government to address the key areas of health, education, employment and housing following the 1967 Referendum (Behrendt 2008a).⁴³

Behrendt (cited in Chandler 2007, p. 5) criticised *both* the Federal and NT Governments for neglecting to address a variety of areas, such as law enforcement, health, education and housing that related to Indigenous communities. She noted that the Intervention did not address these ignored areas.⁴⁴ Behrendt stated:

While it is true to say that there is a lot of evidence that the Northern Territory Government has neglected indigenous communities by not providing adequate policing and other services, there is just as much evidence of federal government neglect on key areas of health, housing and education. Nothing in these proposed reforms addresses that neglect. (Behrendt, cited in Chandler 2007, p. 5)

Similarly, William Tilmouth of the Tangentyere Council from Alice Springs had commented on the need to address these aforementioned policy areas based on past reports and questioned why the NT Government decided to take action based on the LCAS report.

⁴³ The 1967 Referendum recognised that Indigenous people should be counted in the national census, and fundamentally, to be receivers of Federal 'financial redistribution' (Langton 2002b, p. 30). The 1967 Referendum also extinguished racist clauses from section 51 and 127 from the Australian Constitution relating to 'Aboriginal peoples', which allowed federal governments the power to construct laws for Indigenous peoples (Young 2008, p. 108).

⁴⁴ In 2007, then PM John Howard made reference to health, education and housing in a speech and highlighted that changes cannot occur in these areas when Aboriginal women and children were 'petrified of violence and sexual molestation' (Howard 2007b, p. 74).

Tilmouth stated:

There's numerous reports right through the history of indigenous affairs that really highlight the need, especially in housing, health, education, employment and also sexual abuse ... Aboriginal people have been crying out for years to have something done. Why act on this [LCAS] report when there's been numerous reports in the past? (Tilmouth, cited in Head 2007)

Based on the arguments and narratives above, it is clear that the inadequate level of funding to the NT Government to address health, housing, education and employment contributed to the alleged crisis. These areas needed additional financial support in an attempt to address the disparity between Indigenous and non-Indigenous communities. Both governments had systematically neglected these issues yet the narrative of blame continued, as both governments tacitly acknowledged that a lack of resourcing contributed to these problems. The following section focuses on the discourse of the Martin Government in addressing Indigenous social problems.

5.2.2 The Martin discourse on addressing Indigenous 'social problems'

In August 2006, when announcing the Inquiry, Clare Martin *continued* to claim that external factors were responsible for the lack of NT Government action on Indigenous abuse. Moreover, she maintained that the government had a long and positive record of implementing more general strategies to deal with the supposed dysfunctionality. The *Lateline* program took credit for the Inquiry in its report on 22 June 2006, stating that it was prompted by the 21 June *Lateline* report into Mutitjulu (Jones, cited in Cowan 2006a). In an article in *The Australian*, Martin was quoted as acknowledging what her Government had failed at addressing this alleged abuse. Martin stipulated that the Inquiry was going to focus heavily on getting people to come forward and present evidence:

We have failed to prosecute child sex abuse. We have failed because we couldn't get people to come forward as witnesses. Police have done work in those communities and we can't get the evidence, we can't get people to step forward – and that's what this inquiry is about. (Martin, cited in Wilson et al. 2006, p. 1)

Martin also highlighted that the decision of the Government to take an active role in Mutitjulu was based on dysfunction:

... we had been very active in Mutitjulu; we had been having police officers there, trying to look at how we got further into the dysfunction of that community. It is why I approached the Commonwealth in 2003 about working with them about Mutitjulu. So an inquiry is just one component of what we were doing in Mutitjulu, it's about communities right throughout the Territory. (Martin, cited in Barker 2006, p. 3)

Following the release of the LCAS report, Martin's statement strongly disrupted the dominant story of the NT Government's lack of response:

If you read the report you will find that many of the recommendations build on things that we are currently doing in the areas of alcohol, education and certainly we will continue to do that. (Martin, cited in Peatling & Murdoch 2007, p. 1)

This indicated that the Martin Government were aware of the existence of Indigenous social problems, and in particular Indigenous violence, before she was prompted to act with the 2006 Inquiry. Martin strongly denied the Federal Government's claims that the NT Government had not acted expeditiously: 'to say that this Government was sitting on its hands about this issue, well, we weren't' (Martin, cited in Peatling & Murdoch 2007, p. 1).

However, there was a lack of response to media reports of violence 18 months prior to announcing the Inquiry, in turn, challenging the normalised narrative in the media. Despite Clare Martin's claims, the government had not enacted sufficient measures to address problems within Indigenous communities. A comment by a previous employee in the Martin administration stated that:

No matter which way you look at it, indigenous violence has never been a priority issue for Clare Martin the way education has been. During her first term, black-on-black violence was seldom, if ever, mentioned. (Former Martin Government Insider, cited in Skelton 2006b, p. 3)

Notably, education was a priority for the Martin Government when entering office in 2001. As Treasurer, Syd Stirling, pointed out on 19 October 2006 in the NT Parliament: 'we have also increased indigenous education and training expenditure. Most importantly, we made indigenous education the core business of the agency' (Stirling, cited in Martin 2006b, p. 13). The next section disrupts the NT Government discourse on Indigenous violence and social problems.

5.2.3 Disrupting the Martin Government discourse

The Martin Government had been aware of the existence of Indigenous social problems in Mutitjulu. In particular, Martin was aware of allegations of Indigenous child sexual abuse in 2004, at least 18 months before announcing an Inquiry. This challenged the Martin Government's claims regarding Indigenous social problems in Mutitjulu; in reality, her government lacked a response prior to announcing the Inquiry in 2006. Evidence suggested that in 2004, Martin wrote a memo, allegedly based on guidance from Gregory Andrews, to Paul Henderson, the then Police Minister (Wilson 2006a, p. 31). The memo highlighted social problems in Mutitjulu, contributing to the racialised narrative which referred in particular to allegations of child sexual abuse. Martin stated in the memo that 'social dysfunction surrounding the substance-abuse epidemic is resulting in significant human rights abuses – self-harm, violence against others, sexual abuse and child neglect' (Barker

2006). Martin wrote that ‘children as young as five have contracted STDs and young girls are being prostituted for petrol. Two-thirds of young children are malnourished and underdeveloped’ (Martin, cited in Wilson 2006c, p. 07). The memo and Clare Martin’s prior knowledge about violence in Mutitjulu were canvassed on 11 October by *Lateline* (Lucchinelli 2006) and the ABC program *PM* on the same day (Barker 2006).

These reports stated that Martin spoke of this memo in Parliament and that the Territory Opposition wanted to know why there was a lack of response to these issues before the Inquiry was announced (Barker 2006, p. 2; Lucchinelli 2006). In the NT Parliament on 11 October 2006, Jodeen Carney, the Opposition leader during this period, asked Martin two questions. Firstly, she asked: ‘Chief Minister, why didn’t you think it was necessary to establish an inquiry in 2004, but only after significant public pressure was heaped upon you in June 2006?’. Secondly, Carney questioned: ‘And Chief Minister, do you agree that you were complicit in the silence about what was happening at Mutitjulu?’ (Jodeen, cited in Barker 2006, p. 2). Clare Martin’s response to Carney’s questions indicated that she was attempting to avoid addressing these criticisms:

Madam Speaker, can I just say this is a very serious issue. And to have the Leader of the Opposition attempt to play politics about it or point-score is really counter-productive. (Martin, cited in Baker 2006, p. 2)

The leader of the Opposition was challenging why Clare Martin did not act sooner to address the alleged social problems that existed in Mutitjulu. This contradicted the claims that Clare Martin had responded to alleged Indigenous social problems.

Although the Chief Minister did not respond directly to Carney’s questions and narrative, she claimed that she did act by introducing legislation that related to petrol sniffing and a police investigation into allegations as presented in the memo (Wilson 2006c, p. 7). Clare Martin claimed that the sniffing of petrol had lessened and that a police station was due to be opened (Wilson 2006a, p. 31) in Mutitjulu. Furthermore, she claimed that ‘we put two extra police in there in the middle of 2004. They couldn’t find any evidence’ (Martin, cited in Calacouras 2006, p. 4). This presumably referred to the Indigenous social problems she highlighted in her memo, such as child sexual abuse and substance abuse. Martin’s responses occurred after her appearance in the NT Parliament and questioning by the Opposition Leader Carney on 11 October 2006.

The media was critical of the NT Government’s 18-month delay following the 2004 memo. As the *Northern Territory News* suggested on 13 October 2006 in an opinion piece, Martin only acted because of adverse media publicity. In the opinion piece, the question as to why

there was this delay was put forward: ‘... the reason is obvious: the pressure wasn’t yet intense enough. There was no immediate need to show the world that the Government was ‘doing something’ about the crisis’ (*Northern Territory News* 2006a, p. 12). The term ‘crisis’ was alluded to following the *Lateline* broadcasts and following the release of the LCAS report; the LCAS report made it obvious that a ‘crisis’ existed in numerous Indigenous communities (Coram 2009, p. 197).

Also on the 13 October 2006, the *NT News* quoted Opposition leader Jodeen Carney: ‘How much damage has been done to innocent lives while the Chief Minister sat on this disturbing information?’ (Carney, cited in *Northern Territory News* 2006b, p. 6). Carney’s claim that the Government only acted because of increased publicity was also quoted in an article from the *Centralian Advocate* on October 13 2006. Carney stated:

The central issue is that she has been sprung by the national media. The inquiry was a knee-jerk response to national pressure, but she was sprung because she knew about the issues. (Carney, cited in Calacouras 2006, p. 4)

These quotes by Carney again asserted that Martin only acted due to the media narrative of 2006.

These dominant narratives in Parliament and by the media portrayed the Martin Government’s lack of a timely response which also sought to overshadow a lack of funding and neglect to Indigenous affairs. However, as demonstrated above, the Martin Government was aware through the memo in 2004 of the alleged social problems in Mutitjulu, and as noted in the Chief Minister’s speech ‘Eyes Wide Open’, her government had been responding to Indigenous social problems. Nonetheless, the Martin Government established the Inquiry in August 2006 following the racialised media narrative. The following section discusses the Inquiry and some key policy responses by the Federal Government.

5.3 The Inquiry

The Inquiry was announced on 8 August 2006. It was comprised of Rex Wild Queen’s Counsel (QC), recently retired Director of Public Prosecutions in the NT, and Pat Anderson, an Alyawarr Indigenous woman and well-known health advocate (Nicholson 2010, p. 9; Edmunds 2010, p. 4). In accordance with the Inquiry’s terms of reference which were identified in the instrument of appointment, the Inquiry was to examine the causes of child sexual abuse and identify how Indigenous children can be protected from such abuse. Furthermore, the terms of reference were established to discover effective methods to protect Indigenous children from sexual abuse (Wild & Anderson 2007, p. 41). It is clear that the Inquiry’s terms of reference were limited to the protection of Indigenous children from

sexual abuse in the NT and it would seem that the Inquiry did not move beyond the scope as set out in the report (Wild & Anderson 2007, pp. 16-17). These terms of reference are summarised below:

- Inspect the causes of child sexual abuse and identify how Indigenous children should be protected from such abuse;
- Classify the factors and unreported examples that led to the sexual abuse of Indigenous children;
- Contemplate the issues in relation to identifying responses to and protecting Indigenous children from sexual abuse;
- Reflect on the NT Government and all levels of government and non-government divisions that are responsible for providing resources to combat sexual abuse and how this could improve; and
- Deliberate how the NT Government could address and eliminate child sexual abuse (Wild & Anderson 2007, p. 41).

The purpose of the LCAS report was to investigate, uncover and develop ways to safeguard Indigenous children from sexual abuse and to provide the government with a way ahead in addressing this problem (Wild & Anderson 2007, p. 40). The LCAS report's terms of reference, findings and recommendations were primarily directed at the NT Government, even though it acknowledged that all sections of government should hold some responsibility in addressing child sexual abuse. Indeed, the Board of Inquiry was established under the NT Inquiries Act, rather than under Australian Commonwealth Legislation and the report was to be presented to the NT Chief Minister (Wild & Anderson 2007, p. 1).

The NT Government responded to the report's recommendations in the August 2007 document, *Closing the Gap of Indigenous Disadvantage: a Generational Plan of Action* (CTGID). Significantly, there were recommendations in this report that called for both NT and Federal Government involvement and for both governments to collaboratively work together. Nonetheless, the report did not stipulate that a copy must be presented to the Federal Government, even though there was evidence that all tiers of government must adopt the nine guiding principles that were outlined in the report (Wild & Anderson 2007, p. 50). However, the report did not stipulate that any of the recommendations *must* be implemented by the Federal Government, but rather, that the NT Government should implement the recommendations.

While the Howard Government claimed they used the LCAS recommendations to design the NTER policy, it was outlined how perceptibly that the recommendations from the LCAS report were disregarded in the NTER legislation (Pritchard 2007, p. 6). The recommendations were ignored and would not have been supported by the Howard

Government as they did not align with the Government's integration policy approach for Aboriginal Affairs (see for example, Vanstone 2004a, cited in Howard-Wagner 2010, pp. 87-88).

The Inquiry sought submissions from people from organisations not related to the government, 'interest groups' and individuals from the public (Wild & Anderson 2007, p. 292). From its commencement date on 8 August 2006, it was interested in uncovering a wide range of narratives from people from a diverse range of organisations and groups, as well as written and oral accounts from individuals in the NT (Wild & Anderson 2007, p. 5). This included organising more than 260 meetings with stakeholders from service delivery organisations, Indigenous communities, government agency staff and individuals from around the NT and from interstate (Wild & Anderson 2007, p. 44). These stakeholders provided information regarding 'relevant reports and literature about child sexual abuse, from within the Northern Territory and other Australian and international jurisdictions, and information and statistics relevant to the Inquiry's terms of reference' (Wild & Anderson 2007, p. 44). These consultations were imperative as they challenged and disrupted the normalised narratives about Indigenous social problems in the NT, as portrayed by the *Lateline* stories in the previous chapter. They provided individuals from a diverse range of areas – from government agencies to Indigenous and non-Indigenous individuals across Australia – with the opportunity to interact with each other and to openly report on child sexual abuse and other social problems in Indigenous communities.

5.3.1 The pre-NTER 'mini-interventions'

While the Inquiry was under way, several policy strategies related to trialing land leases were proposed by the Federal Government that were dubbed 'mini interventions' (Nicholson 2010, p. 8). These 99-year land leases were imposed and agreed upon by some Indigenous communities. Such strategies were problematic as they impinged on the rights of Indigenous peoples to decide what choices were made about their land and housing. These new strategies were decided upon by the Federal Government. This policy approach by the Government corresponded with the racialised narrative of integration for Indigenous peoples in the NT that removed the original owners' control over their land.

One policy approach enacted by the Federal Government was the 99-year leases over townships, whereby the Federal Government could lease towns on Indigenous land for this period and would build new houses in exchange for the leases (Nicholson 2010, p. 8). This was an extension of the five-year leases which formed part of the special measures of the

Howard Government's NTER policy (Robson 2007). The 99-year lease policy was a significant shift in Indigenous affairs, changing the *Aboriginal Land Rights Act (NT) 1976* (Nicholson 2010, p. 8; McMullen 2015, pp. 130-131; Toohey 2008c, pp. 33-34; Australian Human Rights Commission 2006, p. 1). It was far-reaching as it allowed the Federal Government access to land which could be developed in a way that reflected non-Indigenous communities where houses could be built and businesses established (Nicholson 2010, p. 9), along with other financial ventures. A similar strategy was originally developed by the NT Government in 2004 where land would be leased to a government organisation for 99 years, which would allow the government organisation to sublet parcels of land to residents (Terrill 2009, pp. 824-825). These schemes fitted the Howard Government's emphasis on integration and Government control over Indigenous communities, as indicated in 2004 by Amanda Vanstone with the introduction of a SRA in Mulan, discussed earlier in this chapter.

On 17 April 2007, it was reported that under the 99-year lease agreement, Indigenous peoples had begun to purchase their own homes (ABC News 2007d). This was illustrated by the then Minister Brough who stated that 'we have four people in Wadeye, the first Indigenous people in this country in their own traditional owner land will occupy houses that they will own in their own right' (Brough, cited in ABC News 2007d). In order for private ownership to be made possible on Native Title-held Indigenous land, section 19A was inserted into the *Aboriginal Land Rights Act (NT) 1976* which amended it in order for 99-year leases to be granted over Indigenous townships by the Federal or NT Government, via a Land Trust (see for example, Native Title Report 2006; Central Land Council 2013, p. 11). However, the inalienability of land in a legal sense was preserved in townships under these leases (Central Land Council 2013, p. 12). Nonetheless, the strategy was challenged by Pat Dodson who highlighted the problem of the affordability of houses being constructed in a remote locality (ABC News 2007d). While in 2005, Mick Dodson supported Indigenous people owning their own homes, he also noted that numerous people might not be able to meet a mortgage and queried whether it was wise to allow non-Indigenous people to create businesses on Indigenous land over a 99-year period: 'I think that's inviting trouble ... once you have signed the head lease the traditional owners have lost the power to do what they want to do on their own land' (Dodson, cited in Khadem 2005, p. 9). This disrupted the narrative of the Government and Minister Brough that claimed that all Indigenous peoples will be able to purchase their own home and be able to afford the repayments.

The 99-year lease agreement included the payment of rent as a grant to the traditional owners of land for that period (Toohey 2008c, p. 34). However, once the lease was signed, the

owners would have no control over any developments that might occur on their land (Toohey 2008c, pp. 33-34). Alongside issues of affordability and mortgage repayments, it is evident that the Government was advocating for non-Indigenous ventures on Indigenous land. The 99-year lease policy was based, then, on the Howard Government's racialised model of integration, which encouraged the purchasing of homes and participation in business activities, as practised in mainstream Australia. This highlighted the Government's push for Indigenous communities to enter the 'real economy'.

Closely linked to the 99-year lease policy was the Howard Government's proposed 60 million dollars for Alice Springs town camps in March 2007 (Toohey 2008c, p. 31). It was accepted by the Tangentyere Council, an agent that delivers services for town camps in Alice Springs (Tangentyere Council 2008). However, the then Federal Indigenous Affairs Minister, Mal Brough, shelved this proposal. Another 10 million dollars was promised in 2006 to construct accommodation for visitors of families coming to Alice Springs (Tilmouth 2007, p. 232). The main similarity between the first strategy and Brough's proposals included the Government's control over Indigenous land and push for integration. The proposal involved Brough wanting the NT Government to take back control of the Alice Springs town camps land, which was leased from the Tangentyere Council (Nicholson 2010, p. 8). This would have then resulted in 60 million dollars of Federal funds to repair these houses (Nicholson 2010, p. 8).

A complex arrangement between local government, the NT and Federal Government was to allow funds for much needed accommodation improvements in exchange for 99-year leases. In fact, in August 2007, Mal Brough referred to the importance of the Julalikari Council Aboriginal Corporation and signed a Memorandum of Understanding to facilitate 99-year sub-leases of town camps with the NT and Federal Government to improve house and infrastructure. Minister Brough stated that:

The Commonwealth has agreed to provide \$20 million towards the upgrade of essential services and infrastructure such as roads and upgrade of existing housing stock and construct new houses ... The town camps will become like other suburbs of Tennant Creek. The children in these town camps will have a much better future as a result. (Brough 2007f)

Although Mal Brough stipulated the value of these 99-year leases for Indigenous communities, some Indigenous owners, who had previously agreed to lease their land to the local government, were apprehensive about these proposals. Tilmouth explains why the locals were apprehensive:

If they did not agree to Minister Brough's proposals, they would never get sufficient money to relieve the overcrowded and unhygienic conditions in which they live. They were afraid that they would be punished for standing up to the government. At the same time they did not believe that they should be held to ransom for the provision of essential services. (Tilmouth 2007, p. 233)

This demonstrated that Mal Brough was attempting to pressure the Council into making a decision about the federal funds in order to gain control over Indigenous land. Tilmouth's explanation provided an important counter-discourse to Brough's proposals by highlighting the voices of local Indigenous residents. Significant points raised by the Housing Association as to why the locals rejected Brough's proposals included concerns about losing their land, control and responsibility, and reluctance to be dependent on the Government (Tilmouth 2007, p. 234). Rejecting the offer would also mean that the Government found it difficult to have control over housing and land in order to promote Indigenous integration.

Concerns over 99-year leases were also expressed by Indigenous leader, Norman Fry, the then Northern Land Council chief executive and David Ross, the then director of the Central Land Council. Fry suggested:

The Northern Territory Government is living in fantasy land if it thinks traditional owners will lease large swathes of undeveloped vacant land for 99 years in the absence of a concrete development proposal. (Fry, cited in Khadem 2005, p. 9)

In addition, Ross indicated that Indigenous communities would not sign away their land to be developed over a 99-year period: 'I don't see too many of them putting their hands up ... you are going to wipe out three generations in a matter of 99 years' (Ross, cited in Khadem 2005, p. 9).

Galarrwuy Yunupingu, Yolngu leader from Arnhem Land, also opposed these 99-year leases; however, following the imposition of the NTER, an agreement for 99-year leases in relation to certain areas of traditional land in North-East Arnhem Land was signed with the Federal Government (Robson 2007). Based on the agreement, there would still be some more control over the Ski Beach homeland located on Yunupingu's traditional land, and it would receive service upgrades to assist with 'future economic development', as promised by the Federal Government (Robson 2007; Toohey 2008c, p. 62). Contrary to this, however, the Tiwi Islanders signed a different agreement which involved five million dollars of funding over twenty newly built houses, whereby Indigenous managerial power was not supported (Robson 2007; Toohey 2008c, p. 62). These Indigenous viewpoints normalised the narrative that communities were attempting to resist giving up their control over their land by supporting these leases.

These policy strategies provided a testing ground for the design of the NTER, notably with the compulsory five-year leases over Indigenous land.⁴⁵ Further, the ‘mini-interventions’ highlighted that Brough and the Howard Government did not support Indigenous rights and self-determination, but rather privileged the racialised discourse on the integration of Indigenous peoples. These policies took away Indigenous peoples’ opportunity to make decisions that affect their own lives. This is most notable when Brough introduced the Amendment Bill to alter the *Aboriginal Land Rights Act (NT) 1976* which allowed for the 99-year leases over land. He stated in a second reading speech in the House of Representatives on 31 May 2006 that the alteration was to ‘provide for individual property rights in Indigenous townships, streamline processes for development of Indigenous land and improve efficiency and enhance accountability of organisations under the act’ (Brough 2006a, p. 5). The Minister advocated private ownership and development which would allow individuals to move into the ‘mainstream’. In turn, the Howard Government’s integrationist policy would be realised.

It was argued that as funds would be spent on such ventures by both Indigenous and non-Indigenous peoples, contributions by Indigenous peoples would be made which would make becoming part of the ‘real economy’ possible. The importance of contributing to the ‘real economy’ through independent rights in property was further highlighted by Brough in the same second reading speech, as noted above: ‘it is individual property rights that drive economic development’ (Brough 2006a, p. 5). The then Minister also argued:

Much more needs to be done to normalise life for these Australian citizens. The reforms to the land rights act will help to create a new environment offering better prospects and hope for the future. (Brough 2006a, p. 5)

It is argued that the ‘new environment’ he was referring to involved a shift into ‘mainstream’ Australian society where ‘real jobs’ in a ‘real economy’ could be provided. This word ‘normalise’ was also utilised by Brough the following year with the announcement of the NTER policy.

5.4 The Little Children Are Sacred Report findings

A provisional report was released on 10 October 2006 which emphasised what the Inquiry had uncovered thus far: that allegations of sexual abuse were not new; that it was not limited to Indigenous children but also non-Indigenous peoples; and that it was committed by both

⁴⁵ As part of the NTER policy, a special measure was designed to allow the Government to acquire five-year leases over some Indigenous townships in the NT (Brennan, 2009, p. 962). The Howard Federal Government acquired sixty-four leases over Indigenous townships in the NT in August 2007 and leases were acquired for another thirty-eight in February 2008 (Brennan 2009, p. 962).

Indigenous and non-Indigenous peoples (Wild & Anderson 2007, p. 5). Following this, the final LCAS report was officially submitted to Clare Martin in April 2007 and made public in June 2007 (Edmunds 2010, p. 4; Roffee 2016, p. 132).

The report was set out in two main sections. Part I outlined the Inquiry's findings and recommendations (Wild & Anderson 2007, p. 20), which included the nine guiding principles. Part II evaluated child sexual abuse and the associated issues by conducting reviews of the literature (Wild & Anderson 2007, p. 20). The process of uncovering the findings from the report was difficult. Unlike other government-commissioned reports, not all the findings from this report came under one sub-heading; these findings were lost in the report and in particular, *within* some of the recommendations. Despite these structural issues, Part I did outline a number of key findings.

A major finding was that Indigenous men and women were insulted by how the 'media' and 'politicians' had contributed to the negative discourse about their culture and Indigenous people (Wild & Anderson 2007, p. 58). The Inquiry found that these representations by some political figures and the media refuted the voices of Indigenous men and women (Wild & Anderson 2007, p. 58). The report stated that this presented a barrier to 'addressing the issue of child sex abuse' (Wild & Anderson 2007, p. 58). The political and media racialised representations about Indigenous social problems created adverse ideas and beliefs on Indigenous communities which could obstruct 'the important development of systems, structures and methods that have a genuine chance of reducing violence and child sexual abuse' (Wild & Anderson 2007, p. 58). The Australian media narratives of Indigenous communities and culture in the NT highlighted the 'allegation that Aboriginal men were by and large child-rapists, or that women in their silence were co-conspirators' (Toohey 2008c, p. 12). This created a racialised discourse of Indigenous men, women and culture. The counter-narrative was silenced, as Indigenous representations of underlying problems in communities were not being heard. This dominant narrative was therefore not challenged, and these negative representations of Indigenous people and culture persisted (see for example, Smith, S 2006b & Jones 2006e).

The report documented findings associated with alleged child sexual abuse that surfaced through media reporting.⁴⁶ The findings from the report can be viewed from many viewpoints and therefore they can be understood differently. Firstly, it found that:

⁴⁶ These findings can be viewed as being aligned with framing theory. A major argument of the theory 'is that an issue can be viewed from a variety of perspectives and be construed as having implications for multiple values or considerations' (Chong & Druckman 2007, p. 104).

... While the incidence of sexual abuse of Aboriginal children is a significant problem, it does not follow that all Aboriginal males are offenders, or that Aboriginal males are responsible for all offending against Aboriginal children. (Wild & Anderson 2007, p. 57)

This was in contrast with how Indigenous culture and Indigenous men in particular were portrayed in the *Lateline* broadcasts of 15 and 16 May 2006, and 21 June 2006. Although these racialised representations in the *Lateline* programs contributed to the narrative that Indigenous culture or Aboriginality were the cause of dysfunction in communities, the LCAS report finding challenged this perspective. Solórzano and Yosso (2001, p. 473) argue that a CRT commitment to social justice, entails ‘the empowerment of underrepresented minority groups’ and this was reflected in the LCAS report which encouraged Indigenous groups to challenge the negative representations of Aboriginality in the media and the discourse that centred upon racial representations of Indigenous males as abusers.

Another closely linked finding related to ‘the Inquiry’s experience that the sexual abuse of Aboriginal children is being committed by a range of non-Aboriginal and Aboriginal offenders’ (Wild & Anderson 2007, p. 57; Behrendt & Watson 2008, p. 47; Pether 2010, p. 30). It highlighted how Indigenous men were often represented in the racialised narratives as the ‘problem’, whereas there were broader problems requiring attention. This finding indicated that the problem of child sexual abuse could be viewed as external to the community. The influence of ‘Western’ culture and non-Indigenous people were significant factors that contributed to what was identified as the problem in the LCAS report.

Other closely related themes in the report noted that child sexual abuse was ‘committed by non-Aboriginal and Aboriginal males *of all ages* – with a proportion of assaults being committed by offenders who are themselves children’ (Wild & Anderson 2007, p. 59, my italics; Behrendt & Watson 2008, p. 47). The Inquiry stated that this was due to a range of factors, including trauma associated with members from a single generation, and that children committing these alleged crimes were abused directly or bore witness to pornography or had seen other people engage in or perform sexual acts (Wild & Anderson 2007, p. 63). This has led to inter-generational issues of offending that occurred in both isolated and township communities (Wild & Anderson 2007, p. 59). These were significant findings that challenged the racialised narrative that all Indigenous males in NT communities abuse children, as notably represented throughout the *Lateline* broadcasts. The negative narrative in the media on this did not highlight the contributing external factors, including that non-Indigenous people were also to blame for the alleged abuse. It had also neglected to discuss the influence of ‘Western’ culture on communities. Nonetheless, the Federal

Government's response to the report was to implement an emergency response which was aimed at *all* Indigenous men. As Martiniello (2007, p. 124) noted, despite finding that non-Indigenous males also sexually abuse children, the NTER was not directed at this group. From a social justice perspective within a CRT framework, as advocated by Solórzano & Delgado Bernal (cited in Yosso et al. 2001, p. 91), this standpoint fights to remove racism at the same time as empowering groups who have been oppressed by society. The LCAS findings challenged the racial discourse that only targeted Indigenous people and communities and provided an avenue to problematise this narrative.

The LCAS report noted that 'many of the Aboriginal people the Inquiry spoke with, saw the history of colonisation, non-Aboriginal people and the non-Aboriginal 'system' as responsible for the present child sex abuse problems' (Wild & Anderson 2007, p. 60). This view challenged the dominant narrative. Even so, Austin-Broos (2011, p. 103) highlighted that at times, the report represented Indigenous culture as pathological and linked poverty to the degradation of culture. The report, like previous reports, made a strong link between the levels of violence in Indigenous communities and colonisation (see for example, Al-Yaman, Van Doeland & Wallis 2006, pp. 3-4; Atkinson 1990, p. 8; Bolger 1991, pp. 43-49 & Homel, Lincoln & Herd 1999, p. 20). The Inquiry stated that 'many saw the sexual abuse of children as a new problem and one that their ancestors had not had to deal with in their pre-contact history' (Wild & Anderson 2007, p. 60). In spite of this association, some writers such as Sutton argue that violence existed before the invasion and that dysfunction in communities is culturally linked (Sutton 2001, pp. 133-134; Sutton 2011). In addition, Sutton highlighted that the use of customary culture contributed to present pathologies in isolated communities, specifically relating to violence and abuse (Sutton 2001; Sutton 2011). Although there are many critiques of Sutton, in particular in relation to his publication entitled *The Politics of Suffering* (see for example, Altman & Hinkson eds 2010), he argued that culture does not develop in a cultural void and it is created and recreated. Such arguments supported the Howard Governments' racialised narrative of Indigenous culture as the 'problem' and did not take into consideration the external factors such as the impact of 'Western' culture. Aligned with the tenet of social justice within a CRT framework, the exposure of these external factors provide a foundation for an alternative approach to 'transformative action' (Graham, Brown-Jeffy, Aronson, Stephens 2011, p. 91). This action provides a way to challenge the dominant narrative by privileging a counter-discourse founded on the experiences of colonised people (Graham et al. 2011, p. 91). Indeed, the Inquiry received advice from Indigenous peoples which highlighted that colonisation was at fault for issues

relating to child sexual abuse, in turn, challenging the perspective which solely blamed Indigenous culture for social problems.

Another finding that came from the report that is closely linked to this analysis was about the presence of non-Indigenous ‘paedophiles’ in communities:

While the Inquiry found no evidence of any “paedophile rings” operating in the Northern Territory, there was enough evidence to conclude that a number of individual non-Aboriginal ‘paedophiles’ had been infiltrating Aboriginal communities and offending against children. (Wild & Anderson 2007, p. 61)

This finding challenged Brough’s claim of ‘paedophile rings’ operating in NT Indigenous communities (Brough, cited in Jones 2006e). It presented a counter-story to the representation of Indigenous social problems in the media during 2006. The negative racialised narrative of the existence of ‘paedophile rings’ by the then Minister Brough portrayed Indigenous culture as encompassing these rings, but the LCAS finding challenged his narrative by drawing attention to external issues. It contributed to the counter-story that it is non-Indigenous individuals entering some communities and committing these alleged offences. It noted that in Indigenous consultations, ‘the finger was pointed at non-Aboriginal paedophiles being able to infiltrate communities and then walk away with little or no punishment’ (Wild & Anderson 2007, p. 61). However, it should be observed that even though the Inquiry did not find any evidence of the existence of these rings, community members may have been reluctant to speak up about the issue.

The report sought to challenge ill-informed views and ‘bigoted beliefs’ about Indigenous law and the popular view that it was ‘the reason for high levels of sexual abuse’ (Wild & Anderson 2007, p. 57). This finding was previously highlighted by Carmen Lawrence (2006, p. 29), a non-Indigenous researcher. Another finding relating to Indigenous law contradicted the belief that ‘Aboriginal law is used as an excuse to justify abuse’ (Wild & Anderson 2007, p. 58). It is important to note that Indigenous women had been calling for the judiciary to accept that abuse and violence is not acceptable within Indigenous culture by defendants (Behrendt 2006b). Moreover, Langton (2008c, p. 155) stated that it is an insult to use Indigenous customary law as a defence for Indigenous rape and murder. The LCAS recommended that the government work with Elder Indigenous law men and women and senior law professionals in the NT to establish ways where both Indigenous law and NT law can fortify each other (Wild & Anderson 2007, p. 30).

One of nine guiding principles, which are discussed in more depth further in this chapter, formed part of the LCAS reports recommendations for governments to follow when

engaging with Indigenous communities. This was the ‘recognition and respect of Aboriginal law and empowerment and respect of Aboriginal people’ which concentrated on Indigenous law to be respected and recognised where possible in Australian law (Wild & Anderson 2007, p. 54). Again, respecting Indigenous law was found to be of benefit which contributed to the counter-narrative of respecting Indigenous culture. However, as indicated in the previous chapter, Brough highlighted at the Intergovernmental Summit on Violence and Sexual Abuse in Indigenous communities in June 2006 that he wanted both States and the NT to modify their legal system so Indigenous law or customary law would not be used in any legal considerations (Khadem & Gordon 2006, p. 1).

On 23 May 2006, Brough opposed the use of customary law to receive softer sentences and argued that the Law of Australia should be applied equally to all. In relation to this viewpoint, when he was asked by the presenter Kerry O’Brien on the ABC television program *The 7:30 Report* about how he was going to get the courts to ignore customary law when sentencing, he stated that:

Well, it's quite simple, Kerry. What you do is you have the states and the territories agree that they will legislate that using such defence, or using it to lessen a sentence as a mitigating circumstances, is actually - is unlawful. In other words, you don't allow not just Indigenous people, not Australian Indigenous people, but any group to use what they would claim to be a culturally sensitive or culturally traditional practices which involve serious crime, serious pain to other people, they will not be able to use that as a defence. (Brough, cited in O’Brien 2006a)

The view was implemented through a special measure as part of the NTER which included: ‘excluding the consideration of customary law and cultural practice in bail and sentencing’ (Partridge 2013, p. 399). This approach is in direct contradiction with the recommendations from the LCAS report noted above regarding Indigenous law. It is clear from many of these statements that Minister Brough privileged the racialised narrative when he argued that child sexual abuse formed part of Indigenous culture, that Indigenous law might be used to defend sexual abuse and that alleged offenders could be acquitted.⁴⁷ The LCAS findings foregrounded the importance of respecting and utilising Indigenous law and challenged the racialised account that represented Indigenous law as inferior to Western law, privileging the CRT tenet of social justice as a mechanism to deliver social change (see for example, Solórzano & Yosso 2005). Such an approach can change how Indigenous law is viewed and examine ways in which it can be incorporated into society for the greater good.

⁴⁷ McGlade (2012, pp. 55-61) has written extensively that Indigenous culture does not endorse violence that is sexual in nature.

A further key finding coming from the report stated that it is incorrect that ‘Aboriginal culture is the reason for under-reporting’ (Wild & Anderson 2007, p. 58). Some Indigenous people claimed that the lack of reporting was due to distrust toward community departments (Broadbent & Bentley 1997, p. 4; NACCHO 2006, p. 7).⁴⁸ They worried that departments engaged in racist and ignorant beliefs, especially ones that linked Indigenous culture with abuse (Coorey 2001, p. 22; NACCHO 2006, p. 8). It can be argued, therefore, that this also contributed to under-reporting. Moreover, the Inquiry found that even if Indigenous peoples were conscious of abuse, it was not reported due to a:

... [f]ear of the consequences of reporting, feelings of shame, feelings of ambivalence, a history of negative experiences when reporting abuse, reliance on the English language, cultural requirements and obligations, and normalisation of violence. (Wild & Anderson 2007, pp. 76-78)

This argument challenged the racialised narrative that the issue of under-reporting was linked to Indigenous cultural protocols such as kinship ties or obligations (Jones, cited in Smith, S 2006b; Wild & Anderson 2007, p. 58). Indeed, the Inquiry noted that non-government and government departments had a general idea about what comprised child sexual abuse but in some cases, they did not essentially know how to identify it (Wild & Anderson 2007, p. 75). The lack of knowledge about child sexual abuse in Indigenous communities as well as within non-government and government services ultimately influenced whether or not a report was issued (Wild & Anderson 2007, p. 76). This posed a significant issue in relation to reporting child sexual abuse cases, not only from departments themselves, but also Indigenous people wanting to report abuse and violence to departments in the first instance. This challenged *Lateline*’s position that kinship ties were to blame for under-reporting and countered the view that Indigenous culture was at fault.

The LCAS report noted that child sexual abuse in Indigenous communities was caused by the breakdown in society and was a reflection of ‘historical, present and continuing social dysfunction’ (Wild & Anderson 2007, p. 14). This was evident in social problems as a result of the collapse of Indigenous culture (Coram 2009, p. 199). Wild and Anderson based this conclusion on a variety of other research which highlighted poor health, alcohol and drug abuse, poorly maintained housing, unemployment, gambling, pornography, inadequate education, and a general loss of identity and control (Wild & Anderson 2007, pp. 223-224).⁴⁹

⁴⁸ Distrust is also prevalent amongst Indigenous peoples due to colonialism and the forceful removal of children to missions, or to work as domestic servants and apprentices from the 1860s to the 1960s (NSW Aboriginal Justice Advisory Council, cited in Hunter 2008, pp. 374). Hunter (2008, p. 375) has provided a comprehensive list of additional barriers to under-reporting of sexual abuse from Indigenous women’s perspectives.

⁴⁹ Some of these authors include Brady (2003, p. 36); Al-Yaman, Van Doeland and Wallis (2006, pp. 3-4); York, et al. (2006, pp. 9 - 11); Broadbent & Bentley (1997, p. 27); Lloyd & Rogers (1992, pp. 152-159);

In their view, the imposition of Western culture over Indigenous communities, as well as colonisation and marginalisation, had contributed to societal issues that could not be overcome by some communities. This had led to a greater reliance on governments to design and impose policies over communities. In contrast, Callender, Garcia, Sangalang, Solis and Vasquez (cited in Abrams & Moio 2009, p. 255) advocate a social justice perspective from CRT in a social work education context, demonstrating the importance of action. This ‘action’ mechanism problematises claims to why Indigenous culture is weakened due to underlying social problems and past policies. The activist nature of social justice in the LCAS report helped to frame a counter-story about how ‘Western’ culture and the ongoing effects of colonisation has impacted on Indigenous culture.

The common racialised narrative in the discourse is founded on the representation of Indigenous culture as being incompatible with modernity (Arabena, cited in Slater 2010, p. 147). As such, Indigenous culture and Aboriginality was represented as defective, being linked to Indigenous child sexual abuse and therefore in need of modification (see for example, Macoun 2011, pp. 522-523). However, Coram argued that the LCAS report aimed to reinstate ‘Indigenous knowledge, pride and identity’ within ‘cultural justice frameworks’. It would disturb ‘colonial relations of dominance that have imprisoned Indigenous peoples’ (Coram 2009, p. 199). As stated in the report, if relations are weak, then the likelihood of sexual abuse increased. The next section discusses the report further with a focus on its recommendations.

5.5 The Little Children Are Sacred Report recommendations

This section compares the key recommendations of the LCAS report with how Indigenous peoples, communities and culture were represented. It contrasts the key discourse from the report with how the ‘problems’ in Indigenous communities were ‘framed’ with the dominant narrative of the NTER. This section explores how the LCAS recommendations were rejected by the Howard Government as they did not align with the integration policy approach.

The LCAS report did not examine the occurrence of Indigenous child abuse in communities (Anthony & Blagg 2013, p. 52), however the pervasiveness of such abuse stayed uncertain (Wild & Anderson 2007, p. 235). But, it did highlight a diverse range of recommendations to address Indigenous child sexual abuse. The report included ninety-seven recommendations that contained direct guidelines to advise the NT Government on

Johnston (1991, pp. 2-3); NACCHO (2006, pp. 8-9); Lawrence (2006, pp. 32-33); Bolger (1991, pp. 43-49); Davis (2007a, p. 2); Cavanagh (1999, pp. 9-13); and Farquhar (1999, pp. 3-9).

addressing and preventing this abuse (Wild & Anderson 2007, p. 21). It contained recommendations for both governments, including the imperative that: ‘Aboriginal child sexual abuse in the Northern Territory be designated as an issue of urgent national significance by both the Australian and Northern Territory Governments’ (Wild & Anderson 2007, p. 82). This recommendation was the main focus of Minister Brough (Toohey 2008c, p. 47), contributing to the swift response by the Federal Government to intervene in the NT.

When the NTER policy was imposed, the Howard Government claimed that the LCAS report was used to design the policy. However, I argue that the majority of the recommendations were *not* followed by the Howard Government. This is even though the Government claimed that they were. Interestingly, when Brough was asked if he could ‘guarantee’ that the recommendations from the LCAS report directed at the Federal Government would be carried out, he responded, ‘we are already doing it’ (Brough, cited in Colvin 2007a). However, Brough gave no clear indication as to how the Government was implementing the recommendations. The Minister indicated his dismay over the guidelines, stating that he:

... 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 [referring to the NTER legislation] will achieve that. (Brough 2007g)

It seemed that Brough was attempting to justify the sudden and unprecedented response by the government, adding to the racialised narrative that *all* Aboriginal communities were havens for child sexual abuse, while providing no direct evidence the recommendations from the LCAS report were to be followed. Moreover, as this section argues, the government was not willing to implement these measures because the recommendations from the report did not align with the Howard Government’s racially based integration approach for Indigenous peoples in the NT.

Some researchers such as Kelada (2008, p. 5, 7), Martiniello (2007, p. 124), Behrendt (2010b, p. 189), Stringer (2007), Anderson (2007, p. 2), Brown and Brown (2007, p. 621), Pether (2010, p. 27) and Thill (2009, p. 543) have highlighted that there was a disconnection between the recommendations from the LCAS report and the NTER policy; very few of the ninety-seven recommendations from the LCAS report were addressed by the Federal Government. The lack of connection demonstrated that the recommendations did not support the integration of Indigenous peoples into the mainstream. Martiniello (2007, p. 124) highlighted that the NTER legislation did not contain many recommendations from the LCAS report. Wild (2007, p. 119) stated that the Howard Government failed to understand the core recommendations from the report and Tedmanson and Wadiwel (2010, p. 10)

maintained that the NTER legislation was anomalous with the propositions from the LCAS report. The subsection revealed that this divide existed because the Howard Government had their own political agenda for Indigenous affairs: to integrate Indigenous peoples into the mainstream.

The authors of the LCAS report (2007) indicated a sense of disappointment over the lack of connection between the recommendations that they made in their report and the direction that the Federal Government took with the NTER. On 10 August, Rex Wild observed:

Everybody says the same thing – so why is it that after all of the reports, including ours and everything that’s been said, it’s now necessary to move in a patronizing, paternalistic way, which is the very same thing which has caused all the difficulties in the last 200 years ... (Wild, cited in ABC News 2007a)

Wild also stated that:

... our hope was that we would remove a lot of the political noise and shouting which goes on about this and other issues and by there being an immediate collaborative approach ... (Wild, cited in ABC News 2007a)

Reflecting on the lack of a bipartisan approach, Wild stated that: ‘I just think there was a missed opportunity there’ (Wild, cited in ABC News 2007a). In addition, Pat Anderson, the co-author of the LCAS report, demonstrated her consternation with regard to the lack of association between the recommendations and the NTER policy. She stated:

There is not a single action that the Commonwealth has taken so far that corresponds with a single recommendation ... There is no relationship between their emergency powers and what’s in our report. (Anderson, cited in Langford 2007, p. 3)

These views countered the Howard Government’s story, refuting the argument that the LCAS report were utilised in designing the NTER policy.

In comparison to the Federal Government’s response, the NT Government included a response to *each* of the LCAS recommendations when it released the *Closing the Gap of Indigenous Disadvantage: a Generational Plan of Action* (CTGID) approximately two months after the implementation of the Howard Government’s NTER.⁵⁰ In designing the

⁵⁰ On 20 August 2007 the NT Government responded to the LCAS report recommendations with the CTGID (*Closing the Gap of Indigenous Disadvantage Progress Report* 2007-08, 2009, p. 1). The first five years of this plan would be funded by the NT Government to the sum of \$286.43 million dollars (CTGID 2007, p. 4). This plan included ‘closing the gap in outcomes between Indigenous and non-Indigenous Territorians’ (CTGID 2007, p. 1). The ‘closing the gap’ terminology was first used in the Generational Plan response by the NT Government within an Indigenous Affairs policy context in 2007 to replace the term ‘normalisation’ (Altman & Hinkson 2010, p. 195). Although this plan addressed the main areas of the LCAS report, it also included a range of different areas which were ‘legislative reform, governance, employment and economic development, remote area policing, health, housing, communication and engagement’ (CTGID 2007, p. 2). This response included a vision, a variety of different objectives, and a structure to implement the NT Government’s action plan. It also proposed how the NT Government and Federal Government would address these different areas in five years, and offered brief explanations for five, ten and twenty-year targets in those areas (CTGID, 2007).

Generational Plan of Action, the NT Government set out to partner with the Federal Government under each area to address Indigenous disadvantage that needed further negotiation and a long term plan following the NTER (CTGID 2007, p. 4, pp. 8-22). Further, in late 2009 in an annual report, the NT Children's Commissioner highlighted that progress had been made on 60 percent of the LCAS report recommendations (Hemming 2010, pp. 457). However, the NT Government had overlooked some key recommendations including not founding an education program, among other education-based recommendations from the LCAS, which focused on educating communities in remote localities about what sexual abuse is (Hemming 2010, p. 457). The response by the NT Government was described by Clare Martin as a 'big stride forward' (Martin, cited in *Centralian Advocate* 2007, p. 5). The then Chief Minister went on to claim that:

This is a long-term generational plan of action to close the gap between indigenous and non-indigenous Territorians. This is a realistic goal backed by the necessary resources to make it happen – there is no quick fix; this needs a serious, sustained solution. (Martin, cited in *Centralian Advocate* 2007, p. 5)

In the same article, Clare Martin stated that the Generational Plan encompassed the most extensive response to the disadvantage of Indigenous Australians ever in the NT (*Centralian Advocate* 2007, p. 5). Clare Martin defended her government's extended period of time responding to the LCAS report, and asked: 'when we look at the money that's been spent, what's going to be more effective? Having health teams go around the bush or putting in the services for long-term change' (Martin, cited in *Centralian Advocate* 2007, p. 5).

In 2009, the NT Government released a report that focused on the first twelve months of the generational plan of action.⁵¹ The Martin Government had introduced this 'reporting back' process as a way to highlight its progress in key areas. The report listed what had been achieved throughout the twelve month period, and any legislative reforms that had taken place to bring any CTG plans into fruition. It also reflected on the Australian Government's commitments to address Indigenous disadvantage beyond the NTER.

⁵¹ The NT Government released a progress report titled *Closing the Gap of Indigenous Disadvantage: Progress Report – 2007-08* in 2009 in response to the first twelve months of the generational plan of action. However, after the first year progress report, there was not another one released. This could be because there was a change of government in the NT following Martin, that the new government believed that the recommendations from the LCAS did not need to be imposed because the NTER policy was providing enough positive action, or that the initial bad press on NT Indigenous communities had been responded to especially by the NT Government through the release of the Generational Plan of Action. Further, the report detailed and outlined achievements from these first twelve months based on several areas. The areas included: 'safety, health, housing, education, jobs, culture and a better way of doing business' (*Closing the Gap of Indigenous Disadvantage: Progress Report – 2007-08*, 2009, p. 3). Within each of these sections, it outlined progress in relation to a variety of subsections and some relational viewpoints and schemes. Some of these schemes relate to the NTER measures.

Following meetings with Indigenous communities, the LCAS included nine guiding principles for governments to follow when working with Indigenous communities. The report recommended the following: ‘improve government service provision to Aboriginal people’; ‘take language and “cultural world view” seriously’; ‘effective and ongoing consultation and engagement’; ‘local focus and recognition of diversity’; ‘community-based and community-owned initiatives’; ‘recognition and respect of Aboriginal law and empowerment and respect of Aboriginal people’; ‘balanced gender and family, social or skin group representation’; ‘adequate and ongoing support and resources’; and ‘ongoing monitoring and evaluation’ (Wild & Anderson 2007, pp. 50-55). These guiding principles related to reforms that were aimed at addressing the continuing effects of colonisation and the government’s past failure to involve Elders in decision-making (Wild & Anderson 2007, p. 50). These guiding principles were designed so that Indigenous peoples could be consulted and engaged with appropriately by governments when designing future initiatives to address child sexual abuse (Wild & Anderson 2007, p. 50).

A thorough assessment of each recommendation revealed the extent to which the principles were ignored by the Howard Government. This is because they did not align with the Howard Government’s racially-based model of integration which was embodied in the NTER policy in 2007. This integration approach was an attempt by the Federal Government to alter Indigenous people’s behaviour by imposing a policy regime that had a ‘clear aim of altering people’s values in the longer term to embrace those of mainstream Australia’ (Altman 2007b, p. 10). It is out of the scope of this thesis to interrogate every guiding principle. As such, several principles will be critiqued to understand how they represented Indigenous communities and culture.

These principles differed from the final recommendations because they focused solely on how governments should interact with Indigenous communities. They were designed to ensure that the effects of colonisation were addressed and make certain that governments following these principles would empower communities to make beneficial decisions. A counter-narrative emerged from these principles as they responded to consultations with Indigenous communities, one that told the story of Indigenous peoples’ experiences with governments in the past. This obviously involved past governments’ failure to develop constructive relationships with Indigenous peoples and communities. As these principles had been designed as a guide for engagement, then the dominant story about how best to engage with Indigenous communities was challenged. External factors were contributing to this

perceived ‘crisis’ in Indigenous communities due to a lack of dialogue and therefore empowerment of communities.

There were several guiding principles that placed an emphasis on consultation: ‘effective and ongoing consultation and engagement’; ‘balanced gender and family, social or skin group representation’; ‘adequate and ongoing support and resources’; and ‘ongoing monitoring and evaluation’ (Wild & Anderson 2007, pp. 52-55). These principles were founded on a discourse that placed importance on dialogue and communication with Indigenous communities and responded to past governments’ failure to successfully engage with communities. Governments were seen to perpetuate a racialised narrative that employed a top-down hierarchical approach. Dodson (2008, p. 31) highlighted the importance of effective consultation and resourcing and identified the need to create a positive public policy agenda: ‘consultation’, ‘participation’ and ‘partnership’ between non-Indigenous and Indigenous Australians. His views aligned with a CRD framework centred on consultation, empowerment and engagement. In addition, Dodson also argued that this was a way to create ‘a process of engagement based on mutual respect, trust and a deep understanding and commitment to agreed objectives’ (Dodson 2008, p. 32). The importance of consultation, partnership and participation enshrined within these principles contrasted with the racialised NTER narrative of the Howard Government. The government took a different approach when designing the NTER policy, framing Indigenous culture as a ‘problem’.

‘Community-based and community-owned initiatives’ were created in response to Indigenous communities calling for the support of community-based and owned programs (Wild & Anderson 2007, p. 53). These principles, as advocated for in this report and linked with a CRD approach, presented the narrative that Indigenous communities have the potential to be part of the solution in addressing some social problems. These principles highlighted that communities should be consulted and Indigenous culture should be supported, in contrast to ‘top-down’ approaches when policies are designed without consultation. It emphasised the importance of enabling communities to support community-based and owned programs. Kylie Cripps (2007) advocated a similar long-term approach to address violence within families with a link to programs grounded in the community. This proposed that community programs were culturally appropriate (Wild & Anderson 2007, p. 53). This principle advocated Indigenous self-determination to overcome social problems. However, the Howard Government ignored this principle as the NTER policy was imposed in a ‘top-down’ fashion, in turn advocating for a paternalistic racialised approach (Anderson, I 2007b, p. 2). This argument is even clearer with the Howard Government ignoring the

recommendations from the LCAS report. Howard responded to the question of why the recommendations from the LCAS report were ignored by stating:

Well what we have done is not go out of our way to ignore their recommendations, but what we have done is to accept their analysis of the crisis but then to set about doing what we believe is necessary to improve the situation and the quality of what we are doing has to be judged according to its intrinsic merits, not according to whether it complies to the letter with the recommendations of the report. (Howard, cited in Laws 2007)

The Howard Government ignored the recommendations and adopted an interventionist approach, reflected in how the NTER policy was designed and the controlling nature of the policy. The NTER reflected a racialised discourse which made certain that Indigenous people would integrate and be absorbed into the mainstream, in order to locate ‘real jobs’. The Federal Government imposed their decisions upon Indigenous communities.

As stated above, the report developed 97 recommendations under 22 categories.⁵² Although the recommendations from the report were directed at the NT Government, there were a number of recommendations that were intended for the Federal Government. The following section contrasts some of the recommendations from the LCAS report with the dominant NTER narrative in relation to how Indigenous communities and culture was represented in the discourse.

The category titled ‘leadership’ included recommendations that related to the importance of governments committing to consultation with Indigenous peoples when designing initiatives for communities (Wild & Anderson 2007, pp. 22-23).⁵³ In addition, Johnston (1991) and Calma (2005) pointed to the importance of consultation and some other key recommendations also highlighted consultation and the involvement of the community (Wild 2007, p. 119; McIntyre 2007, p. 83; Billings 2009, pp. 20-21; Vivian 2010b, p. 47; Thill 2009, pp. 537-538). According to a CRD framework of examination, the recommendation of consultation was seen as being vital for Indigenous communities and governments to constructively work together to design future policy initiatives for communities and work

⁵² These categories are leadership, government responses, family and children’s services, health – crisis intervention, police, FACS, prosecutions and the victim, bail, offender rehabilitation, prevention is better than cure, health – a role in prevention, family support services, education, community education and awareness, alcohol, other substance abuse, community justice, the role of communities, employment, housing, pornography, gambling, cross-cultural practice and implementation of the report (Wild & Anderson, 2007, pp. 22-32). The Wild and Anderson report (2007, pp. 21-33, 82-205) highlighted every recommendation in detail under these categories.

⁵³ The report also stressed that the NT Government show ‘leadership’ in protecting children from sexual abuse (Wild & Anderson, 2007, p. 7). Further, it should be highlighted in the community so that the public are aware that the government is taking the initiative in dealing with policy that related to children, and their psychological welfare (Wild & Anderson, 2007, p. 7). This is significant so that the public and notably Indigenous peoples know that the NT Government is willing to develop policy to protect children from sexual abuse.

from the ‘bottom up’, as opposed to taking a controlling approach. This approach would privilege the voices of Indigenous communities, via consultation, and provide a counter-narrative to how culture and communities are perceived by the government. This would be in contrast with an interventionist policy approach that was adopted by the Government with limited input by community.

Other recommendations under the title of ‘alcohol’ similarly stated that consultation, or dialogue, by the government with Indigenous communities was to be undertaken to detect what the ideal strategies were to address the harm associated with alcohol consumption, and that these strategies are culturally effective in reducing this (Wild & Anderson 2007, p. 28). Similarly, ‘health – a role in prevention and the category titled prevention is better than cure’ had a focus on consulting with Indigenous communities (Wild & Anderson 2007, p. 26). Lawrence (2006, p. 33) and Johnston (1991, pp. 2-3) also outlined the importance of community consultations, community designed initiatives and self-determination.⁵⁴ In line with a CRD framework, they stated that for Indigenous communities to overcome social problems such as criminal offences and violence or child sexual abuse, communities must have control over community designed services.

Other recommendations under the category titled ‘offender rehabilitation’ included recommendations that highlighted government support and the introduction of additional ‘sex offender’ programs which are community-based for individuals that are at risk of sex offending (Wild & Anderson 2007, p. 25). Although the LCAS narrative focused on Indigenous communities and culture as being part of the solution which also forms a key approach from a CRD perspective, the NTER narrative was founded on a racialised account on the problem and resolutions in a different sense. As demonstrated by Rothwell and Wilson (2006, p. 17), they argued that by staying in communities and practicing cultural traditions, partaking in the ‘real economy’ is obviated. As such, Indigenous culture was targeted through a racialised integration approach based on the Howard Government’s view that NT Indigenous communities were in a ‘crisis’: that Indigenous culture was unable to adapt and was against modernity.

The category titled ‘the role of communities’ recommended that the government support community maintained and operated ‘Aboriginal family violence intervention and treatment programs’ (Wild & Anderson 2007, p. 31). Further recommendations included government support of community ‘night patrols’ and in each ‘city, town, region and community’, the

⁵⁴ Coorey (2001, p. 49-50, 59) and Homel, Lincoln and Herd (1999, pp. 22-23).

implementation of a child sexual abuse plan, and support from Local Shire councils written into their community plans be implemented (Wild & Anderson 2007, p. 31). Cavanagh (2005, p. 34), Bartlett (1995, p. 38, 41) and Dodson (2003, p. 6) supported services such as night patrols. The need for additional support by community shires was vital so that these plans could be wholly reinforced at a community level. Other recommendations under 'the role of communities' included an expansion of 'safe house/places for women and children' avoiding violence in communities, supported by funding through an 'Overarching Agreement' among the Federal and NT Governments (Wild & Anderson 2007, p. 31). The category titled 'housing' similarly incorporated community focused initiatives which recommended that the training and employment of Indigenous peoples in constructing community houses be considered (Wild & Anderson 2007, pp. 31-32). This was so that they gained skills and the work remained in the community.

These community-based programs from the categories of 'community education and awareness' linked to education-based recommendations earlier in the LCAS report, as well as housing and the role of communities. Within a CRD framework, the report was advocating self-determination, respect of Indigenous communities and culture, empowerment and community-based approaches, in turn representing Indigenous communities as part of the solution. This narrative privileged the voices of Indigenous people, communities and culture as a counter-discourse offering ways of addressing and protecting children from sexual abuse. However, the Howard Government's racialised NTER narrative framed communities as the 'problem' and not part of the solution. Moreover, as part of the racialised discourse, the policy included applying a greater level of control over the lives of Indigenous peoples such as with the abolishment of Community Development Employment Projects (CDEP). By abolishing CDEP, the Howard Government was able to control and contribute to their racialised narrative about how Indigenous peoples would be employed and therefore receive an income. According to Dodson (2007b, p. 24), employment was valued as a new approach to Indigenous policy for communities. The concept of individualism and private ownership was raised above community-centred decisions, and community-based decision making was blamed for Indigenous social problems. This contributed to the argument that integration of Indigenous peoples into the mainstream must occur.

5.6 Conclusion

This chapter has demonstrated how the Martin Government had been aware of Indigenous social problems before announcing an Inquiry in 2006. The chapter highlighted how the then Chief Minister had acted previously in addressing Indigenous social problems that

challenged the discourse by the NT Opposition. The oppositional discourse between the Federal and NT Governments over a neglect for and a lack of funding to Indigenous affairs was examined.

Significantly, this chapter has argued that Mal Brough's 99-year land leases highlighted a racialised discourse and contributed to the normalised integration approach of the Howard Government. However, a counter-story in the discourse highlighted issues with affordability and the varied attitudes of Indigenous community members towards integration. This challenged the racialised integration narrative and illustrated that some Indigenous communities supported a land lease.

The chapter also discussed a variety of key findings from the LCAS report that was produced following an NT Government Inquiry into the Protection of Aboriginal Children from Sexual Abuse. This analysis identified how the report represented Indigenous peoples, communities and culture, drawing on the CRT tenet of social justice with a CRD framework of examination to 'speak back' to a discourse that represented Indigenous culture and communities as inferior and part of the problem. It examined the underlying structural or external factors that contributed to a discourse of inferiority.

Finally, this chapter provided a summary of some of the main recommendations from the LCAS report and a critique of how the 'problem' was framed with the NTER policy in 2007. The recommendations were not followed by the Howard Government as they were inconsistent with an integration approach of mainstreaming of Indigenous communities.

Overall, The Howard Government used the LCAS report to justify the imposition of the NTER and in particular the allegations in the report of sexual abuse against Indigenous children. The following chapter examines the Northern Territory Emergency Response (NTER) and discusses several key themes in the discourse on the NTER and Indigenous communities. In addition, it analyses how Indigenous communities and culture was represented in the NTER discourse.

6. Integration and Racialised Discrimination: Stabilise, Normalise, Exit

6.1 Introduction

The previous chapter concentrated on the period up to the Martin Government's Inquiry into the Protection of Aboriginal Children from Sexual Abuse that produced the *Little Children are Scared* (LCAS) report. Drawing on the tenet of social justice from Critical Race Theory (CRT), Chapter Five provided an examination of the report's findings, recommendations and terms of reference and a discussion of the Federal Government's 99-year lease trials during the Inquiry in 2006. A CRD analysis provided an in-depth investigation into some key recommendations and findings from the LCAS report in an attempt to provide a counter-discourse about how the report represented Indigenous peoples, communities and culture.

The Northern Territory Emergency Response (NTER) was a Federal Indigenous policy implemented by the Howard Government in 2007. The government claimed that the policy was designed to address the alleged child sexual abuse and violence towards women in Indigenous communities in the NT (Anaya 2010a, p. 26; Hunt 2010, p. 418). The Government asserted that the NTER would 'protect' children of Indigenous descent from sexual abuse (Partridge 2013, p. 400), and deal with the problems encompassing this abuse (Roffee 2016, p. 132).

The Howard Government's NTER legislation was implemented for an initial five-year period and applied to 73 Indigenous communities in the NT. The comprehensive coverage and significance of the NTER legislation is illustrated by the complexity of the legislation, including five Bills of legislation. For the policy to be implemented and pass through the Parliament, the Howard Government had to suspend the RDA 1975. The NTER was designed and employed with very little consultation with Indigenous communities. The lack of consultation was in direct contradiction to significant recommendations from the LCAS report, which advocated for the importance of consulting with Indigenous communities (Wild & Anderson 2007, p. 7). Other measures within this legislation demonstrated that there was very little consideration of the LCAS report. The measures of the legislation, such as welfare restrictions, the removal of the permit system and compulsory five-year leases over land illustrated the level of Government control over Indigenous peoples and communities. The lack of consideration of the recommendations of the LCAS report demonstrated that the NTER policy was much more wide-ranging than the stated aims of protecting Indigenous children from sexual abuse.

This chapter is divided into six sections. Firstly, this chapter examines the NTER legislation by the Howard Government and public debate about this policy. This focuses on the 12 special measures included in the legislation relating to measures such as alcohol restrictions and income management, along with the public debate surrounding the announcement and implementation of the NTER. The chapter includes analysis of the key speeches, radio broadcasts, Hansard reports, and newspaper articles which focus on the arguments put forward by the then Prime Minister (PM), John Howard and the Minister for Families and Community Services and Indigenous Affairs, Mal Brough. These arguments are based on representations about Indigenous communities, people and culture and why an intervention was necessary. As such, it is argued that both these politicians continued to (re)produce the racialised Indigenous social problems discourse discussed in the preceding chapters. Based on this, several key racialised themes are identified. The second section focuses on the representations of Indigenous communities in the NT as dysfunctional. Thirdly, the chapter places emphasis on the discourse of Indigenous communities as being in crisis. Fourthly, it concentrates on Indigenous communities as a threat to children, and fifthly, it focuses on representing welfare as a problem. Each of these key themes draw on Critical Race Theory (CRT) identified as a key feature in a CRD framework, in particular the tenet of the ‘permanence of racism’.

The final section of this chapter focuses on Indigenous leaders’ responses to the NTER policy, drawing on one tenet of CRT, namely ‘racialised narratives as significant and telling’, ‘storytelling’ and ‘counter-storytelling’. CRT with a CRD theoretical framework offers a useful analytical tool to examine the voices of the marginalised – voices that variously disrupt, challenge and support the NTER policy. This chapter examines the key legislation underpinning the NTER policy, why the government intervened and the special measures that encompassed the policy.

6.2 The Northern Territory Emergency Response: ‘Stabilise, Normalise, Exit’

The first section of this chapter seeks to problematise why the Howard Government intervened in the NT and the nature of the Intervention. This section outlines the five legislative Bills that made up the Howard Government’s NTER, the 12 special measures that were included in this legislation, and some significant descriptions and responses to the NTER.

Six weeks after the release of the NT Government's LCAS report, the Howard Government publicly declared that they will intervene in the Northern Territory (NT). Minister Brough stated what the LCAS report had confirmed:

... that child sexual abuse among Aboriginal children in the Northern Territory is serious, widespread and often unreported, and that there is a strong association between alcohol abuse and sexual abuse of children. (Brough 2007i, p. 10)

John Howard described the abuse of children in Indigenous communities in the NT as a 'national emergency' (Howard, cited in Howard & Brough 2007, p. 1); Mal Brough stated that 'the Howard Government decided that it was now time to intervene and declare an emergency situation' (Brough 2007i, p. 10). It is evident that both PM Howard and Mal Brough believed that an intervention into NT Indigenous communities was necessary.

The NTER was comprehensive and the Bills were introduced and passed in the House of Representatives on 7 August 2007 (Hinkson, cited in Altman & Hinkson 2007, p. 2), only ten days prior following the brief 'second reading debate' (Manderson 2008, p. 239). The legislative bills were:

- the *Social Security and Other Legislation Amendment (Welfare Payment Reform) Act 2007* – which also included the Cape York area of Queensland in relation to income quarantining (Behrendt 2007, p. 12);
- the *Northern Territory National Emergency Response Act 2007*; and
- the *Families, Community Services and Indigenous Affairs and Other Legislation Amendment (Northern Territory National Emergency Response and Other Measures) Act 2007*.

The final two Bills dealt with the financial and administrative areas of the legislation (see for example, Scullion 2007, pp. 33-35):

- the *Appropriation (Northern Territory National Emergency Response) Bill (No. 1) 2007-2008*; and
- the *Appropriation (Northern Territory National Emergency Response) Bill (No.2) 2007-2008*.

The first Bill deals predominantly with protecting children through spending welfare payments responsibly, or linking school attendance with income management and changes to the Community Development Employment Projects (CDEP). Reading this Bill for the second time in the House of Representatives on 7 August 2007, Brough made strong links to protecting children and promoted responsible spending of welfare. He represented

communities as environments where it could be dangerous for children as they allegedly promoted alcohol, drug and pornography use. Minister Brough stated that:

Welfare is not for alcohol, drugs, pornography or gambling. It is for priority expenditures such as secure housing, food, education and clothing – things that are considered a child's basic rights. This bill outlines five welfare reform measures to promote socially responsible behaviour aimed at protecting and nurturing the children in our society and offering them the opportunities that a supportive family, a solid education and a healthy and safe environment can provide. (Brough 2007j, p. 1)

Speaking about the second Bill, Brough stated that: 'in introducing the principal legislation, it has been noted that the government's emergency response in the Northern Territory is all about the safety and wellbeing of children' (Brough 2007e, p. 17). In a similar way to the Bill previously discussed, the emphasis was placed on protecting children. As such, Mal Brough argued that Indigenous communities were dangerous places for children. In relation to the final Bill, the Minister stated in the same Second Reading speech on 7 August 2007 that: 'this bill deals mainly with banning certain pornography, issues to do with increased policing, Commonwealth and Northern Territory infrastructure, and access to Northern Territory Aboriginal land' (Brough 2007e, p. 17). Brough asserted that this Bill placed importance on law and order, addressed allegedly high levels of pornography and sought access to Indigenous land. In providing access to Indigenous land, the Government removed the requirement to obtain permits to go on Indigenous land (see for example, Commonwealth of Australia 2007, p. 7).

The Federal Government argued that there was an inadequate response by the NT Government and this justified the Federal Intervention (Altman 2007c, p. 1). As John Howard stated:

... We're doing this because we do not think the Territory has responded to the crisis affecting the children in the Territory and we believe that our responsibility to those children overrides any sensitivities of Commonwealth-Territory relations. (Howard, cited in McManus & Packham 2007, p. 2)

The PM viewed the delayed response by the NT Labor Government as an indication that it did not approach the issue of child sexual abuse with any seriousness: 'I don't think it's a government that sees it with any sense of crisis or emergency' (Howard, cited in Howard & Brough 2007, p. 8). However, while the Howard Government sought to attribute responsibility for the 'crisis' to the NT Government, it did not take into consideration the underfunding of the NT Government by the Howard Government, especially in regard to previous reports of issues in the areas of health, education, employment and housing, as discussed in Chapter Five.

Six weeks after the release of the publication of the LCAS report, John Howard and Mal Brough officially announced the NTER. Howard and Brough's offices had attempted to contact Clare Martin, the Chief Minister of the NT during this time, to inform her of the Federal Government's decision to intervene in the NT (Howard & Brough, cited in Howard & Brough 2007, p. 8).⁵⁵ The Howard Government felt that the LCAS report had been in the hands of the NT Government long enough, and that drastic action was needed as soon as possible to address the recommendations of the report. However, as previously discussed in Chapter Five, the LCAS report was very comprehensive and substantial. The NT Government argued that it *did* need more time to analyse the report, including the recommendations on consultation with Indigenous communities in the design of a policy approach. Moreover, it needed to ensure it had sufficient funding to implement such a policy.

This sudden reaction by the Howard Government was unprecedented; it had not taken an approach to intervening in Indigenous communities throughout its previous eleven years in power. This is despite a number of government reports that highlighted similar findings and recommendations to the LCAS report, as discussed in Chapter Three. The NT Intervention was made possible through the Howard Government's use of the Federal Government's constitutional powers to introduce legislation within the NT. This gave it the power to implement policies such as the NTER (Altman 2007c, p. 2). These powers could have been used to make certain that this policy could not be politically challenged in the NT. As Brough stated, the Federal Government would be using 'the Territories Power available under the Constitution to make laws for the Northern Territory' (Brough 2007i, p. 10).

The Howard Government compiled legislation that contained various special measures to address this alleged child sexual abuse and protect children. However, as argued by Altman and Hinkson (2007, p. 3), the legislation included measures that had a limited connection to the abuse of children, such as the abolishment of the permit system (see for example, Manderson 2008, p. 252), the compulsory acquisition of leases over townships over a five-year period, and the alteration of the *Aboriginal Land Rights Act (NT) 1975*.

In announcing the special measures (see below), Howard asserted: 'law and order will be a central focus of the measures I've announced' (Howard, cited in Howard & Brough 2007, p. 1). Howard also stated:

⁵⁵ One year before the announcement of the NTER, Minister Brough presented a speech entitled *Blueprint for action in Indigenous affairs* (Brough 2006b). This speech included the Government's ideologies about how best to improve socioeconomic conditions and Indigenous governance structures. These ideas were in line with language the Howard Government adopted with the NTER in the following year and included a strong emphasis on law and order and promoting real jobs in the mainstream economy (Brough 2006b).

... Mr Brough and I have called this news conference to announce a number of major measures to deal with what we can only describe as a national emergency in relation to the abuse of children in indigenous communities in the Northern Territory. (Howard, cited in Howard & Brough 2007, p. 1)

John Howard characterised Indigenous social problems within a discourse representing Indigenous communities as encompassing child sexual abuse, in turn (re)producing a racialised narrative.

The initial announcement of the Intervention by the Howard Government included special measures relating to alcohol restrictions, medical examinations of all Indigenous children under the age of 16, welfare reforms, enforced school attendance, provision of meals at school for children, introduction of five-year leases, and the marshalling of local workforces to clean up communities through Work for the Dole arrangements. It banned the possession of X-rated pornography and removed pornography from publicly funded computers, sought immediate increase in policing levels, established an Australian Government sexual abuse reporting desk, introduced measures to develop housing and improve community living, abolished the permit system, and appointed managers of all government businesses in all communities (Hinkson 2007, pp. 1-2; Brough 2007h; Edmunds 2010, pp. 4-5; Howard, cited in Howard & Brough 2007, p. 2).

Most of these special measures were introduced following the preliminary statement, while others were imposed in the following months (see for example, Partridge 2014, p. 17). However, the Howard Government further announced that they would abolish the Community Development Employment Projects (CDEP), in the NT only, from late June 2008 (Altman & Hinkson 2007, p. 4; Maddison 2008, p. 44; *Social Security and Other Legislation Amendment (Welfare Payment Reform) Act 2007* (Cth) No. 130, cited in Manderson 2008, p. 249).⁵⁶

As part of introducing the NTER, the Howard Government suspended Australia's RDA 1975. This was so that the Government could positively discriminate against Indigenous peoples by using the RDA's special measure clause with the Intervention.⁵⁷ In an interview

⁵⁶ Additional special measures were also introduced which included required attainment of 'town camp' tenancies, averting deliberation of customary law or cultural practice in bail and condemning choices, certifying for community stores on Indigenous land and supplies for the Commonwealth to keep possession of amenities constructed on Aboriginal land (McIntyre, cited in Partridge 2014, p. 17).

⁵⁷ The NTER Response Act does two things in relation to the operation of the RDA 1975. Firstly, the government stated that the measures contained in the Act are deemed to be 'special measures' in accordance with section 8 of the RDA in which it is stated that 'special measures are a form of positive discrimination whereby a group defined by race receives beneficial treatment. This is not considered discriminatory under the RDA' (Calma 2007, p. 218). In retrospect, all 'special measures' introduced in any legislation that relates to the NT Intervention are deemed beneficial to Indigenous peoples and 'therefore exempt from the prohibition of racial discrimination in Part II of the RDA' (Calma 2007, p. 218). However, the Federal Government must

on *Lateline* on 7 August 2007, Mal Brough discussed the NT Intervention where he defended the Government's actions to intervene in NT Indigenous communities. In the interview, presenter Tony Jones asked Mal Brough why the RDA needed to be suspended. Minister Brough stated that:

It was always envisaged that the *Racial Discrimination Act* could actively discriminate in a positive sense and this is in a positive sense to change in a positive way the lives of those communities. Why did we do it? So that people could not go to the courts in a way to stimey slow this process down that would ensure there isn't anything happening on the ground in a positive manner and if that occurs people would be out there again saying here we go again, more talk, no action. We can't delay and we can't put road blocks artificial and unnecessary road blocks in the way. (Brough, cited in Jones 2007a)

It is clear from Brough's response that he believed that the special measures contained in the NTER legislation discriminated on the basis of 'race', however, it was claimed that this was in a positive sense. As such, the RDA needed to be suspended in order to prevent any legal challenges to stop the enactment of the special measures. This would ensure the government could make a swift difference to communities. Brough represented Indigenous communities in crisis, and in doing so, he (re)produced the racialised discourse on Indigenous social problems. As such, he argued that these special measures needed to be abruptly imposed.

Tony Jones asked Brough if this process was discriminatory and if it would only impact Indigenous peoples and not non-Indigenous peoples. Brough responded, saying:

That's correct. No, it can impact upon white people living in those communities but it can't impact upon people per se and it's obviously aimed overwhelmingly at the Indigenous population there. (Brough, cited in Jones 2007a)

Again, based on this response, Minister Brough clearly employed a racial discourse; the Act would only apply to Indigenous communities and would target just one 'race'. This indicated that he viewed Indigenous communities as inferior, claiming that they were plagued by social problems. Section 132 under 'miscellaneous' within the NTER policy included an exemption from the RDA as it applied to only Indigenous peoples on the foundation of a special measure

prove that 'the measures impacting negatively on Aboriginal peoples are proportionate and necessary before such measures can qualify as 'special measures'' (Billings & Cassimatis 2009, p. 77). This can be done through consultations with Indigenous communities which did not occur prior to the implementation of the NTER (Hunyor 2009, p. 62). Secondly, the NTER Act suspended the operation of Part II of the RDA in which it states that 'the RDA makes it unlawful to discriminate against a person on the basis of their race' (Calma 2007, p. 218). Further, there is no protection for individuals: if the special measures under the NTER were deemed racially discriminatory, then the RDA could not have protected these individuals and no complaint could have been made (Calma 2007). A main reason why Part II of the RDA was suspended was so that there was "legal certainty" for the intervention to progress without any delay caused by legal challenge' (Calma 2007, p. 218). However, this would also mean that an Indigenous individual negatively affected by the NT Intervention who felt that any part of it was racial discriminatory could not take any legal action.

(Coram 2009, p. 204).⁵⁸ In particular, sections 9 and 10 of the RDA stipulated that individuals could not be discriminated against based on ‘race, colour and descent as well as national or ethnic origin, did not apply because the intent was to target Indigenous people for their benefit’ (Stafford, cited in Coram 2009, p. 204).

The NTER policy process was described by Brough as aiming to ‘stabilise, normalise and exit’ Indigenous communities. Minister Brough outlined the Federal Government’s approach to addressing the alcohol and child abuse issues in Indigenous communities in the House of Representatives on 21 June 2007 wherein he used this military-style phrase. Brough responded to David Fawcett MP by saying that:

There are three phases to what we are doing: (1) stabilisation, (2) normalisation and (3) exit. This will require the entire support of the Northern Territory government. Phase 2 will deal with the issues that many of you will think need to be dealt with. But, first of all, we have to stabilise. The grog has to be restricted. (Brough, cited in Fawcett 2007, p. 77; Brough, 2007f, p. 3)

The phrase captured ‘both the militaristic humanitarianism embodied in the emergency intervention and Brough’s own army background’ (Altman 2007c, p. 9). Minister Brough was representing Indigenous people as addicted to the consumption of alcohol, communities as filled with people who abuse alcohol and Indigenous culture as condoning such behaviour. In turn, Mal Brough was furthering the normalised construction and representation of a deficient discourse about Indigenous communities.

On the same day that Minister Brough responded in Parliament with the phrase, ‘stabilise, normalise and exit’, he also appeared on the *PM ABC* radio station, where he described how the Federal Government was going to act in relation to the issues in Indigenous communities in the NT. He again made reference to the stabilisation and normalisation phases. Stability was equated with additional police presence in Indigenous communities, controlled welfare, and controlled access to alcohol (Scullion 2007, p. 20, 25, 31).

This was the initial phase and it would last for one year (Altman 2007c, p. 9). The Minister stated: ‘we are acting now ... phase one is now where we stabilise, phase two is where you normalise’ (Brough, cited in Colvin 2007b). By using the term ‘normalise’, Brough was

⁵⁸ In this section under the RDA 1975 there ‘were two key, and internally contradictory, provisions to prevent any challenges to the Intervention measures’ (Edmunds 2010, p. 5). The first provision stated: ‘anything done under the *Northern Territory National Emergency Response Act* is a ‘special measure’ under the *RDA*. The second was the suspension of Part II of the *RDA*: the ‘Prohibition of racial discrimination’ (Edmunds 2010, p. 5). As reiterated above under Part II the ‘special measures’ clause was included and the suspension of this Part suspended the special measures section under clause 8 of the *RDA* that adheres to ‘the application of Part II to special measures’ (Edmunds 2010, p. 5). Thus, the suspension of the *RDA* made it possible for the Howard Government to implement the special measures.

advocating for the integration of Indigenous peoples into the mainstream, to align with 'normal' non-Indigenous society. Such an approach attempted to integrate Indigenous peoples by replacing custom, kin and land with individualist aspirations of private home ownership, career and self-improvement (Hinkson, cited in Walter, M 2010, p. 128). This related to the end goal of the intervention process for Indigenous people ('t Hart 2008, p. 165). This phase would last for the remaining four years of the planned five-year intervention, linking to the concept of integration (Altman 2007c, pp. 9-10). Michel Foucault, used the term 'normalisation', meaning to make something normal (see for example, Foucault 1977; Foucault 1980). Foucault made a link to the normalisation of society. From a Foucauldian perspective, the Federal Intervention aimed to make Indigenous communities like all other communities in Australia, to normalise them through Government intervention. Minister Brough argued that he was making sure the environment was safe; in doing so, the State sought to have a greater level of control over communities, to normalise Indigenous peoples.

The concept of stabilisation was addressed by Brough on 7 August 2007 in relation to the second reading of a new Bill in the House of Representatives titled *Northern Territory National Emergency Response Bill 2007 and the Welfare Reform Amendments provided by the Social Security and Other Legislation Amendment (Welfare Payment Reform) Bill 2007* (Brough 2007e, p. 17). Minister Brough used the concept of stabilisation when he argued that additional pornography measures were needed: 'we hope and expect the new rules to do their job in helping to stabilise the communities by the end of the five-year intervention, as announced by the government' (Brough 2007e, p. 18). Brough elaborated on the thinking behind the measures on the same day:

The measures in the emergency response aim to protect and stabilise communities in the crisis areas. This is the first stage in a longer term approach to improve the welfare of Aboriginal children and their families in the Northern Territory. (Brough 2007b, p. 22)

Referring to problems associated with entering communities and performing health checks, Brough stated on the ABC program *The 7:30 Report* that:

We are extremely mindful of those issues. First and foremost, let's ensure that the grog is gone, that there is no more domestic violence, that people have someone to report it to. That's stabilization. (Brough, cited in O'Brien 2006b)

Brough believed that by addressing the apparent issues with pornography, alcohol, domestic violence and issue with reporting, then Indigenous communities would be stabilised. This would increase the well-being of Indigenous children and in particular, their families. Minister Brough was (re)producing the racialised discourse in relation to social problems by

stating that these communal issues existed throughout Indigenous communities. This represented communities as being inferior to mainstream non-Indigenous communities. On 7 August 2007, Brough gave a Second Speech about the *Northern Territory National Emergency Response Bill 2007* in the House of Representatives, which highlighted the alcohol restrictions that were going to be introduced as part of the NTER legislation. Furthermore, this referred to stabilisation with Minister Brough arguing that: ‘the restriction enabled by this Bill will help stabilise communities and give them a chance to recover’ (Brough 2007i, p. 12). Again, Mal Brough represented communities as alcohol-filled environments that needed to be stabilised. Such discourse contributed to the negative representation of Indigenous communities.

The final phase referred to the exiting of Indigenous communities. This is understood as government intervention ending at the close of the five years, at which point the policy would have met its original stated aims. However, it was not made clear within this three-tiered approach when the situation would be viewed by the Federal Government as being ‘stabilised’, resulting in their withdrawal (‘t Hart 2008, p. 167; ‘t Hart 2007, p. 55).

In defining and outlining the three-tiered approach of stabilising, normalising and exiting Indigenous communities, the Howard Government, particularly Indigenous Affairs Minister Brough represented and continued to contribute to the (re)production of a racialised narrative on Indigenous social problems. This narrative included labelling Indigenous communities as dysfunctional and in a crisis, and described the situation in ways that sought to justify the NTER in relation to allegations of child sexual abuse (Maddison 2008, p. 41). The integration policy approach of the Howard Government can be seen to be linked to normalising Indigenous communities by integrating them into the mainstream culture, to make them like non-Indigenous communities. PM John Howard highlighted this position in early March 1995 when debating the *ATSIC Amendment Bill 1994* in the House of Representatives. He asserted:

That Aboriginal affairs has to be addressed within the concept of a single, undivided nation of which all Australians, whether indigenous Australians or other Australians, are treated equally, governed by a common set of laws to which all of us are equally accountable and governed by a number of common values and common principles as Australian citizens. (Howard 1995, p. 1410)

In adopting this approach, John Howard was suggesting that both Indigenous and non-Indigenous peoples should be treated equally in mainstream Australian society, with no external Indigenous governing body. Essentially, by taking this approach as PM, John

Howard argued that Indigenous peoples needed to be integrated in order to adopt mainstream values and civics. He aimed to normalise Indigenous peoples, as described by Foucault.

The next section will analyse a key theme that originated from John Howard as PM and Mal Brough as Indigenous Affairs Minister in the discourse on the NTER. This theme is the representation of Indigenous communities in the NT as dysfunctional.

6.3 Representations of Indigenous communities as dysfunctional

A key theme that originated from the racialised and integrationist discourse on the NTER was John Howard and Mal Brough's representations of Indigenous communities as dysfunctional. This narrative has been described by Lovell (2012c, p. 91) as 'a discourse of Aboriginal failure' and was used to justify the intervention. This section contends that for Indigenous communities to overcome this alleged dysfunction, the Howard Government believed that individuals must obtain a 'real job' in Australia's mainstream economy. As Rojek (2007, p. 1) argued, the Howard Government was legitimating 'white' dominance and continuing to advance and preserve a power base grounded in protecting white interests, even if the marginalised group was negatively impacted.

On 7 August 2007, Minister Brough presented a Second Reading speech in the House of Representatives that outlined the *Northern Territory National Emergency Response Bill 2007* legislation. This Bill was designed to provide:

... extra police. We will stem the flow of alcohol, drugs and pornography, assess the health situation of children, engage local people in improving living conditions, and offer more employment opportunities and activities for young people. We aim to limit the amount of cash available for alcohol, drugs and gambling during the emergency period and make a strong link between welfare payments and school attendance. (Brough 2007i, p. 10)

This speech demonstrated that the Federal Government was going to provide resources for Indigenous communities in the NT so that a variety of social problems could be addressed. In addition, the statement revealed that the police would be utilised to control the allegedly dysfunctional environments in Indigenous communities. Mal Brough (re)produced negative representations of Indigenous communities by making links to alcohol, drugs, pornography and gambling. Thus, he was representing communities as dysfunctional, arguing that the NT Intervention was necessary. Significantly, this speech made reference to the importance of engaging young people in employment and linking welfare to school attendance, as part of a discourse of controlling Indigenous young people.

Part of the NTER's 'disciplining' and 'monitoring' discourse was the deduction of welfare payments if children did not attend school. Moreover, the argument centred on assisting in decreasing the dependence on welfare, at the same time as advancing the education of a child. The government was able to create further monitoring practices while making the integration of Indigenous peoples into 'mainstream society' possible (Lattas & Morris 2010a, p.17).

At the National Press Club, on 15 August 2007, Minister Brough asked a rhetorical question to the audience about the lives that Indigenous peoples lead in communities, which highlighted his view of Indigenous communities as dysfunctional. He asked:

The group sitting before me, if you knew nothing other than passive welfare, if you knew nothing other than a drug filled, alcohol filled, gambling filled day where that was your life, what chance do you think this group would have after 10, 20 or 30 years? (Brough 2007c)

Similarly, in an article on community safety published in *The Age* dated 22 June 2007 Mal Brough stated: 'the fear that people may have today, when grog flows in, drugs flow in, and the strong men prevail, won't be there' (Brough, cited in Schubert et al. 2007, p. 1). The question and statement above illustrated how Mal Brough believed that Indigenous communities and peoples were engaging in negative activities, and viewed communities as dysfunctional. He represented Indigenous peoples as living lives filled with alcohol, drugs and gambling and as passive welfare recipients. Because Brough revealed this negative representation of communities, he felt that people's fears would subside when these social problems were addressed. In his interviews, Minister Brough (re)produced negative representations of Indigenous peoples, and in turn, racialised Indigenous social problems.

Brough alluded to Indigenous communities being broken and lawless. In a media release on 21 June 2007, he stated that those who have attempted:

... to undermine the Intervention have said it is a deliberate attempt to destroy Indigenous culture. The reverse is true. It is being destroyed now by dysfunction, alcohol, drugs and violence. Any culture would be destroyed under those circumstances. (Brough 2007d, p. 3)

It is evident that he was representing contemporary Indigenous culture at this time as dysfunctional. He argued that this dysfunction related to alcohol, drugs and violence.

Similarly, on 7 August 2007, in relation to the government responding with the NTER, Brough stated:

When confronted with a failed society where basic standards of law and order and behaviour have broken down and where women and children are unsafe, how should we respond? Do we respond with more of what we have done in the past? Or do we

radically change direction with an intervention strategy matched to the magnitude of the problem? (Brough 2007i, p. 10)

Here, Minister Brough again represented Indigenous communities as dysfunctional; in his view, past policy approaches had not worked and a new government strategy was needed. In addition, Brough referred to the break-down of law and order, and children and women living in unsafe environments. For the Indigenous Affairs Minister, this radical strategy was to require integration into the mainstream Australian society and economy. Influenced by the ideas of economist and philosopher Amartya Sen, Indigenous lawyer Noel Pearson agreed with the Howard Government's integrationist strategy, stating that dysfunction as a culture has become a key obstacle to marginalised groups moving into the real economy (see for example, Pearson, N 2011 p. 276; Pearson, N 2007a). But this would involve leaving a culture that 'condoned' such irresponsible behaviour relating to alcohol, lawlessness, unsafe environments, violence and drugs. However, in making these assumptions, Brough was representing Indigenous communities, people and culture as being inferior to modern 'Western' culture.

On 25 June 2007, John Howard spoke at The Sydney Institute in relation to his government's decision to intervene in NT Indigenous communities. In a section of this speech, Howard (re)produced the racialised representation of Indigenous communities as dysfunctional. In his view, the drastic measures introduced by the government had 'everything to do with recognising a need to counter a tragic deterioration in social norms and responsible behaviour, often aided and abetted by the worst excesses of modern Western culture' (Howard 2007b, p. 73). Howard's point was that, although Western culture has somewhat contributed to these allegedly dire conditions, the primary issue in these communities could be related to the collapse of societal structures and what is seen as inappropriate behaviour in a Western context. By representing Indigenous communities as being in a tragic phase of deterioration, with a lack of social norms and responsible behaviour, Howard drew on a racialised discourse, perpetuating negative representations of Indigenous culture and society that were seen as inferior to modern 'Western' culture. Moreover, Howard's reference to 'responsible behaviour' illustrated how his government wanted to alter the behaviour of Indigenous peoples to integrate into Australia's mainstream, the modern 'Western' culture that he viewed as superior. Through this process, Indigenous people would become citizens and would move away from these dysfunctional communities to find a real job. As such, the Howard Government's aim of integration would be achieved.

In an interview on *The 7:30 Report* on 27 June 2007, Mal Brough contributed again to the representation of Indigenous communities as inferior. This was demonstrated by Minister

Brough's racialised reference to the dysfunctional environment of Indigenous communities and the need to modify this to provide adequate medical care. In addition, he reiterated the importance for communities to change their living standards and reflect non-Indigenous ways:

We have to change the environment that people are in. If you continue to live on the floor amongst the dogs in squalor, not being fed adequately, then no amount of medical interventions is going to fix it. We have to change the environment and that's what we are determined to do. (Brough, cited in O'Brien 2006b)

Brough suggested that change was needed to fix the dangerous living conditions within Indigenous communities, stating that:

If you actually clean the environment that people are living in, if people have hope, if people have something in which to look forward to, and have direction and self-respect, you start to deal with some of the fundamental issues that actually lead to suicide, lead to people not going to school, lead to people to petrol sniffing [sic]. (Brough, cited in O'Brien 2006b)

Brough argued that Indigenous environments must be altered so that petrol sniffing could be addressed, suicide would not be an issue and people would attend school. In doing so, he was (re)producing negative representations of Indigenous communities, people and cultures. These comments regarding the alleged dysfunctional environment that exists in Indigenous communities and of having to alter the environment where Indigenous peoples live suggest that Indigenous communities must emulate modern Western culture. This would encourage Indigenous peoples to integrate into this modern Western culture that is seen as the mainstream. Both these scenarios indicate that the Indigenous policy approach of the Howard Government was centered on integration.

In the 2007 Alfred Deakin Lecture, Brough indicated that Indigenous communities were losing their culture due to the despair that exists:

... [t]here is nothing palatable whatsoever about what you see and hear in indigenous communities. And unless the rest of Australia actually understands that, the depth of despair that people are in, and the loss of culture that is a direct result of that despair, then we are going to lose not only another generation, we are in fact going to lose the last remnants in many places of what was a very rich culture. (Brough 2007a)

Brough insisted that culture was being lost and it was in danger of being destroyed by dysfunctional behaviour. In contrast, a CRD analysis focuses on ways to support the revival of culture, rather than representations of dysfunctional environments and an emphasis on integrating Indigenous people into mainstream 'Western' culture and Australia's economy. According to a CRD framework, Indigenous culture cannot thrive without the respect of

community structures, which is in direct contradiction to John Howard's response on *Lateline* in June 2007. On the program, PM Howard stated:

... I don't think you can respect power structures in these communities when clearly those structures have failed to deliver the right outcomes. As in always, you've got to pay on results [*sic*]. (Howard, cited in Jones 2007b)

The response by John Howard reflected his belief that all Indigenous communities in the NT were dysfunctional as they did not have in place adequate 'power structures' that had delivered 'the right outcomes'. As a result, Indigenous communities could not be supported and would suffer a loss of culture, as indicated by Brough. Again, Indigenous culture was being represented by John Howard as being inferior. He continued to perpetuate a discourse of community failure and dysfunction.

By applying a CRD framework and the CRT tenet racism as everyday (DeCuir & Dixon 2004, p. 27; Delgado & Stefancic 2012, p. 7; Lawrence, cited in DeCuir & Dixon 2004, p. 27) to this analysis, it can be argued that both Howard and Brough were clearly demonstrating that they believed that Indigenous communities lacked the structures to deal with and overcome social problems that would 'deliver the right outcomes'. Congruently, they both continued to (re)produce a racialised discourse on social problems in Indigenous communities.

In his speech to The Sydney Institute, Howard claimed that Indigenous communities were dysfunctional and that law and order needed to be restored to address this issue:

The level of extreme social breakdown in some communities demands a highly prescriptive approach centred, in the first place, on restoring law and order. Freedoms and rights, especially for women and children, are little more than cruel fictions without the rule of law and some semblance of social order imposed by legitimate authority. (Howard 2007b, p. 71)

This quote revealed how PM Howard viewed Indigenous communities as having no social structures and as being unable to protect 'freedoms and rights'. Howard was (re)producing a racialised discourse that represented Indigenous communities as being in a lawless state, in which children and women needed protection. As was previously argued, however, the Howard Government's policy goal for Indigenous peoples was to integrate them into mainstream Western culture. Howard took a law and order approach in the hope that Indigenous peoples would be able to freely pursue jobs in mainstream society and be able to choose how they would individually contribute to Australia's economy.

Furthermore, a requirement to relocate into the mainstream could mean Indigenous people would need to leave their land. Collective ownership may prohibit Indigenous people to

engage with the mainstream economy (Johns 2008, p. 68). This similarly links with the argument presented by Howard-Wagner (2012a, p. 231) in which she quoted Mal Brough when he presented this Indigenous policy approach under the Howard Government, being centered on land possession, tenancy and utilisation. If this is the case, it would guide the integration of Indigenous peoples into the mainstream, into the real economy and real jobs. However, by relocating into the mainstream, some Indigenous peoples might experience 'locked-in segregation'. This is a concept coined by Daria Roithmayr, who spoke of segregation being locked into place in neighbourhoods, in turn, affecting whether 'non-whites' (or Indigenous peoples in this example) could afford to relocate into 'white' districts (Roithmayr 2004). This can be argued as creating racial inequality, which formed part of the locked-in segregation model (Roithmayr 2004, p. 15). The next section focuses on another key theme in the discourse on the NTER: the representation of Indigenous communities in 'crisis'.

6.4 Representations of Indigenous communities in 'crisis'

Another theme in the NTER discourse was the representation of Indigenous communities as being in 'crisis'. This section firstly discusses the use of emotive language and justification of the Federal Government involvement by linking this to the government's integration-based policy agenda for Indigenous communities. It will then refer to the targeting of 'race' by both John Howard and Mal Brough due to the alleged 'crisis' that existed in some Indigenous communities in the NT.

In an interview for *Lateline* on 25 June 2007, PM Howard focused on the urgent situation that existed in Indigenous communities: 'without urgent action to restore social order, the nightmare will go on. More grog, more violence, more pornography, and more sexual abuse' (Howard, cited in Robertson 2007). This quote demonstrated how John Howard was contributing to (re)producing the racialised discourse on Indigenous social problems. This is especially highlighted by the words 'nightmare' and the statement 'more grog, more violence, more pornography, and more sexual abuse'. This created fear within the broader Australian community in relation to the alleged 'crisis' that existed in some Indigenous communities. It represented Indigenous communities as being inferior to mainstream Australia by normalising the prevalence of social problems in communities and Indigenous people being perpetrators of such issues. Moreover, by escalating the sense of 'crisis', the Howard Government could justify intervening in Indigenous communities in the NT. It was a way for this Government to exploit this 'crisis' by purposefully using this 'rhetoric to significantly alter public perceptions' and 'public policies' to invoke an emergency situation,

and as such, to protect and reinforce its position and rush through legislation to protect Indigenous children from alleged sexual abuse ('t Hart 2008, pp. 158-164).

Brough asserted that the NTER legislative package was 'all about the safety and wellbeing of children' (Brough 2007i, p. 10). This emotive language was part of a 'safe children' narrative that was being used to highlight the sense of 'crisis' in Indigenous communities. Furthermore, in a media release, Brough referred to the abolishment of the permit system in the NT as aiming to improve the conditions for children:

The permit system has not protected communities from the 'rivers of grog' and children from abuse. It has helped create closed communities which can, and do, hide problems from public scrutiny. (Brough 2007g)

Minister Brough's reference to issues of alcohol and child abuse magnified the perceived 'crisis' in Indigenous communities. A 'crisis' narrative was used to justify the extreme measures that were imposed as part of the NTER policy. Brough was (re)producing a racialised narrative that targeted Indigenous communities by representing *only* Indigenous peoples as having issues with alcohol and child abuse.

Minister Brough emphasised a correlation between the issues of alcohol, child abuse and a 'crisis'. Similar to his reference to alcohol above, Brough argued that: 'restricting alcohol is fundamental to tackling abuse in Indigenous communities' (Brough 2007g):

The Government will quarantine various income support payments and direct them to provide basic necessities such as food, clothing and shelter for their children, rather than supporting substance abuse and gambling. The measures relating to the NT are critical to reducing the amount of ready cash available in communities for alcohol, drugs and pornography. (Brough 2007g)

As Brough indicated, the government would take an active role by reducing Indigenous people's rights to decide how to spend their welfare. In this state of 'crisis', all community members needed assistance with deciding how to spend their welfare and on what kind of items. In imposing this measure, the Minister used emotive language such as 'children', 'alcohol' and 'pornography' which heightened the 'crisis' narrative. Minister Brough represented Indigenous communities negatively as he made reference to an alcohol 'epidemic'. According to this quote, he accused Indigenous parents of being irresponsible in caring for their children by not adequately providing food, shelter and clothing, and spending their money on pornography, alcohol and drugs.

An article in *The SMH* on 22 June 2007 illustrated that a crisis existed in Indigenous communities as the Howard Government was intervening and enacting the NTER. John Howard used emotive language in his statement by making reference to 'children' and the

‘interventionist’ nature of the policy; his language highlighted the alleged crisis that existed in some Indigenous communities. In relation to his government’s response, Howard stated:

It is interventionist, it does push aside the role of the territory to some degree, I accept that ... But what matters more, the constitutional niceties or the care and protection of young children? We believe the latter is overwhelmingly more important. (Howard, cited in Peatling & Murdoch 2007, p. 1)

This quote illustrated how Howard saw Indigenous communities as being in ‘crisis’. He represented them as such a catastrophe that the NT Government’s role in addressing this ‘crisis’ situation needed to be disregarded. Moreover, ‘t Hart argued that creating ‘crises’ such as these was what the Howard Government wanted to do as a way ‘to reframe the crisis as a product of prior [NT] government negligence, questioning the government’s timing and, therefore, its motives’ (‘t Hart 2008 p. 166). Howard’s words implied that Indigenous children should be put at the forefront in any government decision and that ‘constitutional niceties’ should not matter. By centring the narrative on Indigenous children, Howard was highlighting that a ‘crisis’ existed in some Indigenous communities and therefore children should be protected. But in linking the importance of care and protection to the exploitation of a ‘save the children’ narrative, he was contributing to a racialised narrative wherein Indigenous communities were represented negatively and in ‘crisis’.

On 21 June 2007, Tony Jones interviewed John Howard on the ABC program *Lateline*. In this interview, Howard again engaged in a ‘crisis’ narrative and alluded to his government taking control of the ‘crisis’ in some Indigenous communities. He justified the Federal Government involvement in the lives of Indigenous peoples, stating:

We’re taking control of the situation. We are going to inject medical treatment. We are going to quarantine in these communities 50 per cent of the welfare payments to make sure that that [*sic*] 50 per cent is spent on food and other essentials. We are going to insist that children go to school. We are going to put drastic restrictions on the consumption and the carriage and the transportation of alcohol. These are central to the problem being satisfactorily tackled. (Howard, cited in Jones 2007b)

The key words from this quote such as ‘control’, ‘inject’, ‘quarantine’, ‘insist’, ‘drastic restrictions’ and ‘tackled’ suggest an interventionist, monitoring and regulatory policy approach by the Howard Government aimed at addressing societal issues. With such words, Howard argued that communities were in a ‘crisis’ and needed to be saved by taking a controlling policy approach. He represented Indigenous peoples as not being able to spend their welfare appropriately, as not sending their children to school and as being ridden with alcohol problems. As such, he was continuing the negative representations of Indigenous peoples and communities. The Howard Government was attempting to create individual responsibility in which Indigenous people could manage their own affairs.

In justifying his government's intervention in Indigenous communities in the NT, Howard and Brough made several statements in relation to the crisis that existed in communities by referring to 'race' and the targeting of Indigenous communities. In a joint press conference with Brough on 21 June 2007, Howard indicated that the problems in Indigenous communities, specifically in the NT, were in an 'emergency' situation. A journalist in this press conference questioned Howard on whether this 'emergency' situation existed in communities throughout the country. Howard argued that the situation in Indigenous communities in the NT was worse than in other parts of Australia:

They are separate issues those two. Look let's not misstate the situation, the grossest examples of this problem, sadly, are to be found in indigenous communities particularly in the Northern Territory. There are examples of it in other indigenous communities in other parts of Australia. There are examples of this sort of thing in many parts of Australia, not as concentrated and therefore not as apparently gross and as distressing as can be found in the Northern Territory. And the point I am making is that the principle will be applied without discrimination but the particular problem and the emergency of which I am speaking is the emergency effecting young Aboriginal children in the Northern Territory which has been identified in this very graphic [LCAS] report. (Howard, cited in Howard & Brough 2007, p. 6)

John Howard was making a racialised reference to communities as being in a state of despair and in a 'crisis', with alcohol flowing and child abuse rampant. A CRD analysis framework, drawing on CRT, can be employed here to argue the prevalence of racism as everyday (DeCuir & Dixson 2004, p. 27). This was because Howard was only representing Indigenous communities in a 'crisis' – not other communities in Australian society. As such, John Howard continued to represent Indigenous communities negatively where a range of social problems was allegedly impacting Indigenous children.

Brough continued to (re)produce the racialised narrative of Indigenous social problems. He racially targeted Indigenous peoples and suggested, based on a reference from a group of Indigenous peoples, that a crisis existed which was associated with attendance and enrolment in education. At the National Press Club on 15 August 2007, Brough discussed the Federal Government's approach with the NTER. In this speech, he quoted a group of Indigenous people who had highlighted that they wanted to be treated like non-Indigenous people in relation to children attending school:

Forget about attendance. Have never been enrolled, between the ages of five and 16. And they said, treat us like white fellas. Some people would see that as racist. I said, what do you mean treat us like white fellas? They said, well, the point is if a white child doesn't go to school, you generally do something about it, don't you? And I said, yes, we do. They said, but when our children in this community don't go to school, no one cares. Well, we have to care, and therefore if we actually have a cause and affect [sic] and we give people responsibility and respect, then that can happen. (Brough 2007c)

Brough was essentially indicating that Indigenous communities were in an educational ‘crisis’. As such, the government sought justification to intervene so that this issue would not continue throughout the coming decades. The expectation that underperformance was *just* an issue with Indigenous students could be viewed as racially discriminatory. In a CRD framework, this is viewed as racialising the ‘Other’ in a similar way that the Indigenous ‘Other’ has been represented in ‘white’ discourse ever since the 1700s (see for example, Moreton-Robinson 2004, p. 76). Willis (2012, p. 82) argued that ‘racial othering’ was still evident and was presented as ‘normative’ through the occupying of ‘whiteness’. Edward Said developed the view of the ‘Other’ through the concept of ‘Orientalism’, a discourse of the West which involved particular beliefs about people of the Middle East. Such beliefs functioned as ways to comprehend unfamiliar individuals and cultures; to make them seem strange and justify the subjugation of particular peoples (Said 1978). By applying this concept of orientalism within a CRD examination to how Mal Brough viewed Indigenous communities, it is clear that he saw them as being racially ‘different’ and in need of being normalised to change their behaviour to match that of non-Indigenous communities.

The 21 June 2007 *Lateline* interview also focused on the obligatory medical checks for Indigenous children as imposed through the NTER policy. Interviewer Tony Jones asked Howard whether required medical tests would only be conducted for every child of Indigenous descent under 16 in Darwin and undertaken with middle-class parentages as well, or just within remote communities (Howard, cited in Jones 2007b). Howard responded by stating:

No, this is in the affected communities that are going to be subject to these different, to this new regime, because that is where the problem has been identified. We’re not clearly going to go into areas where it has not been identified by this report that there is a problem. (Howard, cited in Jones 2007b)

Howard’s response suggested that his government would only be targeting Indigenous communities, in particular, Indigenous children under the age of 16. The Prime Minister was again indicating that Indigenous communities were in a ‘crisis’ by mandating compulsory medical testing to identify signs of alleged sexual abuse in Indigenous children under the age of 16. This targeting suggested that all Indigenous children had been abused, that this was at a crisis level in communities and that the government would be intervening to address this issue. The CRT tenet of racism as everyday (DeCuir & Dixson 2004, p. 27) contained in CRD can be applied to argue that this was a racialised approach. The policy targeted only Indigenous communities as the Howard Government believed that they were the communities that needed this system in place. These communities were deemed to be in

crisis, without taking into consideration whether or not all Indigenous communities should have been affected by this new regime. John Howard represented Indigenous children as being abused and that communities and culture condoned such alleged behaviour. He continued to (re)produce a racialised Indigenous social problems discourse and represented communities, people and culture as inferior to 'Western' culture.

On 25 June 2007, Howard spoke at The Sydney Institute and stated his view about the levels of child sexual abuse in Indigenous communities in the NT: '... abuse does occur in mainstream society, but not on this scale and not in these appalling, virtually inescapable, circumstances. This has nothing to do with race' (Howard 2007b, p. 73). Contrary to Howard's claim that it 'has nothing to do with race', he engaged with and centralised 'race' politics throughout his time as leader of the conservative Liberal Party with nationalism guiding his political standpoint (see for example, Brett 2003; Hage 2003, cited in Moreton-Robinson 2007, pp. 86-87; Markus 2001). Fozdar, Wilding & Hawkins (2009) argue that:

... 'race' is derived from biological definitions of differences between categories of living things. ... Race is the final, or most specific, classification in the biological divisions of living things into kingdom, class, order, genus, species and race. When such a classification system is applied to groups of people, it implies essential, permanent differences, based on biological factors. (Fozdar, Wilding & Hawkins 2009, p. 7)

By making reference to the higher levels of abuse that existed in communities as opposed to mainstream society, Howard was engaging in a racialised discourse and continuing to (re)produce the Indigenous social problems narrative. He made a link between the representation of Indigenous communities as being impacted by abuse and a culture that had failed.

John Howard's narrative demonstrated his government's racialised representation of Indigenous communities in 'crisis' as the basis for intervening with the NTER. The Howard Government stated that they needed to intervene to 'save the children' from sexual abuse and therefore communities needed assistance with addressing issues associated with alcohol, violence and pornography. The 'save the children' rhetoric as created by the Howard Government could have been a deliberate action. This could have been to draw attention away from Indigenous communities that had been neglected in the past – for example, through the neglect of government funding (Fozdar, Wilding & Hawkins 2009, p. 124). By creating this 'crisis', the Howard Government was able to implement and justify intervening in the NT. This justification assisted the government with imposing their Indigenous policy aim of integration in the NT. Furthermore, using children in need of 'saving' gave the Howard Government more leverage in terms of declaring an 'emergency' and intervening in

NT communities. A further study about the Howard Government's representation of the threatening nature of Indigenous communities for children is analysed in the next section.

6.5 Representations of Indigenous communities as a threat to children

Another theme in the discourse relating to the NTER was that Indigenous communities were a threat to children. Mal Brough and John Howard argued that by implementing the NTER, they were protecting Indigenous children from alleged abuse. This abuse then could be monitored and be prevented. The government's views on this matter indicated their underlying Indigenous policy agenda of integration, as well as their racialised views about Indigenous peoples.

The discourse exposed Indigenous social problems in some communities and the effect this had on children. In a speech to The Sydney Institute on 25 June 2007, Howard highlighted the existence of Indigenous social problems by asserting that parents have responsibility for their children. He stated:

This social malaise cannot and should not be seen as just a failure of government. The primary responsibility for the care and upbringing of children must rest with parents and we should be honest and mature enough as a society to recognise this fact. (Howard 2007b, p. 70)

This quote from PM Howard clearly indicated his belief that the majority of the blame should rest with the parents when referring to their responsibility to protect their children from the social problems that exist in communities. Howard indicated he was shifting the blame from the government to Indigenous peoples, and this was made even clearer when he racially targeted Indigenous people by indicating the 'social malaise' that existed in Indigenous communities. Howard was continuing to (re)produce the inferior and racialised Indigenous social problems discourse by indicating that community social problems were a threat to children, because children should be protected by their parents; he was thus representing communities as a threat to children.

In the House of Representatives Second Reading Speech on 7 August 2007, Mal Brough also linked the threat for children's safety with social conditions in communities:

Aboriginal children in the Northern Territory will never be safe and healthy without fundamental changes to the things that make communities dangerous and unhealthy places. We need to dry up the rivers of grog. We need to stop the free flow of pornography. We need to improve living conditions and reduce overcrowding. More houses need to be built and we need to control the land in the townships for a short period to ensure that we can do this quickly. We need to make sure money paid to parents and carers by the government for feeding children is not used for buying grog or for gambling. We need to make sure local shops stock good, affordable food for growing children. We need to show people that there is hope of a life beyond welfare

so that going to school is seen to be worthwhile. We need to show people it is possible to own and control your own house, which can only happen when you have a lease over the land it is built on. (Brough 2007i, pp. 10–11)

In Brough's view, Indigenous communities suffered from a range of social problems; the government could therefore intervene to improve community standards. In the statement above, Brough made several references to 'children' and the importance of protecting children from community social problems. Although he did not clearly suggest that Indigenous communities were a threat to children, he did, however, make a link to the vast array of Indigenous social problems, inferring that communities were a threat to children if these problems were not addressed. Brough was (re)producing a model of Indigenous communities and people as inferior, representing them as unsafe, unhealthy, as being plagued by alcohol and pornography, as having poor living standards, and as irresponsible parents unable to care for their children. He argued the importance of modernising Indigenous communities to make them similar to non-Indigenous environments.

Another key statement made by Minister Brough at the National Press Conference on 15 August 2007 indicated the allegedly deplorable conditions of Indigenous communities which has impacted on Indigenous children:

We can talk about land rights, we can talk about permit systems or we can actually deal with the difficult core issues of children being raped, babies with gonorrhoea, children having their absolute hearts ripped out by people who are supposed to be people of authority, and we can say, no more. If we do that, then we, as a nation, can look ourselves in the eye again. So many people have come up to me with a sense of relief. They have said, I've seen this, I've been a teacher, I've seen this and I've reported it and nothing's happened. They felt powerless. We have no excuse as a nation to feel powerless anymore. (Brough 2007c)

Brough used the words 'raped' and 'gonorrhoea', representing Indigenous children as being sexually abused. He also made reference to children feeling betrayed by people with power in communities. Allegedly this behaviour was reported to Mal Brough by people who had witnessed it, who were relieved that finally a Government had acted to address such behaviour. He represented Indigenous communities as a threat to children.

The second of the themes that link Indigenous communities being a threat to children related to the economic threat. In a media release on 21 June 2007, Brough quoted Galarrwuy Yunupingu, Indigenous leader from Arnhem Land in the NT, as saying that he felt that Indigenous land had a substantial amount of economic prospects. Brough went on to state:

This is an important discussion that needs to continue to occur and the Australian government is committed to this continuing discussion. Without economic development, there will be no jobs and no future for Aboriginal children. (Brough 2007d, p. 3)

According to the Minister, if Indigenous communities were not improved economically there would be no creation of jobs. In turn, the future of Indigenous children would be dismal and communities could not be normalised. Brough's reference to 'economic development' and 'jobs' indicated the Federal Government's integrationist policy approach to Indigenous affairs. Brough suggested that Indigenous communities needed to be transformed into spaces that would include job prospects and real jobs, in turn, allowing Indigenous peoples to integrate and contribute to Australia's economy. If they were not transformed, then they would continue to be an economic threat to children. This perspective continued to (re)produce a racialised narrative on Indigenous social problems.

In a speech to the House of Representatives on 7 August 2007, Brough discussed the prospect of locating jobs and feasible economies to address the problem of child sexual abuse. He questioned:

What do viable economies and jobs have to do with preventing child abuse? Unemployment and welfare dependency may not cause abuse, but a viable economy and real job prospects make education meaningful and point to a life beyond abuse and despair. Currently, there are too few jobs in these communities and land tenure arrangements work against developing a real economy. (Brough 2007i, p. 11)

Brough was asserting that real jobs in the real economy could provide a practical way of addressing child abuse. Real jobs needed to be created in the mainstream economy to overcome this abuse. Minister Brough associated Indigenous communities and people with child abuse and despair, unemployment and welfare dependency; he blamed arrangements with land tenure as a contributor to this situation. In discussing 'welfare dependency', Cronin (cited in Moreton-Robinson 2007, p. 185) stated that Indigenous people are vilified due to the loaded term of 'welfare dependency': they 'are blamed for their very low social economic status because they choose not to think, behave and live like people in mainstream society'. This is consistent with Brough's attempts to (re)produce the racialised discourse on Indigenous social problems, viewing Indigenous people and communities as inferior to mainstream Australia.

In an interview on the ABC radio program *PM* on 6 August 2007, Brough commented on the five-year leases and the abolishment of the permit system that formed part of the NTER policy: 'There's been a removable from the real economy. It's led to a closed community mentality with greater opportunities for abuse, not less' (Brough, cited in Bradford 2007). In the previous year, Brough's intention to scrap the permit system was reported in *The Age* on 13 September 2006 (Peatling 2006a, p. 5; Schubert 2006, p. 3). This early indication to scrap the permit system highlighted his future intentions with the NTER policy to open communities up to entering the real economy in Australia's mainstream, to not only create

real jobs, but to restrict abuse. In Brough's view, the permit system had contributed to closing and restricting access to Indigenous communities, which has thus prevented the identification of this alleged abuse. Brough commented on the ABC program *PM* that the permit system – which required permission for entering some Indigenous communities – had disconnected communities from the real economy. The Federal Government's policy approach would be centred on communities being opened up to the mainstream so they could contribute to the economy; it would therefore allow Indigenous peoples to obtain a real job. This is in line with the Howard Government's integration-based policy.

In separate *Lateline* interviews, Howard and Brough linked alcoholism with threats to children. Howard made this link on 6 August (Howard, cited in Jones 2007b); Brough made a similar statement on 7 August (Brough, cited in Jones 2007a). These two examples from *Lateline* episodes on 6 and 7 August 2007 indicate a third theme: that the prevalence of alcohol within Indigenous communities is a risk to Indigenous children. The Prime Minister argued that the issues in Indigenous communities were worse compared with non-Indigenous communities:

I just want to say that we have been presented with the most compelling evidence of total failure in a society and I mean, there is nothing worse than to see little children denied just a few years of childhood innocence and that essentially is what is happened in these communities. I'm not saying it hasn't happened in other communities and I'm not saying it's only in Indigenous communities that this sort of things happens. I know enough of life to recognise that's not the case. But these are the most egregious examples, the most squalored [*sic*] concentration you can find in our community of these sorts of things. The recipe, the causes of it are obvious. The alcohol problem is overwhelmingly at the root of it and so often in the past we've said, 'Oh well we know that,' but you can't really in modern Australia say people can't have alcohol? Yes, you can say that, if the result of them having alcohol is the degrading of children. It's just a question of priorities. (Howard, cited in Jones 2007b)

Similarly, Brough believed Indigenous communities were a threat to children due to the existence of social problems, in particular alcohol abuse. Tony Jones questioned Brough on whether the government's intervention represented a 'new paternalism' in Indigenous communities, a concept written about by Tony Abbott (Jones 2007a). In response, Brough stated:

Give it the name that you like, it's irrelevant, it's the outcomes that matter. The outcomes that matter to me are that the children tonight who aren't safe will be in the days ahead, that the grog will stop and the gambling will be reduce [*sic*] and that the people will have a future. If people want to call it paternalism and they want to say it's wrong, that's for them to do so. I'm not hung up about terms, Tony. (Brough, cited in Jones 2007a)

By discussing the problems in Indigenous communities and none of the issues that existed in non-Indigenous communities, Brough's comments targeted just one group. They were

engaging in a racialised discourse as their language presented and represented a destructive image of *only* Indigenous communities. The Howard Government designed a policy directed at Indigenous peoples and not non-Indigenous peoples, despite the Prime Minister admitting that non-Indigenous people were also to blame for the social problems that existed in Indigenous communities in the NT. Howard and Brough admitted that the social problems in Indigenous communities (alcoholism in this example) were a threat to Indigenous children. Howard indicated that alcohol could be restricted in ‘modern Australia’ if it led to the debasing of children in communities; Brough argued that paternalism should not matter when addressing alcohol issues in some Indigenous communities. From an historical perspective, however, paternalism has not efficiently functioned for Indigenous peoples and that they have a lengthy history with governments assuming to know ‘what is best’ (Bielefeld 2014, p. 287, 292).

The discourse about Indigenous communities being a ‘threat to children’ was linked to the lack of economic opportunities and disengagement with mainstream Australia. Howard put forward his government’s integration-based agenda in relation to why the Intervention was imposed by making reference to the abolishment of the permit system:

We have a simple aim and that is whilst respecting the special place of Indigenous people in the history and the life of this country, their future can only be as part of the mainstream of the Australian community. Unless they can get a share of the bounty of this great and prosperous country, their future will be bleak. (Howard, cited in *ABC News* 2007c)

Howard expected Indigenous people to individually contribute to the Australian economy, locate employment and be free from government control in the mainstream. By referring to Indigenous children suffering and communities threatening their welfare, John Howard was able to justify his interventionist approach, as well as his government integration-based policy agenda to Indigenous affairs. In doing so, Howard was (re)producing a racialised discourse and representing Indigenous communities negatively, as he believed that they needed to integrate into the mainstream to participate in the real economy. Similarly, Gibson concluded that Howard accused Indigenous peoples and their traditions, customs, and beliefs for the issues that existed in communities; the failure of self-determination meant that the only approach was integration into the mainstream (Gibson, P 2009a).

The discourse related to targeting only Indigenous communities. Howard used a variety of words to explain his reaction to the LCAS report such as ‘save’ when referring to Indigenous children affected by social problems and ‘restore social order’ in relation to overcoming social issues (Howard 2007b, p. 69). In relation to overcoming these issues, Howard also

used the expression ‘take over’ (Howard 2007b, p. 69). This referred to his government having a responsibility to impose control over Indigenous communities to address these communal issues. The phrase ‘restore social order’ implied that all Indigenous communities needed this restoration to be able to function like non-Indigenous communities and to overcome these issues. Howard believed that only Indigenous peoples needed this restoration and not any other group in society. The ‘take over’ expression highlighted Howard’s idea of assuming control over Indigenous communities in an attempt to fully normalise communities, a belief in line with his government’s Indigenous policy agenda of integration. It can be argued that to normalise communities was to make them like non-Indigenous communities. This was to make certain that Indigenous peoples living in these communities could contribute to Australia’s economy by obtaining a real job. The use of the expression ‘save’ referred to Howard’s belief that all Indigenous children needed rescuing from the communities in which they resided. This illustrated the (re)production of a racialised narrative on Indigenous social problems. The PM targeted only Indigenous children, representing Indigenous communities as a threat to children.

In a speech on 25 June 2007, Howard used the opportunity as a way to further target Indigenous communities in the NT and linked this targeting to children living in these communities:

Tonight, in our rich and beautiful country, there are children living out a Hobbesian nightmare of violence, abuse and neglect. Many are in remote indigenous communities in the Northern Territory. To recognise this is not racist. It’s simply an empirical fact. (Howard 2007b, p. 69)

The words ‘in our rich and beautiful country’ are emotive – they evoke nationalist pride. In addition, Howard stated that ‘there are children living out a Hobbesian nightmare of violence, abuse and neglect’ (Howard 2007b, p. 69). Howard’s reference to the political philosopher Thomas Hobbes highlighted his belief that children were living in a Hobbesian ‘state of nature’, thus in a ‘nightmare’. In other words, according to Hobbes, children rather than men in this example, were ‘engaged in a constant struggle for power and scarce resources’, in an environment with ‘innate anti-social tendencies which only an authoritarian sovereign could hold in check’ (cited in Goodwin 2007, p. 38). As such, Howard convinced the public that Indigenous children, living out a ‘nightmare’ in their own communities, did not have the adequate resources to overcome social problems, thus needed to be ‘saved’ by his authoritarian government intervention. Thus, he contributed to the (re)production of a racialised Indigenous social discourse and the deficient representation of communities. He represented communities as being violent, neglectful and abusive environments from which

Indigenous children needed to be freed. Howard denied that his comments about Indigenous children living in a 'nightmare' in NT communities were racist. He argued that he was positively discriminating against a 'race' of people to make the public aware of the alleged social problems that existed in some Indigenous communities in the NT. Howard was only directing this comment to one cultural group in Australian society. His comments made no other reference to other groups in society that might have experienced similar issues.

On 22 June 2007, *The Age* published an article that focused on preserving the innocence of Indigenous children due to the abuse that they had endured since birth. Howard stated:

We are dealing with children of the tenderest age who have been exposed to the most terrible abuse from the time of their birth and any semblance of maintaining the innocence of childhood is a myth in so many of these communities. (Howard, cited in Schubert et al. p. 1)

This quote indicated that John Howard believed that there was a strong prevalence of child sexual abuse in Indigenous communities. Therefore, Indigenous children would need protecting from these communal issues. As Howard took this view, he was again continuing to (re)produce a racialised narrative as he represented Indigenous communities as a danger to children, as child sexual abuse had impacted them since their birth. This inferior construction of Indigenous communities privileged the racialised discourse which perpetuated 'race' and racism. Another key theme that was identified in the literature was the representations of welfare as the problem.

6.6 Representations of welfare as the problem

The final theme that was identified in the Howard Government's NTER discourse was that Indigenous communities were blamed for relying on welfare and the Community Development Employment Projects (CDEP) to gain employment. This employment program was created as a substitute to government assistance and was to provide and create paid community-based employment opportunities for participants (Altman & Jordan 2009, p. 1). CDEP was abolished in urban centres on 1 July 2007 as part of the government's push for Indigenous people to find mainstream employment as it was a deterrent to achieve this outcome (Altman & Sanders 2008, p. 1). As such, this was an attempt to encourage Indigenous peoples to contribute to Australia's economy. Cape York Indigenous leader Noel Pearson supported the abolishment of CDEP, but other Indigenous and non-Indigenous peoples opposed the scrapping of this system.

CDEP was a program introduced in 1977 (Altman 2004, p. 43; Sanders 1998, p. 145) by the Fraser Federal Government (Altman 1997, p. v). It was designed to create employment to

provide an income for Indigenous people (Altman 2013, p. 20); individuals participating in this scheme were able to work for their welfare payments within Indigenous communities where 'labour markets' were non-existent (Moreton-Robinson 2009, p. 76). In addition, it was designed to tackle the issue of excessive unemployment in remote communities (Altman, cited in Howard-Wagner 2008, p. 62). The scheme allowed participants in Indigenous communities to be employed on a full - or part - time basis (Altman 2013, p. 20). Working on a part-time basis suited some Indigenous participants as they could earn an extra wage by engaging in other cultural activities, such as in the Arts. Moreover, CDEP allowed participants to continue to live close to or on country to practice languages and traditions (Altman & Nieuwenhuysen, cited in Altman 2013, p. 20; Hunter & Gray 2012).

There was strong opposition to the CDEP from the Federal Government, especially from Minister Brough, who argued that Indigenous communities' reliance on this scheme prevented 'real' employment opportunities and created welfare dependency. Minister Brough (2007h, p. 11) stated that many Indigenous communities ended up relying on the employment program. Brough argued that this scheme would need to be abolished to allow the Howard Government to impose their integration policy-based approach to Indigenous communities:

While CDEP has been a major source of funding for many Northern Territory communities, it has not provided a pathway to real employment, and has become another form of welfare dependency for many people. Instead of creating new opportunities for employment, it has become a destination in itself. It has also in too many cases been used as a substitute for services that would otherwise be the responsibilities of governments – services that should be provided through full-paid employment. To support the Australian government's Northern Territory emergency response, the CDEP program in the Northern Territory will progressively be replaced with real jobs, training and mainstream employment services. (Brough 2007j, p. 6)

Brough's statement above identified the Federal Government's reasons for its opposition to the employment program and outlined their plans to integrate Indigenous peoples into mainstream Australian society. He argued that the program did not provide Indigenous participants with opportunities for real jobs in the economy, as they were not employed on a full-time basis, and that it instead created an avenue for Indigenous welfare dependency. As such, the program needed to be abolished and replaced with mainstream job services and opportunities.

In the Senate on 20 September 2007, the Australian Government responded to a Community Affairs Committee Report by highlighting what real jobs might look like that Indigenous peoples might transition into from CDEP. From a Federal Government perspective, the problem with CDEP was that it did not provide opportunities for participants to contribute

to the 'real' economy in the mainstream. The Federal Government stated that there would be opportunities for Indigenous peoples to work in remote and rural settings in carer positions. This was one of the Federal Government's solutions to creating real jobs and adhering to their Indigenous affairs integration policy approach. It was detailed that:

The 2007-08 Budget includes funding of \$8.5 million over four years to provide 120 Indigenous Australians with the opportunity to gain continuing jobs working in community care in place of positions previously subsidised through the Community Development Employment Projects (CDEP) program. This includes 30 positions in remote areas under the National Respite for Carers program and 90 in regional and urban areas in the Home and Community Care (HACC) program. The conversion of CDEP positions into continuing jobs will contribute to the development of a stable and skilled workforce in rural and remote areas. (Pyne 2007, p. 138)

As indicated above, Minister for Ageing, Christopher Pyne, stated that Indigenous peoples would have the opportunity to engage with the workforce by transitioning from the CDEP program to a job such as a carer. Hughes and Warin (2005, p. 15) argued that CDEP amounted to 'sit down money' which affected the formation of real employment chances for individuals. This could have been a main reason why the Howard Government decided to abolish this successful scheme and transition individuals to 'real' jobs as carers. Minister Pyne did not, however, stipulate how much funding would be directed to these positions over four years.

By abolishing the CDEP scheme in the NT, a joint press release between Mal Brough and Joe Hockey, the Minister for Employment and Workplace Relations during this time, stated that it would be replaced with 'real jobs, training and mainstream employment programmes' (Brough & Hockey 2007). Furthermore, it was also stated that:

These changes will mean a renewed focus on helping Indigenous people to become work ready, assisting them find jobs both within and outside their communities and improving their work related skills through education, training and work experience. (Brough, cited in Brough & Hockey 2007)

As argued by Altman, this meant that either Indigenous peoples would take part in the mainstream in the real economy or be on welfare (Altman 2013, p. 20). However, Altman (2010, p. 260) argued that, in order to locate employment, in some cases these individuals would have needed to move away from their communities to locate a job in the mainstream (Altman 2010, p. 260). Therefore, only a limited number of Indigenous people would have had the skill sets and a job available to them after the CDEP had been abolished. Moreover, this would create competition in the mainstream. A racialised discourse of Indigenous communities was (re)produced due to this perspective as communities were represented as being places with limited job opportunities and disconnected from the 'real' economy.

There were several debates surrounding the value of CDEP. One argument was that the employment scheme was positive as it provided some Indigenous peoples with occupations and a salary. Yet, some criticised the scheme for its failure to deliver to Indigenous people the prospect of being employed in a 'real' job in the mainstream and being free from reliance on a government employment program. Amalgamating and extending his previous works from 1998 and 2001, Sanders (2006, p. 4) contended that CDEP had been 'successful' and 'popular', and that 'all CAEPR [Centre for Aboriginal Economic Policy Research] research indicates that CDEP has had a positive impact on Indigenous employment, whether using census or national survey data' (Altman & Sanders 2008, p. 2; Manderson 2008, p. 250). Therefore, Indigenous peoples were able to, and could have had the opportunity to, be employed and obtain an income by working within this program.

There were both positive and negative responses from Indigenous peoples to the Howard Government's proposal and abolishment of the CDEP scheme. An Indigenous voice in support of the winding up of the CDEP program was Aileen Moreton-Robinson: 'keeping Indigenous people on CDEP does two things: it hides the real levels of unemployment and creates exclusion from the economy' (Moreton-Robinson 2009, p. 76). Moreton-Robinson argued that the abolishment of CDEP would shed some light on how drastic the unemployment statistics were in some Indigenous communities.

Indigenous oppositional voices were heard in the Senate on 13 August 2007 by Senator Bob Brown who read out a statement from leaders in the NT. This provided a counter-narrative to the Howard Government's racialised representation of CDEP by privileging Indigenous perspectives. Brown summarised:

The Government's decision to terminate the CDEP and replace it with social security arrangements will affect a majority of those people living on Aboriginal land. The detrimental impact of this new policy will be to force people into townships and communities where Aboriginal housing and services are drastically inadequate and create further dysfunction in those populations. Their policy of making social security entitlements conditional on school attendance and other factors will also contribute to a large transmigration with disastrous potential. (Brown 2007, p. 87)

As this statement suggested, Indigenous voices in the NT who were opposed to the CDEP being abolished felt that the scheme provided some Indigenous peoples with stable community-based employment, which allowed them to be paid while at the same time further developing work-related skills. Thus, the scheme allowed them to continue to live on country and contribute to their local communities. By revoking this program, Indigenous community members believed that some Indigenous peoples would need to leave communities to relocate to more regional areas that might not have adequate services.

Although there were oppositional Indigenous voices, the main arguments about the program's abrogation were linked to the 'normalisation' of Indigenous communities and the issue that there might not have been enough 'real' jobs to transition into. Brough claimed: 'the reforms to CDEP in the Northern Territory are a key part of normalising Indigenous communities, providing opportunities to create real economies and job opportunities in Aboriginal townships' (Brough, cited in Brough & Hockey 2007). As noted by Altman and Sanders, however, this transition was centred on:

... a euphemism for employment funded by the public sector. In reality there are insufficient public sector positions in the NT (estimated at about 2000) to provide employment exits for between 7,500 and 8,000 CDEP participants. (Altman and Sanders 2008, p. 4)

This is despite, as noted by Altman and Sanders (2008, p. 4), the need for participants of CDEP to leave this program into "real jobs" in the 'real economy'. This could have created a significant problem as a high percentage of Indigenous CDEP participants could have become unemployed due to insufficient available jobs.

The Howard Government's NTER replaced CDEP with the Structured Training Employment Projects (STEP) program, which was designed to put Indigenous peoples in employment and or provide them with the necessary skills for future employment opportunities (Department of Employment and Workplace Relations 2006, cited in Howard-Wagner 2008, p. 62). Indigenous people would then attain employment skills, locate jobs, in some cases away from their community, which could force them into larger cities or townships, in turn integrating into the dominant Australian society. This would make certain that they would become normalised and have 'real' jobs and be contributing to the mainstream economy.

Over a month later, on 20 September 2007 in the House of Representatives, Brough made a Second Reading speech outlining the *Families, Community Services and Indigenous Affairs and Other Legislation Amendment (Emergency Response Consolidation) Bill 2007*. In this speech, he outlined that this had in fact already occurred. In relation to the positive response to Indigenous people's lives that the abolishment of CDEP had contributed to in the communities of Impanpa and Finke located in the Northern Territory (NT), he stated that:

The process of quarantining welfare payments in the first four communities has been completed. Over 20 people previously on CDEP at Impanpa and Finke have now converted into real jobs in health care, child care, night patrols and municipal services. (Brough 2007d, p. 2)

The comment above identified the positive aspects of abolishing this program. It maintained the Government's position of abolishing this employment program to transition Indigenous peoples into 'real' jobs. Furthermore, it demonstrated the process of normalisation whereby

Indigenous people were being trained in ‘real’ jobs, and were able to spend their money in the ‘real’ economy the way it is perceived by the norm of the population.

In a speech at The Sydney Institute on 11 October 2007, as PM Howard argued: ‘the central goal is to address the cancer of passive welfare and to create opportunity through education, employment and home ownership’ (Howard 2007a, p. 107). Similarly, Liberal MP Nigel Scullion made a reference to passive welfare being negative and argued that accountable behaviour should be the norm (Scullion 2007, p. 16). Scullion further suggested that passive welfare was a ‘poor substitute’ and that it took away the responsibility of people on passive welfare to address their own problems. Likewise, Noel Pearson suggested that ‘the passive welfare paradigm’ did not provide opportunities for individuals to enter into the ‘real’ economy (Pearson, N 2011, pp. 151-152; Duhs & Davidoff 2009, p. 28). These comments by both Howard and Scullion and supported by Pearson indicated the importance they placed on Indigenous peoples not engaging in the passive welfare system and rather being transitioned into ‘real’ jobs. Both advocated for integration into the mainstream in order to find ‘real’ jobs away from the ‘passive welfare paradigm’. However, this continued to (re)produce negative representations of Indigenous communities as being linked to employment failure and Indigenous people being passive welfare participants. They were perpetuating a discourse of poor employment and home ownership opportunities and irresponsible behaviour.

The Howard Government believed that Indigenous peoples on CDEP lacked a legitimate path to employment opportunities. Indeed, in their view, it encouraged people to become dependent on welfare which is oppositional to an integrationist economy. A twofold binary was created between what the Federal Government defined as ‘real’ employment and welfare-dependent schemes like CDEP. On 7 August 2007 in the House of Representatives, Brough read for the second time the *Social Security and Other Legislation Amendment (Welfare Payment Reform) Bill 2007*. This Bill contained key references to the Federal Government’s agenda with the NTER: Indigenous people were to find ‘real’ jobs in Australia’s economy in the mainstream, and welfare was to be discouraged as it created issues with employability. Minister Brough stated that:

We have strengthened the important principle that those on welfare who can work should seek work, and asked those receiving welfare for longer periods to re-engage through Work for the Dole. This bill builds on these important directions by extending the mutual obligation framework and reinforcing an appropriate balance between entitlements and responsibilities in our society. (Brough 2007j, p. 1)

The words in Brough's statement – 'seek work', 're-engage', 'entitlements' and 'responsibilities' – all demonstrate the importance of Indigenous people engaging with the workforce in order to seek employment. Closely linked to this employment approach for Indigenous peoples was the mutual obligation framework, which indicated that people should not receive 'something for nothing' (Kinnear 2002, p. 249). Mendes argued that this concept is somewhat connected to dependence on government assistance (Mendes 2008, p. 106). This related to making sure that Indigenous peoples would be employed instead of receiving government unemployment benefits, receiving 'something for nothing'.

These statements illustrated that the integration policy agenda of the Howard Government linked the 'necessary' abolishment of CDEP to the attainment of 'real' jobs in mainstream Australia. This has been determined through Mal Brough measuring the success of the policy on transitioning people from welfare to work. The Federal Government wanted Indigenous peoples off CDEP and working in a real job. The Federal Government's agenda would be realised at the point when Indigenous peoples working in these real jobs would be contributing to Australia's mainstream economy. This approach was made even clearer when Howard admitted on 11 October 2007, at The Sydney Institute, that his government's aim was:

... for Aboriginal Australia to join the mainstream economy as the foundation of economic and social progress. This is at the heart of the work the Australian government is pursuing under the Federal Minister Mal Brough's leadership. (Howard 2007a, p. 107)

Furthermore, as the employment program was abolished, the rights of Indigenous peoples to enter the job market and attempt to locate paid employment was one of the aims of the Howard Government's NTER policy. In addition, it can be argued that the Howard Government wanted Indigenous peoples to acquire a job to contribute individually to the economy. The next section will analyse Indigenous oppositional, supportive and ambivalent voices in relation to CDEP and the NTER by drawing on a CRD framework.

6.7 Privileging Indigenous responses to the NTER

There were some strong oppositional, supportive and ambivalent Indigenous voices on the NTER. This section will use these various narratives by making reference to Indigenous voices, an important counter-narrative to the discourse surrounding the NTER. As Mesikämnen (2013, p. 37) argued, Indigenous peoples that lived under the NTER rarely had

a presence felt in a quote, even if they were for or against the policy.⁵⁹ As was also argued in previous research, within the mainstream media there had been an absence of ‘Indigenous voices and ways of telling stories’ and a lack of focus on narratives with a link to the concerns of the Indigenous population; rather, the emphasis was connected to dispute, change and nonconformity (McCallum 2010; Meadows 2001b & Mickler 1998, cited Mesikämnen 2016, p. 722).

It should be noted that there were both Indigenous and non-Indigenous opinions and ‘voices’ from communities, reflecting a variety of positive, negative and ambivalent views about the NTER (Willis 2012, p. 88). It is beyond the scope of this thesis to cite every Indigenous voice that focused on the NTER. Therefore, in line with a CRT approach of privileging marginalised voices, this section will provide a sample of various Indigenous views, although these do not necessarily reflect all the views of Indigenous people living in communities that were affected by the NTER. Some of these views centred around viewing the NTER as positive, especially in relation to the increase of law enforcement in places that did not have this in the past, the banning of alcohol, and addressing health and housing amenities. Those that were not in support of the policy, however, viewed the management of income or the suspension of the RDA as negative (Kacha 2009, p. 10; Thill 2009, p. 541). This section will discuss these various Indigenous voices by utilising a CRD framework, giving a space for marginalised voices in society to provide a counter-story.

There were several oppositional Indigenous voices towards the NTER that can be linked to various themes. The CRT tenet of ‘racialised narratives as significant and telling’ can be drawn upon and linked to these Indigenous voices as they are given a space to be heard. The centering of these Indigenous perspectives is in line with ‘Indigenist research’ (Rigney 1999, p. 116). This kind of research engages with a variety of issues such as historical genocide and stories of survival and resistance (Rigney 1999, p. 117). This means that these oppositional voices were given a space to provide alternative viewpoints of the NTER policy. These Indigenous voices were from Michael Mansell, Patrick and Mick Dodson, Pat Anderson, Mick Gooda and Larissa Behrendt (Solórzano & Yosso 2002, cited in DeCuir & Dixon 2004, p. 27).

⁵⁹ Nicole Watson (2011a) argued that feminist scholars considered how some of the measures of the NTER impacted on Indigenous women’s day-to-day lives. She noted that scholars need to analyse how they engage with research and how they contextualise various experiences by these women in line with interventions at a state level. In doing so, she made reference to important feminist responses from various Indigenous women about the NTER (see for example, Watson, N 2011a, pp. 152-155).

A key argument from Patrick Dodson and Larissa Behrendt was that the NTER was ideologically driven. In *The Age* on 21 June 2007, Yawuru man Patrick Dodson wrote an opinion piece that focused on his opposition to Howard's Intervention. Dodson claimed that there needed to be a response to addressing child welfare in Indigenous communities, but he stated that the priority of addressing this issue was 'undermined by the Government's heavy-handed authoritarian intervention and its ideological and deceptive land reform agenda' (Dodson, P 2007a, p. 9). In the same speech, Dodson commented on the Howard Government's Indigenous social policy agenda and again linked it to ideology:

Reforming indigenous land title is central to the Howard Government's national indigenous policy program: an agenda that has been swept along by an alliance of established conservative forces that have long opposed Aboriginal self-determination and land rights with more recent and strident ideological thinking associated with free market economics and notions of individual responsibility. (Dodson, P 2007a, p. 9)

Similarly, Indigenous law academic Larissa Behrendt was directly quoted in an article from *The Age* in which she furthered her opinion about the Intervention being linked to the Howard Government's ideology (Behrendt, cited in Chandler 2007, p. 5). Likewise, on 25 August 2008, Behrendt wrote an opinion piece in *The Age* which similarly criticised the ideological nature of the Intervention:

Howard's agenda to fix the 'Aboriginal problem' was a series of ideologically led policy approaches – assimilation and mainstreaming, mutual obligation and shared responsibility, unlocking Aboriginal community-controlled land so that it could be accessed by non-Aboriginal interests, the beliefs that home ownership is the panacea to intergenerational policy, and that all the 'real Aborigines' live in the north. (Behrendt 2008b, p. 13)

Indigenous leader Mick Gooda proposed a similar ideological agenda to Dodson and Behrendt above, but instead focused on Indigenous land rights. He stated that the government should:

... engage with incentives rather than punishment. Anything we do to protect our kids I will support. We've got to be hard on our own mob ... I just hope this isn't a Trojan Horse to destroy land rights in the Northern Territory. (Gooda, cited in Schubert et al. 2007, p. 3)

Pat Anderson, an Indigenous woman and one of the lead authors of the LCAS report, delivered a social justice lecture on 24 June 2009 about some of her impressions about the NTER. Pat Anderson made linkage to the ideology-driven agenda of the Howard Government with the NTER policy, pointing out that:

This ignorance of the history and realities of Aboriginal life, and the disregard of the evidence of what works in such situations of disadvantage, seemed to me to be key feature of the Intervention and those who led it. But whatever the real motivations behind the Intervention, one thing I know for sure: it was not the welfare of Aboriginal

children and communities alone that drove it. All sorts of these other agendas were at play: political positioning, ideology, electoral advantage, and good old-fashioned arse-covering. (Anderson, P 2009, p. 22)

These viewpoints indicate an important counter-discourse to why the Intervention was imposed by the Howard Government. By providing a space for these marginalised voices, Howard's racialised NTER narrative is disrupted. Importantly, these voices foreground the issue with the NTER policy being ideologically driven as opposed to it being merely designed to save the children and address the alleged child sexual abuse.

Another critique of the NTER was that it was going to create some significant issues for Indigenous peoples and destroy some aspects of their culture. These issues were highlighted in the article by Dodson discussed above, where they were described as cultural genocide. Dodson stated that:

Australians should try to imagine the consequences of the cultural genocide that the Howard Government's Northern Territory intervention foreshadows. Withdrawal of funding and welfare pressures on homeland communities will cause a drift of population to larger communities. Social problems will simply be transferred. The inevitable breakdown of law and order will result, followed by an increase in arrests and incarceration. (Dodson, P 2007a, p. 9)

In November 2007, Indigenous leader Mick Dodson condemned the government for breaking the human rights treaties that Australia is signatory to and discriminating on the basis of 'race'. He also made reference to the distortion in the media of the causes of the government response. Similarly, Indigenous leader Michael Mansell made reference to the concept of 'race' that had driven the Intervention, stating that the Howard Government was employing the 'race card' in relation to the NTER (Mansell, cited in McManus & Packham 2007, p. 2). Mick Dodson said of the Intervention: 'this is not an intervention, it's an invasion of people's rights and liberties. The only positive is that it is a recognition of government failure' (Dodson, cited in Kingston 2007, p. 1). He went on to recognise that the Intervention was racialised and that the media had not reported appropriately about this. He declared that:

This is racist action not for the purpose of helping children, but to wedge political opponents ...What troubles me most is the racial discrimination and the incapacity of the media to be outraged by this. Why are we ready to allow this to happen? (Dodson, cited in Kingston 2007, p. 1)

Further in his speech, Mick Dodson similarly alluded to his views in relation to the media reporting about the Intervention. He stated:

Australians think it's about protecting kids. The lazy media let that happen. And if you put your head up you get called a child abuser yourself. You get abused for saying, 'Hang on a minute, can we talk about this?' (Dodson, cited in Kingston 2007, p. 1)

These critical points created an alternative discourse that focused on 'race' and human rights. According to a CRD framework of analysis, Mick Dodson and Michael Mansell's views disrupt and problematise the racialised aspects of the NTER.

Other key themes coming out of the discourse were the lack of consultation and engagement by the Howard Government with Indigenous communities when designing the NTER policy, as well as the controlling top-down nature of the policy. In the speech noted above, Anderson asserted that the recommendations in the LCAS report were not considered in Howard's Intervention: 'our key recommendation about working with Aboriginal communities was ignored' (Anderson, P 2009, p. 17). Her speech compared the LCAS and NTER approach to working with Indigenous people: 'where we emphasised the need for resources and for flexible processes of engagement with Aboriginal families and communities, the Intervention emphasised external control and 'blanket' provisions affecting all Aboriginal people' (Anderson, P 2009, p. 17). Similarly, Noel Pearson believed that consultation with Indigenous leaders was essential for the NTER legislation: 'the difference between disaster and success will depend on whether Brough and Howard will engage with ... the traditional leaders of the NT on a way forward' (Pearson, N cited in Chaney 2007, p. 15). In the speech noted above, Patrick Dodson similarly highlighted the controlling aspect of the NTER policy and the lack of consultation with Indigenous peoples:

The authoritarian and paternalistic nature of the Howard Government's intervention will inevitably fail. There is no strategy for collaboration and partnership with Aboriginal people. This is an Iraq-style of intervention with no exit strategy or plans for long-term economic and social development. (Dodson 2007a, p. 9)

These various oppositional viewpoints demonstrated the importance of a CRD approach as Indigenous voices are heard as a counter-narrative to comprehend 'the lived experiences ... [or experience of] ... people of color' (Griffin 2011, p. 2). Furthermore, these voices offer a counter-story to the dominant government discourse behind the NTER.

There were Indigenous voices that supported or were ambivalent towards the NTER or a specific special measure that formed part of its policy. The CRT tenet of 'racialised narratives as significant and telling' will provide the supportive Indigenous voices to be heard on the NTER by Warren Mundine, Marcia Langton, Bess Price, Noel Pearson and Galarrwuy Yunupingu.

On 22 June 2007, *The Age* published an article that highlighted how Indigenous leader Warren Mundine was encouraged by the Howard Government's Intervention, but also indicated his ambivalence toward it. He stated: 'it is a national emergency, it is across

Australia, it needs a national response. People can't use anti-discrimination legislation to protect pedophiles'. Despite this, Mundine demonstrated ambivalent views about the NTER policy: 'but I have reservations about how far the Government is going' (Mundine, cited in Schubert et al. 2007, p. 3). Mundine's comment presumably referred to the range of special measures that were included as part of the NTER policy package.

Indigenous leader and academic Marcia Langton was in support of the Intervention and argued that the Federal Government's suspension of the RDA was valid (Karvelas 2008, p. 2). Langton stated that 'the racial discrimination argument holds that if a person is treated differently, then that is racist; well, that's just nonsense' and 'if a person lives in racially different circumstances then different measures are required' (Langton, cited in Karvelas 2008, p. 2). A year earlier, Langton wrote an opinion piece in the *SMH* in which she stated that the Intervention was not 'a political ploy' for a land takeover or a 'Trojan Horse'; rather, the policy was 'inevitable' (Langton 2007, p. 13). Bess Price, an Aboriginal leader from Central Australia, also supported the NTER. 'Racialised realities as contextual' is useful to be applied to her reaction here, as it provides a framework to comprehend 'the lived experiences ... [of] people of color' in relation to living under the NTER (Griffin 2011, p. 2). She stated on the ABC television program *Q & A* that:

I am for the intervention because I've seen progress. I've seen women who now have voices. They can speak for themselves and they are standing up for their rights. Children are being fed and young people more or less know how to manage their lives. That's what's happened since the intervention. (Price, cited in Jones 2011)

Some Indigenous leaders such as Noel Pearson supported abolishing the CDEP scheme, a key special measure that formed part of Howard's NTER. Pearson, N (2007b, p. 28) supported the integration approach associated with the abolishment of CDEP for Indigenous peoples to contribute economically and live in mainstream Australian society. This could be because Indigenous peoples who were on this program were not prepared for 'real' work in mainstream society. In his view, the jobs in the CDEP program were not real jobs and did 'not lead to careers in the real economy' (Pearson, N 2007b, p. 28). This view was similarly reflected by Galarrwuy Yunupingu (Duhs & Davidoff 2009, p. 27). Furthermore, Pearson argued that:

In remote communities everyone is guaranteed easy, relatively well-paid part-time work in CDEP. Young people on CDEP face several disincentives against taking up an entry-level real job or traineeship. Their hourly pay rate would initially fall. They would have to conform to the discipline and discomforts of mainstream work and training; they would need to triple their work hours, and perhaps relocate. (Pearson, N 2007b, p. 28)

This statement by Pearson suggested that he and Yunupingu believed that the CDEP scheme provided barriers for Indigenous people to locate ‘real jobs’. Pearson argued that people on this scheme were not able to earn an increased wage and by being on this scheme, they were not able to experience and therefore have an understanding about ‘real work’ conditions. By indicating his disapproval of CDEP, it can be argued that Pearson advocated for its abolishment, in turn, partially supporting the NTER. Moreover, Pearson supported measures such as improved safety, law and order, and the tackling of alcohol issues (see for example, Pearson, N cited in Curchin 2015, p. 587).

These Indigenous voices were just some of many that indicated support, opposition or ambivalent views on the NTER, as was also highlighted in Chapter Two of this thesis. This section has provided an important space for these Indigenous views to be heard in order to disrupt, problematise, or support the racialised discourse on the Howard Government’s NTER policy.

6.8 Conclusion

The NTER was a far-reaching Indigenous social policy developed and imposed by the Howard Government in 2007. In order for this policy to be imposed, Australia’s RDA 1975 had to be suspended. In total, the policy finally included 12 special measures that ranged from welfare reforms, compulsory school attendance, the banning of pornography, and five-year leases over Indigenous land, to the abolishment of CDEP. The then Howard Government argued that the NTER was implemented to restore ‘social order’ in Indigenous communities in the NT. It was described as a three-stage process that was to ‘stabilise, normalise and exit’ Indigenous communities.

This chapter analysed and problematised key speeches, media releases, ABC radio broadcasts, newspaper articles and Hansard reports predominantly from John Howard and Mal Brough on the NTER. These publications were drawn upon to analyse the key political discourse behind the justification of the NTER. In doing so, however, this chapter argued that these politicians were contributing and (re)producing a racialised discourse on Indigenous social problems. The key racialised discourse identified represented Indigenous communities as dysfunctional, as in a crisis, and as a threat to children, and represented welfare as problematic to integration.

It was argued that these politicians racially and negatively represented Indigenous communities with their use of wording, and that their policy agenda was to integrate Indigenous peoples into mainstream Australia. This was to normalise Indigenous

communities in order to locate 'real' jobs and contribute to the Australian economy. Specifically, within a CRD framework these arguments were linked to the CRT tenet of 'racism as an everyday phenomenon' which highlighted that racism is widespread in society and is a daily event (DeCuir & Dixson 2004, p. 27). This framework provided a space to analyse the dominant racialised discourse behind the NTER policy and question the ideological rhetoric behind the Intervention.

Another CRT tenet of 'racialised narratives as significant and telling' was employed in this chapter and was used to centre Indigenous perspectives that might have not been available when the policy was first announced and implemented, and while it was in practice. It has been argued that Indigenous views on the NTER were positive, negative and ambivalent. These voices provided a counter-story, but did not necessarily reflect some of the viewpoints from Indigenous peoples living in communities that were directly affected by the NTER policy. Nonetheless, these voices provided an important discourse which problematised, disrupted and reinforced the NTER policy.

7. Conclusion

7.1 Introduction

The recent ABC *Four Corners* program in late July 2016 reported on the mistreatment and abuse of Indigenous children in the Don Dale youth detention centre in Darwin in the NT (Meldrum-Hanna, Fallon & Worthington 2016). Some media reporting centred on this issue being well known for an extended period of time in the NT (Wild, K 2016), along with previously published events of a similar nature in a prior *Four Corners* report (Graham 2016). Important questions were raised in the late July 2016 report. These included: had the ABC broadcast reported on this abuse several years ago, would the NT or Federal Government have responded at that time? What influence did the 2016 media reporting have on governments to address this ‘crisis’? These questions presume that both the NT and Federal Government still do not act unless there is public pressure to do so.

The 2016 media reporting contributed to the announcement by PM of Australia Malcolm Turnbull that a Royal Commission would be established to investigate the incidents at the Don Dale centre (Doran & Dunlevie 2016). There was significant public debate on why Indigenous organisations were not consulted about the proposed Commission and the terms of reference for the Commission, while the NT Government had been consulted (Fernandez 2016). This highlighted a lack of consultation with Indigenous groups, reflecting a similar approach by the Federal Government nearly ten years after the Intervention was first announced. Furthermore, the exposure of such alleged Indigenous abuse in Darwin indicated that children are still at risk, but this time the alleged perpetrators are non-Indigenous ‘white’ males in authority positions. The alleged abuse toward Indigenous children in the NT is what pressured the NT Government to establish an Inquiry in 2006 which led to the design and imposition of the Howard Federal Government NTER policy in 2007. By establishing a Royal Commission in 2016, the Turnbull Government stepped into NT jurisdiction without allowing the NT Government to independently establish an inquiry. A significant question is: why didn’t the Howard Government establish a Royal Commission following the *Lateline* reports or the release of the LCAS report? Why did they instead opt to send in the military and other government personnel into Indigenous NT communities?

Despite some preliminary issues, the approach of the Turnbull Government to investigate predominantly Indigenous abuse in the detention centre in Darwin with a Royal Commission could pave the way for future Federal and NT Governments to deal with an apparent ‘crisis’

in the NT. These commissions might present solutions to these issues, as opposed to designing and imposing a racialised policy without consultation.

7.2 Background to the NTER policy

The Howard Government's Northern Territory Emergency Response policy targeted 73 Indigenous communities throughout the Northern Territory (Kramer 2015, p. 127). The communities targeted were considered remote and compulsorily acquired by the Howard Government via a legislative mandate to protect children from sexual abuse. The NTER subsequently sent in the military to stabilise and normalise the situation. The Howard Government utilised its power over Australia's Constitution to intervene in the NT Government's jurisdiction. The policy was based on 'race' as it applied to only Indigenous communities in response to the *Little Children are Sacred* (LCAS) report recommendations. However, there was a minimal link between the LCAS recommendations and what was contained in the NTER legislation. This report was the outcome of the Inquiry into the Protection of Aboriginal Children from Sexual Abuse, commissioned by the NT Government in 2006. The Inquiry was established by the NT Government, led by the then Chief Minister Clare Martin in response to media reporting of the alleged Indigenous social problems in the Central Australian Aboriginal community of Mutitjulu. The policy was devised predominantly by the then PM John Howard and Federal Minister for Families, Community Services and Indigenous Affairs Mal Brough. The Howard Government claimed that not enough was being done by the NT Government to address Indigenous child sexual abuse. As such, an emergency response was declared to deal with what it characterised as a crisis situation.

7.2.1 Negative narrative on Indigenous people led to the an integrationist approach

Based on this research, it is argued that a racialised discourse formed the basis of the NTER policy that positioned Indigenous culture as inferior to Western mainstream Australia. This approach privileged and (re)produced a racialised and integrationist discourse that was based on 'race' and had racial foundations that linked the view of Indigenous communities as dysfunctional, in crisis, and as a threat to Indigenous children and welfare. In addition, it blamed Indigenous culture for problems in communities. This discourse advocated for the integration of Indigenous communities into the mainstream.

7.2.2 Key problems with the 'solution'

This thesis argued that the policy was designed to be part of a Federal Government takeover of Indigenous communities across the NT Government's jurisdiction with minimal

consultation. It was imposed across all Indigenous communities with no recognition that social problems might also occur in other communities or that only some Indigenous peoples were involved in such abuse. In order to implement this policy, the government had to suspend Australia's RDA 1975 which was problematic as the vulnerable groups would not be legally protected from racial discrimination. Moreover, it was situated as a 'practical' answer for Indigenous people at the cost of rudimentary human rights and social justice (Ford, cited in Ford 2013, p. 96). Before the policy was imposed, it was described by some Indigenous leaders such as John Ah Kit as 'the beginning of the end of Aboriginal culture – it is in some ways genocide' (Ah Kit, cited in ABC News 2007b). It was argued by other Aboriginal leaders such as Yunupingu (cited in Robinson 2009, p. 1) that certain special measures from the NTER policy instigated a method of apartheid (Watson, I 2009a, p. 1). Lauren Mellor, from the 'Intervention Rollback Action Group', also defined some of the special measures as being akin to apartheid because they targeted certain groups, publicly segregating those on welfare by restricting and quarantining in store spending (Mellor, cited in Coady 2010; Gibson, P 2009b, pp. 23-25). This thesis has added to these claims by arguing that a key problem of this 'solution' was that the policy was designed in a way that was unjust as it was founded on a policy of integration based on 'race'.

7.2.3 Focus on the additional problem: government motivation

When the Howard Government announced the NTER policy, it was a surprise to many in Indigenous communities across Australia and the wider Australian community. This followed the added pressure by *Lateline* and other media reports on the government to address an alleged crisis that existed in Indigenous communities in the NT. The unprecedented decision to send in the military was a response to claims of child sexual abuse and violence toward Indigenous women.⁶⁰ However, in suddenly implementing the NTER, the Howard Government demonstrated its negative perception of Australia's first nations people located in the NT. The NTER was unexpected in that the Howard Government had shown little initiative in Indigenous affairs from the time of the Government being elected in 1996. This was evident in a lack of resources and funding in Indigenous affairs and to the NT Government. This thesis has sought to address the question of why, at the end of eleven years in power, the Howard Government suddenly designed and imposed sweeping measures upon NT Indigenous communities.

⁶⁰ There are continuing high levels of domestic violence toward Aboriginal women in Central Australia (see for example, Nine News 2016; Maddocks 2016; Kerin 2016).

In the first section of this chapter, I summarise the main arguments from the research and situate the argument within the discourse on the NTER and my theoretical framework. These main arguments focus on what the continuation of the NTER looked like after 2007 under both the Rudd and Gillard Governments, and recommendations for future research. I conclude this chapter with a discussion about what alternatives are possible and ideas for future Indigenous policy development in Australia.

7.3 Integration and the Howard Government's Indigenous policy approach

The research has focused on the timing of the Howard Government's implementation of the NTER and the lack of response to many previous government and non-government reports in the lead-up to the NTER. It is argued that this is primarily because such reports did not align with the preferred policy of integrating Indigenous peoples into mainstream Australia. The thesis examined the level to which findings about Indigenous communities prior to and during the Howard Government's political terms in office were known about.

The research analysed whether the NT or Howard Government contributed to the reported 'crisis' through the lack of funding, or neglect, in the key policy areas of health, housing, education and employment. Applying a CRD framework and a social justice perspective, the research examined the LCAS report findings and recommendations and the Federal Government's discourse behind the NTER policy. This framework contrasted the Federal Indigenous affairs policy initiatives, with its emphasis on the integration of Indigenous peoples into mainstream Australia, with key counter-narratives to contrast how the NTER policy represented the 'problems' in communities.

It was argued that the NTER sought to integrate Indigenous peoples into mainstream Australia as the NTER focused on individuals becoming part of the wider Australian economy with 'real' jobs. In some cases, this would require Indigenous peoples gaining employment, being off welfare, purchasing houses and being part of the mainstream economy. The research contrasted the representation of Indigenous peoples, communities and culture in the LCAS report with the representations in the NTER policy.

7.4 The racialised representation of Indigenous communities, people and culture

The research argued that the *Lateline* narratives represented Indigenous communities, culture and peoples in the NT as being deficient to 'mainstream' culture. It is argued that the negative representations of Indigenous people and culture in the media continued to (re)produce the racialised discourse. Even in 2016, such negative representations were produced in

mainstream newspapers when a Bill Leak cartoon raised controversy over its representation of Indigenous fathers. The cartoon depicted a drunken Indigenous father forgetting his child's name in response to an older Indigenous man's remark: 'You'll have to sit down and talk to your son about personal responsibility' (Leak 2016, p. 15). However, the Leak cartoon was reminiscent of other media depictions of 'Indigenous pathology' dating back over a century. *The Bulletin* cartoons of the late 1800s frequently (re)produced this racialised narrative about Indigenous peoples in order to promote the White Australia Policy. However, this inferior representation indicating an 'Indigenous pathology' of a 'drunken' Indigenous person in the media was a regular story for over a century in promoting the White Australia Policy beginning in the late 1800s in previous publications such as *The Bulletin* (Meadows, cited in Moreton-Robinson 2009, p. 70). Although the *Lateline* narratives are now over ten years old, it is evident that the racialised media reporting about Indigenous peoples, communities and culture continues to be (re)produced and to be privileged in the Australian media.

By imposing the NTER, the Howard Government advocated an integration approach toward Indigenous policy. This thesis has argued that the key discourse by John Howard and Mal Brough reflect their negative perceptions and racial representations of Indigenous communities, peoples and culture. From this perspective, an integrationist intervention into communities was seen as not only the 'practical' response but also crucial. This thesis identified that there were several narratives within the discourse on the NT Intervention that John Howard and Mal Brough were engaging in which labelled Indigenous communities as dysfunctional, in crisis, and as a threat to Indigenous children, along with blaming welfare for problems in communities.

My theoretical approach entitled Critical Race Discourse (CRD) sought to combine the Critical Race Theory (CRT) tenets of the 'permanence of racism', 'racialised narratives as significant and telling', and 'social justice'. In addition, Critical Race Discourse Analysis (CRDA) and Critical Discourse Analysis (CDA) was adopted as the methodological basis for the research. This provided ways to examine the discourse of 'race', racism and integration in the NTER policy, and its use by Howard and Brough.

The CRT tenet of 'racism as everyday' was utilised to analyse the discourse more closely, as a way to argue that both Howard and Brough were targeting Indigenous people in the NT. This thesis argued that there is racially discriminatory language in some of this discourse. Howard and Brough asserted that the integration of Indigenous peoples into the wider society would be the key to overcoming Indigenous social problems. Chapter Six highlighted the

responses from Indigenous leaders to the NTER policy 'as significant and telling', providing a counter-story for marginalised voices to disrupt the normalised discourse of the NTER within a CRD framework. This thesis argued that these tenets are important as they offer a framework of analysis that provides a space for the various Indigenous responses to the NTER policy. The thesis suggests that an area for possible future research would be the interviewing of people in Indigenous communities, which would provide counter-stories to the racialised media and government discourse.

7.5 The continuing of the NTER post Howard Government

Although the Howard Government designed the NTER policy, there was limited time from the date of its introduction to when Howard lost the 2007 Federal election in November of that year. Following the defeat of the Howard Government, the Rudd Government was elected and linked the NTER to the 'Closing the Gap' (CTG) campaign (Gray, S 2015, p. 5). The 'CTG' title and campaign continues to racialise Indigenous peoples. This occurs through the negative and destructive socio-economic indicators that encompass this campaign, measuring aspects of Indigenous peoples' lives against non-Indigenous society. The CTG campaign essentially labels Indigenous peoples as 'behind'.

Other than endorsing the CTG campaign, Kevin Rudd apologised to the Stolen Generations in early February, 2008. The Australian Government signed the UN Declaration of the Rights of Indigenous peoples in 2009 (Partridge, Maddison & Nicholson 2012, p. 23). Under Kevin Rudd's leadership, it was determined that a review of the NTER policy should be conducted after twelve months of the policy being in place. This review was completed in June 2008 which led to the release of a 130-page report in October 2008. The review, by Peter Yu, Marcia Ella Duncan and Bill Gray, made three main recommendations, one of which was to reinstate the RDA 1975. The government did this with the introduction of two Bills in Parliament in 2009 (Calma 2009, p. 21).

Julia Gillard was elected leader of the Australian Labor Party (ALP) in June 2010 and one of the first major steps taken by her government was to affirm the RDA in relation to the NTER policy. The RDA was successfully reinstated on 31 December 2010. The special measures that formed part of the NTER policy or CTG as it was referred to during this period under Labor, had similarities with the special measures that were developed under the Howard Government. Some of these similarities included income management, alcohol and pornography restrictions and welfare quarantining (Wilson 2011, p. 1). The NT Intervention remained in place even though it was seen as predominantly discriminating against

Indigenous peoples. This was achieved by extending income management which was transformed to eliminate its universal solicitation and to aim it at vulnerable people (Dillon 2013, p. 230). In addition, this extension was also targeted at people who had been receiving it for a prolonged period of time, as well as people who request it as a way to position it on a non-discriminatory foundation (Dillon 2013, p. 230). Integration continued as an objective in policy while consultation with Indigenous communities was seen as an important way forward.

The Gillard Government's consultation with Indigenous communities in 2011 set out priorities for the Stronger Futures policy which was to replace the NTER policy (Dillon 2013, p. 231). The Government released a Stronger Futures discussion paper during the same year which outlined a lack of data and evidence in support of the NTER legislation and measures (National Congress of Australia's First Peoples 2012, p. 10; Watson, N 2012, p. 28). It has been argued that the consultations that were initiated by the Gillard Government were problematic (see for example, Watson, N 2012, p. 28; Partridge, Maddison & Nicholson 2012). These consultations were conducted with Indigenous peoples and other Territorians, asking for ideas on new approaches for the future, beyond the NTER expiry date of 2012. This was a process that was accepted by the Labor Government following the release of a report by a Review Board in 2008 (Hemming 2010, p. 442).

The subsequent Stronger Futures consultation report, released in October 2011 following the Stronger Futures consultations, proposed some future directions to the implementation of this new legislation and provided a summary of the feedback received in community and public meetings on building stronger futures for Indigenous people in the Northern Territory (see for example, Stronger Futures in the Northern Territory Report on Consultations 2011). It found that the NTER policy should be replaced with the Stronger Futures legislation, which expanded alcohol restrictions, continued to prohibit customary law and cultural practice in bail and sentencing, suspended the permit system and prohibited explicit and violent material, among other measures (Schokman 2012, p. 17). On 23 November 2011, three Stronger Futures legislative Bills were introduced into the House of Representatives. The suite of legislation was similar to the NTER, however it included measures such as alcohol and pornography restrictions and the abolishment of the permit system (Pazzano 2013).

This Act came into effect on July 16 2012 and will expire in 2022 (Watson, N 2015, p. 89). Despite attempting to 'close the gap' between Indigenous and non-Indigenous health, education, and employment outcomes, among other socio-economic areas, the 2016 CTG report highlighted that there were still areas of Indigenous disadvantage which were not

being met. Some of these areas included Indigenous employment and high incarceration rates (Commonwealth of Australia 2016). Similarly, the 2016 *Overcoming Indigenous Disadvantage: Key Indicators* report found that there were some minor improvements in health and life expectancy; however, Indigenous disadvantage had increased overall, especially in areas of higher rates of self-harm and imprisonment (Steering Committee for the Review of Government Service Provision 2016).

7.6 Ten years since the imposition of the 2007 NTER

This subsection notes some of the various special measures encompassed within the 2007 NTER reflecting on the available data on this policy ten years after the implementation of the policy. This evaluates the effectiveness of the 2007 NT Intervention in meeting the original objectives and indicates that a disparity existed between what was promised and the available statistical data measuring key socio-economic outcomes. It is argued that based on the available data, the special measures have failed to meet their stated aims.

2017 marks ten years since the Howard Government implemented the NTER policy. Since 2007, there has been an extensive range of literature with a focus on the NT Intervention. As discussed previously in this thesis, the NTER policy promised to address Aboriginal disadvantage and the alleged child sexual abuse and violence toward women. However, a report published in 2015 which analysed the NTER, and whether the Close the Gap (CTG) targets had been reached, concludes that overall targets such as employment and economic contribution, and reduced incarceration rates were not being met (Gray, S 2015, pp. 12-14, 26-27). Further, the underlying neo-liberal agenda has not enhanced the protection of human rights. For example, Melinda Hinkson argues that the NT Intervention has contributed to a loss of independence throughout Indigenous communities (Hinkson 2017). Similarly, non-Indigenous people within government have also criticised that the NT Intervention has been and continues to have ongoing obstructive consequences for communities. The current Federal Indigenous Affairs Minister, Nigel Scullion, stated that the NT Intervention was defective:

I think it would have been far better to do some of the same things with the full compliance of the community rather than the community having the sense that it was imposed on us, so yes of course we could have done it better. (Scullion, cited in Everingham 2017a)

Similarly, Warren Snowden, the current Federal Labor Member for Lingiari in the NT on the ABC television show *Q & A* in July 2017, also negatively commented about the NT Intervention. He stated:

... I think that the Intervention was a disaster. And I think the major reason it was a disaster was it disempowered people. It took away any respect they had for government because government decided we're going to bring in the Army and we're going to take complete control. We're going to compulsorily acquire leases for townships. We're going to make you do what we want you to do. And it demonised men in a way which is still causing great difficulty for men. (Snowden, cited in Trioli 2017)

The 2007 NTER has not had a positive outcome for most communities in the NT. For example, in an ABC online report, it stated that as part of the NT Intervention, 18 million dollars was set aside for additional police employment and to build more police stations (Everingham 2017b). However, ten years on, one-third of the police stations set up under the policy do not currently have officers staffing the stations and five of the 18 police stations built under the intervention do not have permanent police officers (Everingham 2017b). Even though the Howard Government made a financial promise to invest more resources into law and order with the imposition of the NT Intervention through the specified law enforcement special measure, law administration for most Indigenous communities has not improved.

Sara Everingham, in an ABC online publication, highlights that the NT Intervention did not positively affect child protection, as data indicates that the policy has not made a difference in this area (Everingham 2017a). A significant failure of the intervention was that it did not focus on appropriate engagement with the community (Everingham 2017a). The original promise of 'protecting the children' from alleged abuse (Brough 2007g; Partridge 2013, p. 400) was not met. The available data indicates that the 'crisis' as represented in the discourse on the NT Intervention a decade ago, has not improved and in most instances has worsened, as higher rates of children are being removed. The removal of Indigenous children in the NT continues to rise steadily (Bardon 2017). By way of an example, during 2011-2012 700 Indigenous children were removed while in 2015-2016, there were a staggering 1,020 taken away (Northern Territory Government 2016a, p. 18). In addition, 89% of child removals that are in out of home care are Indigenous (Bardon 2017). It would seem that Indigenous children are being taken on alleged claims of neglect (Zillman 2017). Although not all the data is readily available regarding the exact outcomes for Indigenous communities during the period in which the NT Intervention was in place, it is possible to point to key socio-economic indicators that had not had a positive impact that can be linked to the special measures.

Data indicates that the employment gap between Indigenous and non-Indigenous people is not decreasing, including in the Northern Territory. The 2016 Closing the Gap (CTG) report showed that there was still high unemployment rates in existence (Commonwealth of Australia 2016). In addition, the Indigenous employment figure ranged from 53.8% in 2008

to 48.4% in 2014/15 with the gradual withdrawal of the CDEP in June 2015 contributing to a lowering of Indigenous employment (Commonwealth of Australia 2017, pp. 53 - 54). Further, in the years 2014/15 the unemployment figure for Indigenous people between the ages of 15-64 was 20.8%, approximately 3.6 times of the non-Indigenous employment rate. In very remote localities, unemployment was double that of Indigenous people in large cities (Commonwealth of Australia 2017, p. 56). While the Liberal Government promised as part of the NTER special measure that abolishing the CDEP would result in Indigenous people being transitioned into 'real jobs' in the mainstream, this has not occurred, as data indicates the widening of the unemployment gap.

Another key indicator relates to health. One of the key special measures introduced in the NTER policy was medical checks of Indigenous children below the age of 16. According to academic Stephen Gray in July 2015, the area of health had been or were on track to being met (Gray, S 2015, pp. 15-20). However, this finding is in opposition to what the 2017 CTG report highlighted. For health, the 2017 CTG report highlighted that life expectancy for Indigenous people is not on track to being met in terms of closing the gap with non-Indigenous people by the year 2031 and Indigenous mortality rates between 2006 and 2015 have not had a significant change (Commonwealth of Australia 2017, pp. 81-82). Furthermore, in the Northern Territory from 2011-2015 the same report stipulated that it had the uppermost mortality rates for Indigenous peoples, amounting to 1, 520 per 100,000 of the population, and the most major gap with the non-Indigenous population (Commonwealth of Australia 2017, p. 82). As has been clearly outlined by this data, a number of health outcomes for Indigenous peoples in the NT have become worse since the imposition of the NT Intervention in 2007. As such, the special measure of the medical examinations of Indigenous children under the age of 16 encompassed in the 2007 NTER policy did not meet its stated aim. The aim in this special measure to address the disparity between health outcomes in Indigenous and non-Indigenous people ultimately failed, even though this special measure related specifically to Indigenous children and identifying alleged sexual abuse.

What was originally promised in one of the twelve special measures in the NT Intervention through the quarantine of welfare payments to families if they did not send their child to school has not led to an improvement in school attendance as a policy outcome. The 2017 CTG report, stated that in terms of meeting education outcomes, there was almost 10% difference between attendance rates for Indigenous (83.4%) and non-Indigenous (93.1%) students, and no real change for Indigenous attendance from 2014 to 2016 between States

and Territories (Commonwealth of Australia 2017, p. 36). This is despite Gray, S (2015, pp. 15-20) conclusion that the area of education was on the path to being met or had been heading in this direction. In addition, a NT annual report from the Department of Education also demonstrated that from 2011-2015 there was a limited change in attendance for Indigenous students attending senior, middle and primary schools in Government schools (Northern Territory Government 2016b, p. 58). However, in non-Government schools in the NT during the same timeframe and in the same year levels, there was a minor Indigenous student attendance increase (Northern Territory Government 2016b, p. 63). Further, in 2016 Indigenous attendance was lower compared with non-Indigenous people for all educational year levels (Commonwealth of Australia 2017, p. 37). This data highlights that the NTER special measure which focused on increasing educational attendance and linking this to welfare, did not have an overall positive result for Indigenous children attending schools.

By way of an example, Indigenous woman Kylie Sambo spoke about one of the special measures of the NT Intervention, welfare quarantining, which continues to be rolled out throughout other Australian jurisdictions such as in Ceduna in SA, and has continued to be criticised ten years on in the NT about its effectiveness. For instance, Sambo, who was placed on welfare quarantining when she was 16 and lived under the NT Intervention, highlights her views about the basics card which was issued through welfare quarantining. Her quote highlights that there is still strong resistance to the NT Intervention. Sambo stated that:

...When they do find out what that card is they're going to be looking at us differently, like 'oh, that person is an early school leaver' for myself, or 'that person has been in jail', or 'that person has problems with their kids, they're on the welfare'. (The Government) now has the power to put 80 per cent into the basics card and only 20 per cent into your account. Do you know how that feels? That feels very hurtful and very disrespectful to us — because you're here in our country. We're sharing this country with you, and yet you're still treating us like this. (Sambo, cited in Pearson, L 2017)

Although there were not any special measures designed as part of the NT Intervention to specifically address suicide and imprisonment rates, it can be argued that since the imposition of the NT Intervention policy, the rates of suicide have increased. However, a significant approach with the intervention policy centred on law and order. For example, one of the special measures linked to an increase of policing levels. It can be argued that by including this special measure as part of the NT Intervention, it can be presumed that the Howard Government sought to address crime in communities, and presumably to prevent the incarceration of Indigenous people. However, as proven below, there were increases in crime and suicide which indicates that a focus on law and order as a special measure was a failure.

In an article by Paddy Gibson he analysed some of the key socio-economic areas that related to the NT Intervention, and argued that ten years since the imposition of the intervention areas such as youth suicide and imprisonment continues to rise, school attendance has not increased, unemployment has risen and family violence has not dwindled (Gibson 2017). The 2017 CTG report also indicates that, nationally, Indigenous suicide rates are double that of non-Indigenous people (Commonwealth of Australia 2017, p. 85). Suicide is another socio-economic factor that the 2017 CTG report highlighted as being at a detrimental level for Indigenous people. For instance, it was stated that the rates of suicide are double for Indigenous people compared with non-Indigenous people, and 71% of suicides during 2011/15 were Indigenous males (Commonwealth of Australia 2017, p. 85).

In addition, the 2017 CTG report also showed that Indigenous people are extremely overrepresented in prisons and in 2016 a staggering 27% identified as Indigenous in the prison systems across Australia (Commonwealth of Australia 2017, p. 61). In the 2016 CTG report it also indicated high incarceration rates (Commonwealth of Australia 2016). The 2017 CTG report also highlighted that in 2014/15 21.8 % of men over the age of 35 of Indigenous background had reported that they had been incarcerated at some point in their lives, and that this amount increased in remote localities to 31% and in extremely remote environments to 27.2%. In addition, the CTG report exhibited that the Indigenous imprisonment rate in Australia is 13 times that of non-Indigenous people and since 2006, has increased by 42% (Commonwealth of Australia 2017, p. 95). These aforementioned statistics clearly indicate that the special measure of increasing policing levels to potentially limit crime and therefore incarceration in Indigenous communities, as well as suicide, had not been successful nearly ten years after the imposition of the NTER. The data suggests these key socioeconomic areas increased throughout this time period. Importantly, however, the 2017 CTG report stated that stable employment could be a positive way ahead to break high incarceration rates amongst Indigenous peoples (Commonwealth of Australia 2017, p. 61).

Another socio-economic area that the 2017 CTG report showed was the gap between home ownership and over crowdedness which continues to exist. This is even though one of the key special measures that formed part of the NTER policy was to alleviate overcrowding and build more stable and safe houses through improving communal living. For instance, nationally, there is a large gap between Indigenous and non-Indigenous home ownership, with 68% for non-Indigenous people owning their own home, versus 30% for Indigenous people (Commonwealth of Australia 2017, p. 97). This data indicates that the Howard Government's push with the 2007 NTER policy for Indigenous peoples to integrate into

mainstream Australia by owning their own home has failed. Furthermore, the CTG report also shows that Indigenous peoples are three times more likely to live in an overcrowded house. In addition, housing condition is also of concern with 18% of Indigenous households having an unacceptable standard of living and 37% of Indigenous occupants in houses in remote areas suffering from significant structural issues (Commonwealth of Australia 2017, p. 96). What was promised with the NTER policy in 2007 to improve and develop housing at a community level was unsuccessful.

As the above examination suggests by drawing on the data, it clearly shows that in reality these key socioeconomic areas that were supposed to be addressed by a range of special measures with the imposition of the NTER in 2007, have continued to disadvantage Indigenous people in the NT. As such, the original special measures failed to meet their stated aims.

7.7 Original contribution to the academic debate on the NTER

Chapter Three examined the key findings and recommendations from government publications. It argued that recommendations from government publications, such as the importance of Indigenous empowerment, self-determination, community-led programs and joint partnerships between communities and governments, focused closely on Indigenous rights. The Howard Government did not support such a policy and sought to introduce a policy that placed an emphasis on integration.

Chapter Four discussed the significance of the ABC *Lateline* broadcast narrative, which focused on the Central Australian Aboriginal community of Mutitjulu.⁶¹ Reactions by the media and the Australian Parliament had a direct influence on the NT Government who responded with a Board of Inquiry into the Protection of Aboriginal Children from Sexual Abuse. It is argued that the *Lateline* broadcasts raised awareness of Indigenous social problems in NT communities that resulted in an inter-governmental summit and a policy/community services inquiry. The broadcasts and evidence were found to be questionable, providing an inaccurate portrayal of Indigenous communities, exacerbated by

⁶¹ Senator Nigel Scullion on 8 December 2016 stated that a sublease had been approved over an area in Mutitjulu and that it would provide opportunities for administration over land, development in an economic sense and decision-making at a local level (Scullion 2016). This recent approach by the Government indicated the continuation and government support of the integration of Indigenous peoples and communities into the mainstream, especially through financial independence, home ownership and economic expansion.

the appearance of Mal Brough and Gregory Andrews. This chapter contrasted these negative representations with counter-storytelling that privileged marginalised voices.

Chapter Five discussed some of the key findings and recommendations in the LCAS report, drawing on the CRT tenet of ‘social justice’. The Howard Government would not have supported the recommendations from the LCAS report as they focused on Indigenous rights. Generally, the rights-based recommendations from the report included self-determination, empowerment, community-led programs and community consultations. This contrasted with the Howard Government’s emphasis on integration in policy that had been adopted in Indigenous affairs. This chapter included analysis of how Indigenous peoples, communities and culture was represented in the LCAS report, including a counter-narrative to how the NTER policy represented the problems in communities.

Chapter Six expanded on previous research by Macoun (2011; 2012), who focused on the representation of Aboriginality as a threat to children of Indigenous descent. The chapter added further to the research by Partridge (2014) who specifically linked the racialisation of Indigenous peoples, communities and culture to their representation as inferior to non-Indigenous society. The thesis expanded on both Partridge’s (2014) and Kennedy’s (2013) emphasis on the use of Indigenous voices. It also focused on two similar narratives by Lovell (2012c), which are representations of Indigenous communities in the NT as dysfunctional and Indigenous communities in ‘crisis’. Chapter Six analysed another theme in the discourse – the problem of welfare-dependence in communities. It is argued that, based on this discourse, Howard and Brough racially targeted Indigenous communities and introduced a policy approach that sought to integrate Indigenous peoples into the mainstream.

The CRT tenet of ‘racism as everyday’ highlights the permanence of racism in society. Chapter Six placed an emphasis on this to examine the discourse from Howard and Brough, and the Howard Government through policy. It argued that both John Howard and Mal Brough engaged in a racialised discourse focusing on the concept of ‘race’ in relation to Indigenous peoples and communities. The chapter sought to focus on the Indigenous voices in relation to the various reactions to the imposition of the NTER. It found that there were positive, negative and ambivalent views amongst Indigenous peoples regarding this policy.

7.8 Recommendations for future research

Aden Ridgeway highlighted the links between policy design and Indigenous control over decision-making: ‘Indigenous disadvantage can only be improved when Indigenous people are given greater control over the decisions that impact on their daily lives’ (Ridgeway 2003,

p. 188). Similarly, Yunupingu argued for the centrality of Indigenous involvement in framing policy:

There is no one in power [in state or federal government] who has the experience to know these things. No one speaks an Aboriginal language let alone has the ability to sit with a young man or woman and share that person's experience and find out what is really in their heart. They have not raised these children in their arms, given them everything they have, cared for them, loved them, nurtured them. They have not had their land stolen, or their rights infringed, or their laws broken. They do not bury the dead as we bury our dead. (Yunupingu 2008, p. 37)

Similarly, Sol Bellear argued that there has been a lack of understanding regarding Indigenous affairs policy and Indigenous peoples, communities and culture, which is similar to Yunupingu's position. Bellear pointed to a *sustained* discourse about the deception of saving Indigenous peoples from themselves which prevents taking a different approach to Indigenous policy, guided by self-determination:

The great lie of 100-plus years of Australian Indigenous Affairs policies has always been that Aboriginal people are so backward that we need to be saved from ourselves ... That great lie still underpins thinking in Indigenous affairs policy today. So it's time to do something different, and time to acknowledge that the case for self-determination for Aboriginal people in Australia isn't just compelling – it's overwhelming. (Bellear 2013)

Similarly, Eva Cox (2015, p. 196) advocated an approach to the framing of Indigenous policy and to non-Indigenous involvement in creating policy, highlighting that:

Good policy-making to improve the lives of people in the NT requires governments to learn from their mistakes – not only about what needs to be done but also, most importantly, about how to do it. (Cox 2015, p. 196)

The three quotes above provide an alternative approach to the NTER policy. While they are diverse, it is clear that Indigenous empowerment led by community decision-making and programs or self-determination continue to be seen as important principles for policy (see for example, Brooks 2016). They are examples of a counter-narrative to integration and racially driven policy such as the NTER. The adoption of a 'categorical imperative' – as Bessant and Watkinson (2006, p. 105) coin it – would mean that only actions relating to policy directed at Indigenous affairs would be taken if policy-makers would be prepared to take and apply the same approach to developing the same policy for themselves. This more respectful option counters the 'oracle effect', which 'has involved non-indigenous policy-makers imagining what indigenous people want or need. It is a way of making policy that involved projecting 'white' meanings and needs onto indigenous people' (Bessant & Watkinson 2006, p. 104).

The ability of future politicians to listen, respect and take into consideration an Indigenous worldview and perspective when designing further policy cannot be underestimated. In keeping with Yunkaporta's call – 'if you take something, put something back' (Yunkaporta & Kirby 2011, p. 205) – an Indigenous policy framework which engages Indigenous communities in designing legislation should be followed. Another way to 'give back' might be to critique 'white' designed policy or acknowledge the racialised discourse in which we operate. Moreover, a future Indigenous policy framework could develop policies from a non-traditional viewpoint that privileges marginalised people or, in this example, Indigenous peoples, by drawing on some of their perspectives (Yosso et al. 2001, p. 97).

Such a policy framework could be influenced by ideas and approaches to Indigenous wellbeing and community development by the Centre for Appropriate Technology (CAT) in Central Australia (see for example, Mayne 2014), and the Harvard Project on American Indian Economic Development (2015). This is an example of a counter-discourse and draws on the CRT tenet within a CRD framework. I argue that this policy framework, guided by a culture-based approach, could be applicable to other Indigenous communities throughout Australia to address a range of policies addressing the high rates of incarceration and suicide prevention.

Jon Altman (2007a, p. 308) proposed a 'hybrid model' which encompasses a 'hybrid economy' that is 'based on combining elements of the market, the state and the customary sectors to provide meaningful livelihood opportunities for people living on their remote ancestral lands' (see also Altman & Hinkson 2010, p. 203; Austin-Broos 2011, pp. 122-123; ed. Sanders 2016, pp. 15 - 152). Currently, the CTG scheme encourages engagement with the mainstream and with the 'real economy' (Altman 2010, p. 262). However, wider economic reforms and intercultural values are required, taking into account and appreciating the economies of remote Indigenous peoples (Islam, Jain & Haque 2016). This is where the Indigenous policy framework proposed in this thesis advocates community employment programs that allow Indigenous people to stay and live on country. However, this requires a set of unique skills and a connection to country (see for example, Klein 2015, p. 5). Arguably, this could create an 'Aboriginal middle class' which has been established in some urban localities (see for example, Lahn 2013). This would benefit Indigenous communities by increasing levels of employment and becoming more engaged with the mainstream economy. As such, Indigenous employment programs could be supported so that skilled Indigenous people are employed, and therefore an element of staying in communities and engaging with the mainstream economy would be supported. However, the Indigenous middle class concept

has been met with some doubt and resentment by the Indigenous community (Behrendt 2015b; Grant 2016).

Successful employment programs in Indigenous communities, such as the Indigenous Ranger Program which resulted in the management of land and building dwellings like schools (Lawford 2016), allow Indigenous people to be employed at the same time as working on country. The success of this program was demonstrated when in 2013 a program centred on working on country was established to teach and hire over 600 rangers of Indigenous descent to work on activities relating to culture and the environment in over 60 projects across Australia which cost 500 million dollars (Islam, Jain & Haque 2016, p. 346). This illustrated the potential of entrepreneurial activities, where finances stay with the communities and local employment means that people can stay on country.

Continuing to live on country and not wanting to leave, even when housing is dilapidated, as indicated near Borroloola in the NT, demonstrated the existence of a strong connection to family, land, identity, and culture that people do not want to lose (Bardon 2016, p. 1). By staying on country, community development initiatives can be supported, such as the Central Land Council's community development program, designed to assist Indigenous people to apply their income from a group base, with an empowerment and ownership approach (see for example, Hunt & Campbell 2016).

Future research on the success (or otherwise) of the policy under the Rudd/Gillard Governments are important. This and other research could include case studies based on communities in the NT that were directly affected by the policy and would expand on Kennedy's doctoral research (2013). After nominating case studies which serve as general exemplars of the 73 communities impacted by the NTER, quantitative research could be conducted, using interviews or surveys (see Partridge 2014). I chose not to undertake research in Indigenous communities and instead to critique 'white' voices. I argue that research conducted in Indigenous communities should be done by Indigenous researchers who come from a position of cultural understanding. This would provide the researcher and researchers with Indigenous backgrounds with a variety of responses from Indigenous peoples that were affected by the NTER policy. It would ensure that a wider range of Indigenous voices and views of sub-groups – such as Indigenous women – are also heard.

7.9 Conclusion

This research has demonstrated that, following the release of the LCAS report and previous publications addressing Indigenous social problems in the NT leading up to the

implementation of the NTER policy in 2007, it was clearly evident that substantive action by governments was needed. However, consultation is central to the success of any policy and provides communities with a voice to be heard by governments. This was absent from the Federal Government's 2007 NTER. Consultation was undertaken by the Labor Federal Government prior to the development of the Stronger Futures legislation which indicated they wanted to build on the NTER policy. Although there was consultation, Indigenous people are still disadvantaged in the NT. Therefore, the success of the program will be reliant on implementing policy with Indigenous input. This prevents perceptions by communities of government paternalism in policy development. As Klein (2016) argued, there have been a number of paternalistic Indigenous policies, such as the CDP scheme, and the cashless debit card, since the Howard Government's policy approach of the NTER.⁶²

This thesis argued that the Howard Government Intervention policy primarily sought to integrate Indigenous peoples into the mainstream economy through employment, while at the same time, racially targeting one group in Australian society. As such, this thesis has demonstrated that 'race', integration and racialisation played a significant part in the policy formulation, impacting on the lives of Indigenous peoples. The racial and integrationist discourse, as argued in this thesis, highlighted how everyday racism exists in policy and is shaped by the thinking of political leaders.

In conclusion, an article published in relation to a recent report that focused on the NTER policy meeting areas covered by the CTG policy, highlighted that the policy, now referred to as the Stronger Futures policy 'gave fail marks to every Close the Gap measure except education' (Wahlquist 2016). Moreover, it 'urged the government to include incarceration rates as a new Close the Gap target', highlighting that a cumulative and excessive amount of Indigenous Australians were being imprisoned (Wahlquist 2016). These dismal results highlight the failure of the NTER and as indicated in subsection 7.6, ten years following the imposition of the NTER policy, key special measures did not meet their stated aims. The Federal Government's aim to integrate Indigenous peoples into mainstream employment and racial targeting of Indigenous peoples as part of the policy has not addressed Indigenous disadvantage. This highlighted the failure of a poorly designed and implemented policy imposed on Indigenous communities that was based on the alleged child sexual abuse and violence toward women in NT Indigenous communities.

⁶² The Community Development Programme (CDP) is the current work-for-the-dole project implemented in 2015 as an amendment to the Labor Government's Remote Jobs and Communities Program (RJCP) that replaced CDEP in remote localities, as well as the broad employment-based program, Job Services Australia (Jordan & Fowkes 2016, p. 1).

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