



# Who speaks for and protects the public interest in Australia?

**Essays by notable Australians**

Editors Bob Douglas and Jo Wodak



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**Editors:** Bob Douglas and Jo Wodak

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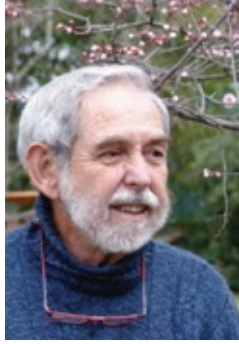
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# Foreword: Defining and defending the public interest in Australia

**Bob Douglas and Jo Wodak**

Emeritus Professor Bob Douglas AO is a retired public health academic, who was a Founding Director of Australia21 and its first Chair.

Jo Wodak has degrees in English literature and history and philosophy of science. She has worked extensively in education including secondary, tertiary and adult education in prisons. Until her recent retirement she worked in the strategic policy and planning section of Corrective Services NSW.

What is the public interest? How does it differ from private interests? Who decides? What drives public policy? These are questions which many people are asking in a world that is increasingly dominated by a culture of materialism and self-interest both at corporate and business levels and at the personal level — except in those countries where just to survive is the overriding imperative. For the purposes of this discussion we have accepted the definition of the public interest as the ‘long-term welfare and wellbeing of the general population’.

Australia is currently experiencing a period of significant political change. Both of the major political parties are firmly preoccupied with economic growth and the health of the corporate sector but both seem more interested in re-election than the courageous articulation and implementation of policies that will maximise public good. There has been decline in the stature of and respect for political parties and for religious organisations in Australian society, and our culture has been altered both by neoliberal economic orthodoxy and by globalisation. These trends have resulted in a substantial increase in the power and influence of multinational business corporations.

Australia21, a not for profit research company unaffiliated with any political party or interest group, brings together leading thinkers from all sectors of the Australian community to explore current evidence and develop new frameworks for understanding some of the challenges to our future. In recent discussions the multidisciplinary Board of Australia21 has identified public interest and its defence as an issue requiring a new national focus.

This volume of essays represents the starting point for this endeavour. We invited contributions from a broad cross-section of thinkers, researchers and policymakers, not with a particular outcome in mind but as a starting point for a future Roundtable discussion to consider the question: 'Who is defending the public interest in Australia and how can it best be protected?' The 39 essayists who accepted our invitation come from diverse backgrounds. Many have extensive experience with government and policy development, including a number who are directors and long-time associates of Australia21.

The five essays in the opening section set the scene for the 34 contributions that follow. John Menadue argues that the lobbying power of vested interests is now distorting the operation of government at all levels and must be urgently addressed. John Hewson sees a desperate need for leadership and change in the structures of parliamentary decision-making and proposes the establishment of fully independent policy bodies in key policy areas such as tax and federation reform. Reverend Elenie Poulos says that by redefining the nature of human wellbeing and the progress of humanity as that which is measured in terms of limitless economic growth, ever increasing wealth and material prosperity, the values of neoliberalism do not serve the wellbeing of our societies but rather promote inequity and fractured social cohesion. Kim Williams speaks of the 'infantilisation' of Australian cultural and science policy and says that unless a different, informed, caring and activist policy stand is adopted, the inevitable result will be stagnation, declining education standards and a marked talent drain. Fred Chaney argues that while politics has become a contest to win rather than to govern well, the solution lies with us, the public. Our politicians are captured and imprisoned by what they perceive to be our demands and until we demand something different, the defects in the system will continue.

The second section of essays focuses on broad questions of definition and measurement, acknowledging that both are complex and multi-dimensional, and can be context and purpose dependent. Points emphasised in this section include the importance of sound management with respect to public utilities and public 'goods' such as defence, the environment and justice, the importance of respect between political parties and with the public, the importance of formulating and arguing policies on the basis of values and evidence, and the importance of including stakeholders in corporate responsibilities.

Essays in the six sections that follow have been grouped under topic headings, which relate to particular fields where public interest applies. These are:

- climate change and the environment,
- Indigenous futures and the public interest,
- refugees and asylum seekers,
- mental health and dying with dignity,
- funding the public interest, and
- early childcare, education and inequality.

The 12 essays in the final section provide a range of fresh insights and proposals for protecting the public interest largely through increased community involvement. These include: community organising, kitchen table conversations, developing alliances across non government groups, citizen juries, new efforts at dialogue, application of the International Charter for Compassion (for which our own Australian parliament was a founding signatory!), youth activism, new ways of looking at the role of police as negotiators and street corner politicians, and the case for a new national Public Interest Council.

We think that each of the 39 essays warrants careful consideration by all those who care about Australia's future. The instability of recent political events makes it clear that the Australian electorate is unhappy about the way our democracy is practised and the way our political parties have been governing. This is hardly surprising given the profound changes in our social, economic and environmental systems in recent times. However, it seems clear that if we are to be resilient in the face of changes ahead and if we hope to leave our descendants a life in which their welfare and wellbeing are protected, we need to have a new national dialogue about the public interest. Bring it on, we say.

# Section 1:

## Setting the scene



# How vested interests are subverting the public interest

## John Menadue

In business, John Menadue AO was formerly General Manager News Ltd in Sydney and CEO of Qantas. In government he was Secretary Department of Prime Minister and Cabinet, Secretary Department of Trade and Secretary Department of Immigration and Ethnic affairs. He was also Australian Ambassador to Japan. He is now patron of the Asylum Seeker Centre in Sydney and a keen blogger. He was founding chair of the Centre for Policy Development.

There are many key public issues that we must address. They include climate change, growing inequality, tax avoidance, budget repair, an ageing population, lifting our productivity and our treatment of asylum seekers.

But our capacity to address these hard issues is becoming very difficult because of the ability of vested interests with their lobbying power to influence governments in a quite disproportionate way.

Lobbying has grown dramatically in recent years, particularly in Canberra. It now represents a growing and serious corruption of good governance and the development of sound public policy. In referring to the so called 'public debate' on climate change, Professor Ross Garnaut highlighted the 'diabolical problem' that vested interests brought to bear on public discussion on climate change.

These problems include:

- There are over 900 full time independent lobbyists working in Canberra, more than 30 lobbyists for every Cabinet minister. On top of these 'third party' lobbyists, there are the special interests that conduct their own lobbying, such as the Australian Pharmacy Guild.

- These lobbyists encompass a range of interests including mining, clubs, hospitals, private health funds, business and hotels that have all successfully challenged government policy and the public interest. Just think what the Minerals Council of Australia did to subvert public discussion on the Resources Super Profits Tax and the activities of Clubs Australia to thwart gambling reform, or the polluters over an Emissions Trading Scheme and the Carbon Tax. With its lobbying power over the major parties, the hotel lobby at the state level effectively determines hotel operating hours. Violence and crime are a result.

- With journalism under-resourced, the media depends increasingly on the propaganda and promotion put into the public arena by these vested interests. The Australian Centre for Independent Journalism at the University of Technology Sydney found in a survey of major metropolitan newspapers published in Australia in 2010 that 55 per cent of content was driven by public relations handouts from lobbyists and their associated public relations arms, and 24 per cent of the content of those metropolitan newspapers had no significant journalistic input whatsoever, relying heavily on public relations handouts.
- The Media Council of Australia has drawn attention to how media independence is increasingly compromised by 'advertorials', a deliberate confusing of advertising and editorial content. The Council also drew attention to trips financed by large corporations and organisations that were not disclosed. It's not just travel companies that do this.
- With over 60 per cent of metropolitan newspaper circulations in Australia, News Ltd is a major obstacle to informed debate on key public issues like climate change.
- The health 'debate' is really between the Minister and the Australian Medical Association, the Australian Pharmacy Guild, Medicines Australia and the Private Health Insurance companies. The debate is not with the public about health policy and strategy; it is about how the minister and the department manage the vested interests.
- The wealthy private schools are obstacles to needs-based funding which is necessary for both equity and efficiency reasons.

- Many of the policy skills in Canberra departments have been downgraded and much of the policy work is now in the hands of young staff in ministers' offices that are much more inclined to listen to vested interests.
- Policy work within the government is now undertaken more in specialist organisations such as the Productivity Commission rather than in the departments. Departmental policy capability has been seriously denuded.

What can be done?

- Federal lobbyists have to be registered with the Department of Prime Minister and Cabinet, but this is inadequate. They should also be obliged to promptly, publicly and accurately disclose the discussions and meetings they have had with ministers, shadow ministers and senior public servants.
- A public interest impact statement prepared by an independent and professional body should accompany all proposals by special interest groups. This public impact statement would be attached to representations from the vested interest group. Many of the major private consulting firms should be excluded from this process as many of them have shown themselves to be compromised in the interests of their clients.
- Refuse tax benefits for 'think tanks' like Institute of Public Affairs that are secretly funded and act as fronts for vested interests.

- Departments such as Health that are so influenced by special interests should have different governance arrangements. The traditional minister/departmental model in Health is a happy hunting ground for vested interests that significantly influence outcomes in health. The Reserve Bank, composed of independent and professional persons, has shown the benefit of such governance arrangements in keeping vested interests at bay and promoting an informed public debate. We need such an arrangement in the health field particularly.
- No minister or senior official should work with a vested interest group that they have been associated with for at least five years after retirement or resignation.
- There should be increased funding to the parliament to provide alternate public advice in key policy areas. The Parliamentary Budget Office is a good start. Independent and professional advisers must fill the current policy vacuum. At the moment the policy vacuum is filled by special interests assisted in many cases by a compliant and under-resourced media.
- Adequate funding of the Australian Broadcasting Commission to assert the public interest and develop good public policy is now more important than ever.
- Major reform of election funding to stop powerful groups buying political favours.
- A federal Independent Commission Against Corruption and in each state to examine allegations of corruption.
- Citizen Assemblies of randomly selected people who are fully informed on key public issues to advise governments.

Action to assert the public interest in the face of powerful vested interests is necessary on many fronts. The problem is urgent.



# Politics at the expense of the public interest

**John Hewson**

John Hewson AM is an Australian economist, company director and a former politician. He was federal leader of the Liberal Party of Australia from 1990 to 1994

The Australian electorate is increasingly disenchanted with, and feels disenfranchised by, the two major political parties, preoccupied in themselves, and in attempting to score short-term political points on each other.

Politics is seen as a 'game', focused on winning the daily media, significantly dominated by political 'apparatchiks', where special interests can have undue influence, and ministers have little or no relevant qualifications or experience in the portfolios they are appointed to manage.

Politics has become very short-term, disturbingly personal, negative, populist and opportunistic.

Gone are the days when politics could be thought of as a contest of ideas, or ideologies, or 'values' driven. Much of what has occurred is simply due to pragmatism, in the context of 'small target' political strategies, whereby they simply 'oppose' the other side, while saying or doing whatever is required to win, providing little detail of the policies that will be required to deliver on commitments/promises.

The result is poor public policy debate, limited genuine structural reform, and the destruction of trust in, and accountability by, government. So the public interest is easily sacrificed in this process. To the extent that 'Government makes a difference', it actually works to increase inequality.

Elections have become a choice between the lesser of two evils, and then having to live with the evil of two lessers. More often than not, issues and problems are simply left to drift or, at best, are only dealt with in a cursory, short-term 'fix', fashion.

While I don't like labels, both parties have drifted to 'the right', essentially embracing a 'neoliberal' approach, and the differences between them have narrowed dramatically.

Indeed, at times, they have been at pains to argue that they are 'just as fiscally conservative' as the other side, just as accepting of market realities and disciplines as the other, just as accepting of privatization, open markets and deregulation, as the other, and so on.

Electoral choice is therefore largely reduced to personalities, rather than policies, with both sides promising blue sky, making commitments that they must recognize are undeliverable, but cynically accepting that they will need to 'double cross' those bridges when they come to them.

While Abbott's net satisfaction rating has rarely, if ever, been positive, Gillard/Rudd were ultimately seen as worse. The electorate was left to accept the least worse.

While Abbott, for example, would want to believe that he won the 2013 election with his promises to abolish the carbon and mining taxes etc., the reality is he won because the Rudd/Gillard/Rudd Governments were so bad, and so self-absorbed.

Clearly the electorate was prepared to just throw the ALP out, even though any objective assessment of the promise to abolish the carbon and mining taxes would conclude that it would be against the public interest to do so.

Similarly, the electorate just wanted to punish Newman in Queensland, and throw out his government, even though the Opposition offered virtually nothing, except to oppose asset sales/leasing.

Are we to conclude that the debasement of politics and the processes of government have now blurred the electorate's understanding of the public interest, of what is good for their long-term welfare and wellbeing?

Moreover, Abbott won with slogans – stop the boats, fix the Budget, create 2 million jobs, etc – with little or no detail as to 'how'.

Not surprisingly, he has found it very difficult to make the transition from Opposition, where he could rule with the politics of negativity and character assassination, to government, where the emphasis is more on policy, solutions, and governing.

Is the electorate now learning what price was paid in terms of the public interest just 'to get rid of that other lot'?

But, what choice do they really have, when neither side seems to understand, value, and intend to govern, in the public interest?

One answer is, of course, with compulsory voting, to vote for minor parties and independents, but the recent experience with the Senate would suggest that they too slip so easily into negativity, simply opposing everything.

Does it have to be a negative-sum game? Is the public interest too important to be left to the current crop of politicians?

How can we hope to move forward? It would seem that there are only two options. First, Leadership, where someone, or a group, breaks out of the day-to-day political mire, being prepared to clean up political funding/influence/lobbying, and to address issues on their merit and substance, build electoral support for action, outline the options by way of a policy response, and then accept and defend a particular policy.

Second, reform the structures and processes of government to effectively remove politicians and politics from key decision-making. There is a range of options here, spreading from parliamentary reform including, importantly, an enhancement of the role and significance of parliamentary committees, and public consultation, on key issues and legislation, through to the establishment of fully independent policy bodies in key policy areas, such as tax and federation reform.

As was done with the establishment of an independent Reserve Bank, because interest rates and the exchange rate were too important to be left to Cabinet political, decision-making.

As ironic as it must sound, we need an 'anti-politics' movement. We need people to focus on the 'public interest', as hard as that is to specify. But, the people are 'the boss', yet they don't necessarily focus on, or understand, what is in their longer-term interests.

The gap is leadership.



# The problem is us

## Fred Chaney

The Hon Fred Chaney AO was a lawyer and a politician from 1974 to 1993. He served in the Fraser government including as Minister for Aboriginal Affairs. He became Senior Australian of the Year in 2014 in recognition of his commitment to reconciliation and human rights.

Over many years I have been indebted to Ian Marsh and others more academically able than I for their accounts of the fragmentation of democratic politics here and in like democracies. The simplicity of the socialist versus private enterprise of the past has been replaced. The one-time monopoly of the major parties has gone, splintered by interest group politics. Single-minded political support can be garnered around issues such as gender, the environment, human rights, free markets, nuclear issues, race and culture. All of these and more attract passionate devotees who will judge a government on their single issue and vote accordingly. In the context of the recent Senate elections this has become close to absurd with the Sex Party and the Motorists Party on offer and some, campaigning on a single issue, finding their way into the parliament (though ironically Ricky Muir, the Motorist Party representative elected to the Senate, seems one of the more reasonable voices in the current parliament).

In the past, political parties were the sorting mechanism for issues seeking attention. The parties were broadly based in the community and occupied understood segments of political thought – socialist or anti socialist perhaps. They fought elections from their understood ground, a broad theory on how the country is best governed. They won some and lost some.

The difficulty in getting a focus on the broad interest rather than the particular interest was brought home to me recently when I was asked to address a meeting of the Western Australian state branch of the Australian Council of the Ageing (ACOTA). This is an organisation I had engaged with and came to respect during my long ago term as Minister for Social Security (1980–83). The meeting was chaired by another retired politician, one I know and respect, Bob Kucera.

Bob was giving his farewell address as retiring president, in the course of which he listed – as you would expect – the current wish list of my generation, older Australians. Everything on the list involved additional government expenditure. It was a legitimate wish list and included what I thought was a very high need item, assistance for the homeless pensioner. This was a voice entitled to be heard.

However, obsessed as I am at present by the need to stop writing cheques on our children's futures, I was puzzling how to address what I regarded as a worthy and committed audience in the face of my belief that some of their demands went beyond what is currently possible. Fortunately Bob saved me. He chose to quote one of JFK's great lines: 'Ask not what your country will do for you, ask what you can do for your country.'

I was able to use that theme to suggest that we older Australians might bring our accumulated wisdom to bear on national issues and speak and act beyond our self-interest. As far as I could tell the idea was well received. We all like to think we have accumulated some wisdom and like to serve others.

As a reasonably long serving politician, 1974 to 1983, it might seem surprising I do not expect refreshed leadership about the public interest to come from politicians. In this truly democratic country they are our servants rather than our masters.

The political process has been professionalised. This has impacted on those who serve. The contest is about winning the competition at election time rather than governing well. The need to master the game of politics has removed much of the political class from focussing on community reality and what the whole community needs. The game, like the media, focuses on politics rather than governing well. Serving politicians stand or fall on winning the game, and the game includes knowing the interest groups and buying them off if that is the price of election.

This will continue until the community wants something different and is prepared to vote for something different. Can the community be brought to put immediate sectional self-interest aside and support the public rather than the sectional interest?

The problem, like the solution, therefore lies as much with what is outside politics and government as what is inside. Can the powerful representative voices such the Business Council of Australia, the Chamber of Commerce and Industry, the Small Business Association, the Australian Council of Trade Unions, the Australian Council of Social Services, the Australian Council of the Ageing, the Australian Council for Rehabilitation of the Disabled, the Australian Conservation Foundation, Greenpeace and so on be brought to support decisions made for the broad rather than the narrow interest? Will they countenance making compromises of the sort governments must if the public interest is to be served?

Years ago, when I was Opposition spokesman on Environment (1990–93), the most convincing document I came across was the United Nations commissioned report 'Our Common Future'. Produced by 33 countries ranging from the richest to the poorest and under the chairing of Gro Brundtland, it analysed the problems and solutions taking into account environmental and economic, including poverty, issues. It sticks in my mind as a shining example of understanding and accepting that issues are complex and difficult and do not admit to winner takes all approaches.

A problem with claiming to know the public interest is that views will differ as to what is in the public interest. I, for example, believe it is in the national interest to have the budget in balance over any reasonable period. Currently that means serious attention to reorganising the budget on both the income and expenditure side. Some would disagree. But if there is a broad understanding that the people of Australia can't pay themselves more than Australia produces, can we agree on how we fairly share what the country produces rather than borrowing from the next and future generations? Can we agree how that might be done? In 2015 I see this as a key challenge to all of us and a test of whether we give a damn about the public interest. Could we find across the sort of interest groups mentioned above a shared view on the need for budget reorganisation and what choices we have to make?

If such powerful community voices are not up to this challenge it is not surprising the politicians are not either. We elect them, they do not elect us. They are neither better nor worse than us, just captured and imprisoned by our demands.



# Neoliberalism, values and the public interest

## Elenie Poulos

Reverend Elenie Poulos is the National Director of UnitingJustice Australia, the justice policy and advocacy unit of the Uniting Church in Australia's national council, the Assembly. She is the Church's lead spokesperson on human rights, social justice and environmental issues. Elenie is past Chair and member of the Commission of Act for Peace (the aid agency of the National Council of Churches in Australia), founding Chair and member of the Board of the Australian Churches Refugee Taskforce, non-executive Director of ANDI (the project to develop a national wellbeing index for Australia) and a member of the World Council of Churches' advisory group, the Commission of the Churches on International Affairs. She is doctoral student at Macquarie University, researching in the area of religion, politics and human rights.

Since the beginning of historical records, humans have pursued wealth and the power it affords, but only relatively recently has the world itself become organised around the service of that wealth. The systems and structures which define the way our world works are financial, geared to the making of profit, and they are global, buoyed by governments whose domestic and foreign policies ensure the continued growth and maintenance of what has become the most powerful 'empire' of our times.

We have redefined the nature of human wellbeing and the progress of humanity as that which is measured in terms of limitless economic growth, ever-increasing wealth and material prosperity. We make decisions based on what is good for 'the economy' as if it was a living thing and not merely a tool intended to serve the needs of people and the planet.

Capital and the market are now the whizzing hub of society and politics. Almost every aspect of life is being commodified, counted, measured and assessed according to its economic value. The culture of competition on which this global economic empire is built is seeing the small, the weak and the local losing

out to the big, the strong and the global. Rampant market-driven consumerism, without which the empire would collapse, is privileging the individual, usually known as 'the consumer', over the community and the corporation over the nation (witness the impending and secretively negotiated Trans-Pacific Partnership Agreement which threatens to grant foreign corporations the right to sue governments for policies and laws that adversely affect their profits regardless of the good those laws do for the population or the environment). Rapacious greed is all too often rewarded (bank bailouts following the Global Financial Crisis spring to mind), policies that promote equity, social justice,

human wellbeing and environmental responsibility are discouraged, and we are suffocating ourselves and the planet with an immovable commitment to continual growth fired by fossil fuels.

This empire is colonising every field of human life and endeavour. Think about how education is now part of the 'productivity' agenda in this country and how essential services such as electricity, healthcare, employment services and prisons are delivered for profit.

All of this is happening in the name of a 'healthy economy' and the values that lie beneath this particular version of 'the economy', the values of neoliberalism – greed, individualism, materialism, competition and consumerism – remain mostly hidden and unspoken. The power of the neoliberal agenda lies in a few prevailing mythologies (created and perpetuated by those with power – the 'winners') that have captured (imprisoned) our imaginations. One is that everyone will benefit – eventually. Another is that our economic system is values-neutral – it's just what works; it is the only possible way.

The Jesuit public theologian, David Hollenbach, wrote in his book *The Global Face of Public Faith* that 'public policy should reflect the cultural consensus about the social good'. This is what the 'public interest' is – that which promotes the long-term wellbeing of people and the planet that we depend on.

In a context where 'social good' or the 'common good' is assumed to be economic neoliberalism, what's in the 'public interest' becomes whatever advances the neoliberal economic agenda. And for the powerful servants of neoliberalism it becomes a most useful piece of rhetoric – one cannot argue with a policy that is in the 'public interest'. Policy reforms which arise from a different set of values – equity, justice, generosity, cooperation, community, compassion, empathy – and respect for the environment and the dignity of every person, are derided as 'idealistic', 'soft', 'ignorant' and 'socialist' (and we all know how that turned out!). They are often described as being the outcome of sectoral or minority concerns and therefore not in 'the public interest'.

The concerns of groups and individuals who are marginalised in society, who struggle to be seen let alone have their voices heard, are exactly those we must listen to if we are truly interested in policy reform in the public interest. It is only by allowing ourselves to be confronted by those who suffer as a result of the way things are, that we will understand what truly is in the public interest. For the values of neoliberalism do not serve the wellbeing of our societies. They promote inequity, breed isolation and fracture social cohesion.

The public interest, on the other hand, when well served, will promote a decent society, where people care about each other, celebrate diversity and welcome strangers. A commitment to the public interest will see us working together to nurture a vibrant and robust democracy in which all can participate. We will not be swayed by fear to support policies that punish, harm or exclude. We won't allow the planet and all the life it supports, including future generations, to be jeopardised by our short-term greed. We'll care about how all people experience life everyday – those who are homeless, or living with a disability or a mental illness or intergenerational disadvantage. We'll care about the effects on individuals, families and communities of domestic violence or the violence of colonialism and dispossession. We'll be committed to ensuring that all people can flourish regardless of any of these things. And we'll demand of our politicians leadership that inspires us to be open, generous, creative and bold and that delivers public policy that consistently and genuinely serves the public interest, for the good of us all and the future of the planet.



# Arts and the public interest

## Kim Williams

Kim Williams AM has had a long involvement in arts, entertainment and media industries here and overseas and held various executive leadership positions including as Chief Executive at each of News Corp Australia, FOXTEL, Fox Studios Australia, the Australian Film Commission, Southern Star Entertainment and Musica Viva Australia and as a senior executive at the ABC. He has held numerous Board positions and Chairmanships in commercial and public life over more than three decades including as Chairman of the Australian Film Finance Corporation which he founded in 1988, Chairman of the Sydney Symphony Orchestra, Chairman of Musica Viva Australia, and most recently Chairman of the Sydney Opera House Trust from 2005 until 2013.

Our society is increasingly governed by characteristics that are profoundly unhelpful to, indeed destructive of, improvement and clear direction in national public policy formulation. Consequently that much abused term the public interest is serially disrespected.

These dangerous trends with manifest impact on policy formulation are seen particularly in:

- money being treated as *the* measure of value in all things rather than as one of many measures;
- politicians and their bureaucracies increasingly debasing, through neglect and disengagement, creativity and intellect as the vital crucibles of the national future;
- media often being unable to disconnect discussion of science and the arts and their centrality to national expression and innovation from rigid ideological positions and/or populist ranting; and
- our society adopting the perilous course of celebrating the anti-intellectual and the triumph of 'general ignorance' over considered respectful debate which aims to test ideas and assumptions so as to arrive at evidence-supported outcomes.

These forces are readily apparent in the two arenas that celebrate and empower creativity and innovation like no other – the arts and pure science. Support has declined, policies are malformed on the altar of populism and 'dumbing down' to an ever-lower common denominator, and short-term devotion rules the policy and resourcing day. This is allied with a fearsome trend that denies and rejects considered knowledge-based debate, replacing it with dogmatic assertion.

I would describe this process as the 'infantilisation' of Australian cultural and science policy. Unless a different, informed, caring and activist policy stand is adopted, the inevitable result will be stagnation, declining education standards and a marked talent drain. Without early correction we will have a poorer society and it will become ever harder to rebound. The Australian Labor Party has an arts policy (no doubt well intentioned) that tries to accommodate all comers – as a result it has little durable essence or meaning other than providing a recital of modern clichés. The federal Coalition has no published arts policy at all. None.

I would contend that in this century a society that loses contact with and commitment to respecting, celebrating and appropriately resourcing pure science and the arts across many domains will decay. Science clearly has been in evident decline in Australia for way too long. Maths and science streams in schools have seen alarming declines in normative performance levels and current policy and funding priorities are making the direction of scientific research increasingly dysfunctional. The three word slogan rules policy formulation. Needs analyses with careful delineation of defined priorities, backed by durable tested action and refinement, are distant memories.

Our performing arts, galleries and museums, and the education system central to their health, are in real decline. Resourcing is compromised and no longer a priority. We see performing arts centres and companies, and museums and galleries, constantly having to confine and contain the innovation and renewal in thinking so central to their vitality. All too often they are consumed with writing tenders for survival. Theatre and music companies have little room for experimentation as the financial stakes are so finely balanced. Film and television drama and documentary also have severe issues that demand serious change from education onwards.

There are so many examples that demonstrate this era of passive neglect that I could never summarise them adequately in this short space. However they are changing the aspiration and goals of our creators and that is profoundly unhealthy.

The internet and digital technology generally have changed forever the nature of information access, exchange and the direction of society through politics, commerce, creativity, education and communication in life as we know it. These technologies are indifferent to national boundaries, laws and controls, overriding borders and negating their relevance and power to control transactions of all sorts. Continuing fragmentation is guaranteed – the ferocity of attack and the velocity of change will not abate. It is vitally important for a nation with limited power like Australia to better understand and manage within this 'new normal'. Merit, ingenuity, speed, flexibility and performance increasingly rule the day. Australia is losing in this process and it is losing because of national policy failure. The urgency of public policy renewal in education and the arts is impossible to over emphasise.

We are a small country at 'the bottom of the world' (notwithstanding the internet) with many parochial pillars that, whilst they may be 'cheerful' to some, are venomous to national ambition and achievement. An English-speaking nation of a mere 23 million is either profoundly advantaged or potentially disabled as a result almost entirely of its public policy settings and the outcomes they achieve and reflect.

It is essential that we respect our duty of intergenerational care and acknowledge the need for national ground-up policy (and allied resourcing) review to ensure a healthy, vibrant and dynamic creative landscape that is equally innovative, connected, ambitious and challenging. For a vulnerable small country there is no future in being bland! We need bold confident national futures, which only come from ground-plan policy review and the ambition it adopts.

Across the arts it is imperative that stakeholders work together to fashion a fresh positively integrated policy approach, one which recognises this radically changed operating environment. Hopefully the creative community itself will seize the day and drive a program for lasting reform that addresses issues holistically and doesn't repeat the present cycle of dreary 20th century policy recitals.

The failure of political agendas in creative life is, I suggest, our collective failure. The absence of fresh approaches which are both relevant and compelling reflects a failure to renovate thinking in working settings which are all too often in a time capsule – frozen in space and time from three, even four decades ago in their policy, regulatory, financial and industrial frameworks.

The disturbing absence of effective action has seen our political culture descend into an era of petty sloganeering and serial passive neglect of the vital creative foundations for a confident national future. We must seize the day, engaging and advocating persuasively for that which we care about, persuading commentators and decision makers as to policies where creativity and intellectual property production provide bedrock for relevant national agendas truly reflecting long-term public interest.

# **Section 2:**

## **Definition and measurement of the public interest**



# Reframing the notion of the public interest

**Paul Barratt**

Paul Barratt AO is a founding director of Australia21, and its current Chair. He spent most of his career in the Commonwealth Public Service, mainly in areas relating to resources, energy and international trade, culminating in appointments as Secretary to the Departments of Primary Industries and Energy (1996–98) and Defence (1998–99). He now runs his own consulting business. He has an Honours Degree in Physics from the University of New England and an Arts Degree (Asian Civilisation and Economics) from the Australian National University.

The Australian body politic desperately needs to reframe its concept of the public interest, and conduct its political processes on the basis of this reframing. I am not referring to the specific content of the public interest which will vary from political party to political party and from time to time. What I am referring to is the very idea of how the public interest might be conceived – what is this thing called ‘the public interest’?

The public interest will be connected only incidentally if at all with the interests of the governing party, which will mainly be to do with retaining power. In the current era of professionalised (and constant) campaigning, the focus of the parties is on three questions – which are the marginal electorates in which we need to win in order to win the next election, who within those electorates might be persuadable to our point of view, and what do we need to do to get them to come on board?

The answers to those questions are very unlikely to have anything to do with the public interest, because the public interest is not the same as the sum of the private interests of a relatively small number of voters in a small number of electorates. Indeed, the public interest is not even the sum of the private interests of all voters – it is a different notion altogether, a notion of ‘the common good’.

Accordingly, the public interest must be constructed from some notion of policy directed to the welfare/wellbeing (broadly defined) of the general public.

It can be expected that a government genuinely concerned about the public interest will direct a high proportion of its time to what economists call ‘public goods’. Economists define ‘public goods’ as those which are ‘non-rivalrous’ (one person’s consumption of them does not reduce the capacity of another to consume them) and ‘non-excludable’

(it is not possible to make them available to some while excluding others). ‘Goods’ which fall into this category include national defence, environmental quality, fresh air, knowledge, and the dispensation of justice. To a reasonable approximation, and in the absence of congestion effects, network infrastructure (transport, communications, electricity, water and gas) has many of the characteristics of public goods.

This latter category introduces another reason for governmental attention pursuant to the public interest, namely market failure due to the presence of ‘externalities’ – the people making the investments in them cannot capture all the benefits of that investment and so will tend to under-invest. An obvious example of this is the fact that investments in transport infrastructure add to the value of adjacent land, but none of that value flows to a private investor.

The same applies to research and development and, I would argue, education at all levels: not all of the benefits of education flow to the person undertaking the education. Society is not and cannot be indifferent to what its citizens know, what skills they have, what values they have imbibed, nor how many doctors, engineers, lawyers and teachers we have.

At least three criteria need to be fulfilled if we are to reasonably approximate a return to conducting our politics with due regard to the public interest.

First there is the requirement for politicians to treat each other and the voting public with respect. The latter means by definition treating journalists with respect, for it is through the activities of journalists asking probing questions that the public acquires the knowledge that keeps them informed and able to make informed choices, and helps to keep governments accountable.

This means abandoning the approach embodied in the media training courses which have flourished over the last 20 years and been reinforced by governments' media advisers, the courses that counsel spokespeople to respond to any question by reciting an inane and boring memorised set of bullet points which praises the government and refers repetitively to the mess left behind by the government's predecessor, but does not address the question. On the all too rare occasions when the journalist pushes for an answer to the question, the formulaic response is recited again. To resort to the vernacular, this is taking us all for mugs, and most

of us know it. A government which respects the public which voted it in and pays the taxes which enable it to function will recognise and respect the public's right to know everything that is going on, with the exception only of those things which if known would have a material negative impact on the public interest (e.g. information properly given a national security classification, information relating to police investigations, information impacting on the privacy of individuals). Its spokespeople will give meaningful answers to legitimate questions, and if they are not prepared to answer the question they will come right out and say so, and why, rather than ducking and weaving and giving an obfuscatory answer to a question that hasn't been asked.

The second criterion is that policies submitted to the parliament and the public should be based on evidence. Some object to calls for 'evidence-based policy' on the spurious ground that under such an approach the government is disempowered from doing anything if irrefutable evidence in support of its policy is not available. This is not what it means at all. Evidence-based policy means basing policy on the best evidence that is available — on the state of human knowledge as it exists at the time. Above all, the principle rules out policy that flies in the face of the evidence. If policy is not founded upon what we know, it is not possible to conduct a rational debate about it, and people, whether in parliament or in the wider community, cannot bring to the debate what they know.

Third, government throughout Australia needs to be conducted on the basis of what in the European Union context is known as the 'principle of subsidiarity'. This is the principle that all matters should be dealt with by the lowest level of government that is competent to deal with them. The Commonwealth likes to involve itself in matters like road funding, but except in the case of trunk routes of genuinely national significance, these and a host of other matters can safely be left to the states.

We get the governments we deserve, it is said. If we want things to improve, the Australian public will need to be much more vigilant and demanding about our political processes. They will need to insist that our elected representatives from all parties conduct themselves with dignity and decorum in our federal parliament, that policy and legislation be directed to the public interest rather than the interests of the swinging voter, that policy be directed to matters for which the relevant level of government is responsible, that it be based on the best evidence that is available and the case for it argued by reference to that evidence, that parliamentary debates be about the substance of the important issues before the parliament rather than an occasion for hurling abuse across the chamber, and that the public's right to know be fully respected.



# Measuring the public interest

## Richard Eckersley

Richard Eckersley AM is an independent researcher and a founding director of Australia21. His work explores progress and wellbeing, and includes: measures of national progress; the relationships between economic growth, quality of life and sustainability; the social and cultural determinants of health and happiness; visions of the future; and young people and their world. He trained as a zoologist and has held positions with The Sydney Morning Herald, CSIRO Australia, the Commission for the Future, the Australian government and the Australian National University.

The public interest is not simple or obvious, but complex and multidimensional.

If we take the definition, adopted in this volume, that the public interest is the long-term welfare and wellbeing of the general population, how do we know what contributes to this goal, or how best to achieve it?

On many specific issues that bear on the public interest, the evidence is contested and opinion is divided, often increasingly so. What's more, we can't serve the public interest by 'picking off' issues and policies one by one, whether these concern healthcare, education, drugs and crime, poverty and inequality, or climate change. Although such efforts can sometimes succeed, issues and the policies to address them are linked to deeper questions of ideologies and worldviews and the values these embody.

The public interest has to be addressed at different levels or depths, acknowledging that societies are 'complex adaptive systems' made up of many elements that interact in often multiple, diffuse ways, and whose behaviour emerges from the way the whole system functions – in other words, the whole is more than the sum of its parts. We can't look at it piece by piece and expect to understand and control it, which is what we tend to do in both science and politics.

Take the very topical example of the 'je suis Charlie' phenomenon in the wake of the terrorist attack on staff of the French satirical magazine *Charlie Hebdo*. The 'official story' is that this was a legitimate expression of defiance and solidarity in defence of western values, notably freedom. But among other levels of meaning associated with the event is that western governments – whether wittingly or not – are milking the attack (and other similar events) because it distracts both them and the people from the host of environmental, social, cultural and economic problems they are unwilling or unable to fix.

Democracy – the political expression of public interest – is waning as power is ceded to other, non-democratic bodies, notably global corporations, and as the challenges facing democracy reach a scale and magnitude that are beyond its capacity to resolve (climate change is both a real example and a symbol of this). With terrorism, governments can act decisively, even heroically. But in responding this way, in magnifying the significance of the events, they play into the terrorists' hands. As in George Orwell's *1984*, we seem now to be at perpetual war, which justifies authoritarian control and keeps populations compliant.

Beyond the world of our personal experience, we rely on indicators to define what is in our interest; amongst these are how we measure human progress and development. The orthodox indices and indicators, notably increasing per capita Gross Domestic Product (GDP), place western liberal democracies at the top of the international rankings. This model equates progress with modernisation. Broadly speaking, the indicators measure the benefits of modernisation, but not its costs (setting aside indicators of environmental impacts). Even the current vogue for measuring life satisfaction and happiness fails in this regard.

Global surveys by the Pew Research Center in 2014 found that life satisfaction rose strongly in emerging economies such as China, India and Brazil between 2007 and 2014, almost closing the gap between them and advanced economies (where life satisfaction changed little); it also rose in poorer, developing economies. Life satisfaction increased more in those countries with higher rates of economic growth. In most countries majorities agreed most people were better off in a free-market economy, even if some people were rich and some poor. People the world over seem satisfied with the way things are going.

Yet other research paints a very different picture. Most people in the developed world do not think quality of life is getting better, and many think it is getting worse. Studies across many countries consistently reveal concerns about the pace of life, loss of community, family conflict and breakdown, growing social inequality and division, crime and violence, rampant consumerism, and destruction of the natural environment. People's preferred futures emphasise close-knit communities, more conviviality and intimacy, social harmony, human-scale settlements and technologies, and a clean, healthy environment.

In a 2005 survey Australians were asked about two scenarios for the nation's future: a fast-paced, internationally competitive society, with the emphasis on the individual, wealth generation and enjoying 'the good life'; or a greener, more stable society, with the emphasis on cooperation, community and family, more equal distribution of wealth, and greater economic self-sufficiency (these are not the full scenarios). Almost three quarters (73 per cent) expected the first; almost all (93 per cent) preferred the second.

Put another way, people's perceptions of their interest, and their welfare, can vary with the context in which these are considered. Framed within orthodox political priorities, people endorse the status quo. Widen their perspective to consider preferred ways of living, and their view shifts – radically.

Politics and the media define quite arbitrarily what warrants debate and discussion. Much that is important is excluded. American communication theorist Daniel Hallin distinguished between three spheres of political debate: the sphere of consensus, the sphere of legitimate controversy, and the sphere of deviance. Only matters falling within the second sphere gain attention. (A similar thing happens in science, where established paradigms or theories set the research questions worth studying.)

At this fundamental level, then, acting in the public interest requires us to strive in every possible way through discussion and action, not just in politics and the media but also in science, education, law and religion, to expand the sphere of legitimate controversy to encompass more of the sphere of consensus – what is understood to be broadly agreed and accepted – and the sphere of deviance – what is judged to be unworthy, ridiculous or dangerous. This larger agenda includes the assumptions, beliefs and values that underpin modernisation, including western culturalisation and material progress. Anything less is not enough.



# Director's duties and stakeholder protection

## Jason Maletic

Jason is currently a Senior Advisor with Mills Oakley Lawyers in Melbourne. He has formerly held senior positions at Macquarie Group and Westpac. He is the Deputy Chair of the Royal Children's Hospital (Victoria) Bioethics Development Board and a past Director of Brainlink Services Ltd. He is a Director of Australia21.

Corporate governance theory suggests that the primary duty of directors is to maximise shareholder value. Simply put, this means that directors should be concerned with increasing and sustaining corporate profit. Whether directors' duties can be extended both practically and at law to considerations of social, economic and environmental impact is a point of debate.

Central to this debate is the concept of 'stakeholder theory' that posits that a corporation concerned solely with enduring profitability is failing in its duty if it fails to consider issues beyond merely the concentration of shareholder wealth. Indeed, corporate-social responsibility has been described as the corporation's ability to successfully 'consider, manage and balance' these issues in its decision-making.

The term 'stakeholder' here is typically defined as 'a person, group or organisation with interest or concern in an organisation', although modern theories extend this to include the broader community, government and other associations. Generally speaking, directors' duties are owed to the corporation and not to individual shareholders or other stakeholders, however one interpretation of the term 'interests' lends support for the argument that a breach of duty by a director might also affect shareholders' interests. If the argument in favour of broader shareholder interests is plausible, then it is not too much of a leap of faith to extend the position to include the standing of other stakeholders.

At law, the statute governing the conduct of corporations in Australia is the Corporations Act 2001 (Cth) (the 'Act'). The Act prescriptively sets out the rules governing the conduct of directors and the subsequent duties owed by them to the corporation. As such, directors are required to discharge their duties with care and diligence and in the interests of the company at the exclusion of personal or third party interests.

The Australian Court has historically been reluctant to draw specific conclusions regarding the extent to which company directors owe independent duties to persons other than shareholders. Despite suggestions of 'public policy' or 'commercial morality' in certain sections of the Act, the Court has found little basis to intervene in matters deemed to be corporate matters and for the consideration of directors. In short, the Court is 'not concerned with any ulterior purpose for which' certain decisions are made. However, in more recent times the Court has shown a willingness to expand its interpretation of the term 'interests' and who may have standing under the Act. The following are extracts from recent court judgments (details available from the author):

*The interests referred to in this subsection [referring to s 1324 of the Act] are interests of any person (which includes a corporation) which go beyond the mere interests of a member of the public. It is not necessary that personal rights of a proprietary nature or rights analogous thereto are or may be affected nor need it be shown that any special injury arising from a breach of the Act has occurred.*

The concept of interests is introduced at s 1324 of the Act, which gives power to the Court to grant injunctions on the application by any person whose 'interests' are deemed to have been (or would be) affected by certain forms of conduct. Here, 'interests' refer to the interests of any person (including that of a corporation) that extend beyond the mere interest of a member of the public.

As the court's exercise of jurisdiction under s 1324 is a statutory jurisdiction, it is not bound by a traditional equitable jurisdiction. This means that the court is allowed to consider policy objectives of statute, specifically the Act and the ASIC Act:

*The question for the Court's determination in an application for an injunction under s 1324(4) CA [is] whether the injunction would have some utility or serve some purpose within the contemplation of the Corporations Act,*

where that utility or purpose might be:

*to protect the public against a real risk of wrongdoing by a person whom it has been shown has a propensity to engage in contravening conduct (circumstances in which equity would grant an injunction);*

or

*to mark the Court's and the community's disapproval of certain types of conduct and to deter other potential wrongdoers (circumstances in which equity would not ordinarily grant an injunction).*

Whilst there is debate as to whether such case law grants an extension of duties owed to persons beyond the corporation, if the Act does contain an implied protection for stakeholders the consequences for almost every aspect of the corporation's dealings are significant – suggesting that stakeholder interests must be taken into consideration in the application of the Act. Ultimately, such interpretation would affect all decision-making of the board.

In conclusion, the primary duty of company directors is to act in the company's best interests. The provisions contained under s 1324 of the Act permit stakeholders to seek remedy for actions where it can be shown that their interests have been compromised by the conduct (or lack of performance) of directors of a company. However the Court has generally shown a reluctance to find standing for stakeholders when relying on this provision.

By reason it stands that stakeholders will only be afforded protection insofar as their interests are aligned with the company. It is therefore difficult to reconcile equal standing between the company and a stakeholder, as inherent in this reasoning is a conditional outcome for stakeholder protection upon mutual interest. This is problematic – stakeholders are either protected, or they are not.

The Court's reluctance to find protection in favour of stakeholders implies that stakeholder protection is little more than a theoretical provision, unless the interests of a stakeholder are shown to be aligned with the interests of the company. To quote Noel Purcell in a speech given to the National Business Leaders Forum in 2006:

*Moral capitalism simply means not trampling on the interests of others in the pursuit of corporate interests. It involves corporations being concerned with the principles of right and wrong and conforming to standards of behaviour and character based on those principles.*



# What is involved in serving the public interest?

**Geoff Gallop**

Professor Geoff Gallop AC is currently Director  
of the Graduate School of Government at the University of Sydney.

He was a member of the Western Australian Legislative Assembly  
from 1986 to 2006 and Premier of Western Australia from 2001 to 2006.

He was Deputy Chair of the Council of Australian Governments (COAG)  
Reform Council (2007–11), Chair of the Australia Awards Board (2011–13)  
and Member of the National Health and Hospitals Reform Commission (2008–09).

All of us who are or have been involved in government know about the public interest. It is what we pledge to serve whether we work in local, state or national government. It is both a value and a duty. It is about process and outcome. It applies to both elected and non-elected officials and according to the Organization of Economic Co-operation and Development (OECD) it is 'the fundamental mission of government and public institutions'. However, do we know enough about what it means for our day-to-day work? Have we really embraced it as a governing principle or do we simply use it as a form of rhetorical justification in the day-to-day battles of politics?

Let's start with the question of democracy and the accountability relationship between government and the people. This is a good starting point as it is not possible to talk about 'the public interest' without talking about 'the people'. On this account it is an election that is the key and through it the majority can have their views about the public interest translated into policy. In other words, if elections are fair and free the public interest is what the majority wants.

However, this begs a number of questions about system and content: Which voting system are we to use? Will we have one or two legislative chambers? Will we adopt a presidential or parliamentary model of government? What about the rights and interests of minorities? What about the value we place on that which we inherit from the past? What about the interests of the future generations and, indeed, of the natural environment we all share? How do we weigh up economic alongside social and environmental considerations?

Taking the public interest seriously requires decision-makers to be concerned with both processes (how we make decisions) and content (what decisions we make). It is an aspiration to find that mix of policy that best represents the interests of the whole community and the evidence tells us that the following elements are well designed to help:

- engaging with the people not just through representative and but also through more direct forms of democracy such as citizens' assemblies and citizens' juries,
- creating a culture of human rights and liberties to combat the "tyranny of the majority",
- incorporating appropriate checks and balances into law making and government,
- using the most up-to-date results of research to inform decision-making,
- adopting strategic planning as a method of governing,
- encouraging devolution and decentralization of decision-making,
- incorporating the sustainability principle (meeting the needs of current and future generations through an integration of environmental protection, social advancement and economic prosperity) into all aspects of government policy-making, and
- promoting a shared and inclusive understanding of history.

All too often, however, those with the responsibility to decide find themselves in a world of individual and sectional interests hungry for attention, colleagues not all of whom share the faith and media pressures for super-quick responses. Economic and political power isn't distributed equally throughout our community and preserving our heritage and protecting our future can be particularly difficult. What this illustrates, however, is that the public interest does mean something. It is a powerful call to arms in a less than perfect world. Have we properly involved the public? Are we respecting the rights and interests of all? Have the solutions we propose been properly researched and adequately consulted? Are we protecting or undermining the historical and environmental foundations of human existence? How sustainable are the policies and programs we propose? Are we too focused on economic growth and not enough on wellbeing?

Being an elected or non-elected official in government poses particular challenges. Have I done all that I can to ensure that these questions are being asked as part of the normal operations of government? This is a personal and not just a political question. Try as we might but there is no escape from personal responsibility. This takes us into the territory of "conflicts of interests". We all have interests and connections be they individual, family or community. In the case of politics it is very much the defence and development of these interests and connections that leads to the formation of factions and parties and is often the motivation for a person to stand for election. Even in bureaucracies there are interests and connections in respect of occupation and organization. Public servants are naturally defensive of the roles they play and the agencies within which they work. They are the custodians of continuity and often the creators of departmental silos. Quite often corners are cut or sails trimmed to satisfy their political masters.

Consequently many jurisdictions have now developed institutions and codes of conduct to assist those in decision-making positions. These codes are not just guides for those involved, but reference points for agencies set up to investigate and report upon claims of improper and corrupt behaviour. As sad as it is, maintaining the public interest is no longer just about self-awareness, it is also about external supervision.

The public interest, then, is indispensable as benchmark and guide and it provides just the right intellectual and political discipline needed in a world being destabilised by climate change, jihadism and economic crisis. It requires us to think about means as well as ends. It broadens our understanding of what interests matter and takes us into the world of good government responsive to evidence and sceptical in the face of ideology.



# The meaning(s) of public interest in law

## Simon Rice

Professor Simon Rice OAM teaches law at the Australian National University College of Law, and chairs the ACT Law Reform Advisory Council.

Law's answer to 'what is the public interest?' is, not surprisingly, that it depends on context and purpose. One thing it is not, however – as highlighted in the recent UK phone tapping scandal – is merely anything that is of interest to the public.

Deciding what constitutes 'the public interest' is a power given to decision-makers under a wide variety of federal, state, and territory laws, most commonly government ministers, departmental officers, and courts and tribunals. A substantial research project at Queens University Belfast on Public Interest in UK Courts identified various ways the term can arise: as a decision-maker's consideration under legislation, as a judge's consideration when deciding an innovative case, as a reason for commencing (or intervening in) legal proceedings, and as a public authority's explanation for its conduct.

Some examples illustrate the diversity of contexts in which the term commonly arises in Australian law:

Under the ACT *Crimes (Forensic Procedures) Act* a magistrate deciding whether to allow a forensic procedure (e.g. taking a blood sample from a suspect) 'must balance the public interest in obtaining evidence tending to confirm or disprove that the suspect committed the offence ... against the public interest in upholding the physical integrity of the suspect'

Under the federal *Customs Act*, the relevant Minister may order Customs to detain any goods 'if the Minister considers that it is in the public interest to do so'

In Victoria, under the *Greenhouse Gas Geological Sequestration Act*, the relevant Minister 'must not grant [an exploration] permit for a stratum of land unless he or she determines that it is in the public interest [as defined]'

In the forensic procedure example, the stated public interests are obtaining evidence as to guilt or innocence, and upholding a person's physical integrity. In the customs example, the minister has a discretion to decide what the public interest is because, the explanatory memorandum to the law says, 'the public interest may change over time'. And in the exploration permit example, the Minister has a discretion to decide whether granting an exploration permit is in the public interest, defined as consideration of any of: government policy, employment creation, social impacts, overall short-term and long-term public environmental benefit, overall short-term and long-term public economic benefit, and impacts on aesthetic, amenity or cultural values.

So although the 'public interest' is relevant to each of forensic testing, importing goods, and exploring for gas sequestration, a generally applicable meaning of the 'public interest' is elusive. Clearly the definition of the 'public interest' for purposes of granting an exploration permit is particular to those circumstances, and has no application in forensic testing or importing goods. It does, however, hint at what a general definition could be: the prescribed considerations convey a sense of *matters of public concern* (employment creation, social impacts and so on), as opposed to matters that are the concern of a particular person or entity (such as expanding a company's business).

A different idea of the public interest underpins the public interests in obtaining evidence of guilt or innocence, and upholding a person's physical integrity. These suggest not a distinction between public and private concerns, but that there are social values to be protected – the same values that are expressed in the right to a fair trial, the right to a presumption of innocence, and the right to consent to physical treatment, guaranteed in the ACT by the *Human Rights Act 2004*. And there is a different approach again to the public interest in the customs example, where the idea of the public interest is undefined. Reliance on an undefined 'public interest' test is common in legislation; the High Court has said (in *O'Sullivan v Farrer*, 1989) that 'the expression "in the public interest", when used in a statute, classically imports a discretionary value judgment to be made by reference to undefined factual matters', although those matters must relate to the objects of the particular statute.

One constant in these various approaches to the public interest is that its meaning is decided in context: in the three examples above the public interest is identified having regard to fair criminal proceedings, community safety, and environmental and social impact. Similarly in, say, defamation proceedings, disclosure of documents, granting visas, censorship and so on, a 'public interest' test is decided having regard to the various interests that arise in those particular contexts. Weighing up competing public interests is tricky, and – in the absence of actual direction from a statute – decision-makers will put relative values on the various interests. Fundamental rights and freedoms such as fair trial and freedom of speech are public interests that are commonly given priority, although a balancing exercise ensures that recognition of the prevailing public interest goes only as far as is necessary, with the least possible ('proportionate') compromising of another interest.

The open nature of the public interest in law is deliberate, in large part because, as the explanatory memorandum to customs law says, 'the public interest may change over time'. In 1979 the Senate Standing Committee on Constitutional and Legal Affairs reported on the Freedom of Information Bill and recorded extensive concerns about reliance on the 'public interest': 'an ill-defined or amorphous concept ... that eludes definition ... whose meaning may vary at the whim of a minister or official'. But the Committee decided that 'a public interest criterion is a very useful one' because 'it can require [a decision-maker] to consider many factors that might otherwise be ignored'.

In law, strict rules of relevance tend to limit the range of public interest perspectives that can be heard on an issue. An implication of law's approach to the idea of identifying public interest(s) according to context is that sectoral lobbyists and advocates have more or less (or nothing) to say on a public policy issue depending on their stake in that issue. Few public policy issues raise a generic, all-embracing 'public interest', although few sectoral lobbyists and advocates will concede they need not be heard.

# Section 3:

## Climate and environment



# Managing climate change: in whose interest?

**Graeme Pearman**

Graeme Pearman AM retired from CSIRO in 2004 after 33 years of service including 10 years as Chief of the Division of Atmospheric Research.

He pioneered studies of the global carbon cycle, fundamental to anticipating future climate change, and over-sighted the development of an Australian capacity in climate modelling and impact assessment. He operates a consultancy on climate science, energy futures, the impact of human and societal behaviour and sustainability.

He is an Adjunct Senior Research Fellow at Monash University.

The role of greenhouse gases in determining the temperature of the Earth has been known since the first half of the 19th century and in recent decades observations have shown clearly that human activities are changing the levels of these gases in the atmosphere. The science community has articulated the broad consequences of this for more than three decades.

Yet in Australia the period from the late 1980s to the present has been characterised by a trend from an internationally leading and proactive approach to an approach that puts Australia in danger of incurring political and economic sanctions reflecting our growing pariah status. Maria Taylor has suggested this trend reflects a shift in cultural values including, important in the context of this volume, the demise of the 'public interest'. Environmental leadership by the Hawke government has been overtaken by a dominant commitment to the neo liberal economic ideology. Sections of the media also played a role in communicating the new narrative about the irreplaceability of fossil fuels and a general scepticism about the science of climate change.

To some it is evident that climate-change policy was designed to promote action to support key industries. This cultural change has had enormous implications for Australian life: the sectoral balance of the economy; employment, working hours and conditions; family life; volunteerism; attention to domestic and international welfare and environmental issues; and so on. Many now question whether as a result of being 'wealthier' we are happier and more secure, and whether the benefits have been equitably shared in the public good. Yet rigorous examination of these wider consequences is missing.

Humans, all of us, find it necessary to have personal views of the nature of the world in order to operate on a daily basis. To a large extent we can do little more than construct this view from what our parents told us, our culture, our religion, our education, advertisements and at times from what those whom we admire have told us. These are constructed views of the world.

The problem is that these are largely based on myth and rarely formulated from rigorously determined information. President Kennedy said the 'great enemy of the truth is very often not the lie but the myth, persistent, persuasive, and unrealistic. Belief in myths allows the comfort of opinion without the discomfort of thought.'

A greater reliance on ideological, often mythical, imperatives has lowered attention to evidence-based decision-making, a regression towards the times prior to the Age of Enlightenment. There has been a decline of investment in science and its representation in governments, and an expansion of the mindless view that science's role in modern society is about product development and financial reward. This ignores the substantial value of building a deeper understanding of the world we live in, the natural environment, the operation of societies and limitations of our own humanity. It ignores investment in the power to anticipate and set goals for a future world that we consciously wish to achieve.

Climate change is about modification of the global environment well beyond the strategic view of businesses. Concern for its potential impact on future generations and the natural ecosystems has limited power in the operation of the markets and market choice. Further, the impact of a changed climate may occur through largely explicable effects on agriculture, water resources and security, but also through disruption of the complex and dynamical nature of ecosystems in a way we cannot at this stage anticipate. The point is that the potential consequences have serious implications for the public good, now and into the future.

Climate change is already impacting on concerns over energy futures and policy. There are many cases where this is poorly understood in the sense of its impact on the wider public good. For example, a recently announced discovery of a Cooper Basin gas reserve suggests its exploitation would 'result in 60 to 120 trillion cubic feet of gas'. This is equivalent to 6.6 thousand million tonnes of CO<sub>2</sub> or 11 times the current annual release of carbon dioxide from Australia. If exploited its release might occur over a decade or more and its spread may perhaps be international. But this one enterprise would represent about 83 per cent of the estimated Australian long-term 'allocation' of emissions as its part in the global effort to give a 75 per cent chance of keeping climate change near to 2°C into the future (8,400 Mt CO<sub>2</sub> from 2013–50).

Additionally, natural gas is methane that as a greenhouse gas is effectively about 34 times more powerful than CO<sub>2</sub>. Recent satellite imagery of North American tight geological formations suggests that leakage rates could be of order 10 per cent. The 'greenhouse emissions' advantage of gas over oil or coal is lost for any leakage of more than 3 per cent.

The point here is who is to decide whether the exploitation of such gas resources, and many have been identified, is in the public interest? There would clearly be positive impacts on energy supplies, trade and employment. On the other hand there are potential negative impacts on our contribution to the reduction of global emissions and on alternative land-uses. There are risks related to the methane leakage issue and disruption to societies related to the transient nature of the businesses. Who will bear the cost of exposure to potentially stranded assets and the downside of biased or narrowly focused risk assessment? This is to say nothing of the questions about who really owns these resources in the first place and how benefits should accrue for all. Surely these are not questions for the energy companies or the energy sector alone.

Governments have a responsibility to encourage entrepreneurialism and the economic benefits that may ensue from such resource exploitation. But we also expect governments to weigh these benefits in light of the public interest. The federal government's Energy Green Paper shows influences of ideological and sectoral views on energy futures that are perhaps understandable given the responsible department, but these may not be in the wider interests of the community. Thus a serious rethink is required to address how best to deal with complex, multi-factorial and strategic issues related to the public good given our modern, largely sectoralised, society.

The view that economic imperatives should not dominate policy will be no more easily 'sold' than the need for action on climate change. It represents a challenge to prevalent ideologies and narrow corporate interests and a broad interpretation of what constitutes human wellbeing and welfare (in time and essence) that has fallen out of favour. As recently stated in an Age Editorial, '... human society is built on the idea that the many are one. This is not socialism or communism, but humanism. Too often self interest and ideology, manifested in business and political agendas, crash against this ideal.'



# **Fossil fuel divestment as a mechanism for defending the public interest**

## **Charlie Wood**

Charlotte Wood ('Charlie') is a passionate advocate for the climate, sustainable food production and socially responsible investment. Over the past 7 years Charlie has volunteered, worked and interned with Amnesty International, Conservation Volunteers Australia, the Centre for Sustainability Leadership, the ACT Commissioner for Sustainability and the Environment, the ANU's Regulatory Institutions Network and the Australian Youth Climate Coalition. She is currently Campaigns Director, 350.org Australia.

In the fight to solve the greatest moral challenge of our time, the fossil fuel industry is public enemy number one. The damage that this one industry has wrought is overwhelming, with funding of climate deniers, corruption and destruction of ecosystems just some of its many offences. Too many to detail here, the industry's impacts boil down to this: if all the carbon on the fossil fuel industry's books is burnt, we are guaranteed an unliveable future. Indeed, the industry plans to burn five times more carbon than the two degree red line set by world governments.

Most worrying is that the industry has won the consent of our political leaders to unleash this nightmarish future. As Big Coal, Oil and Gas turn trillions of dollars in profit, they receive billions in government subsidies and political concessions. So long as the industry has free reign over our political processes, the public interest is at risk.

For too long, the agents of climate change have lacked a well-organised and effective opponent. In recent years however, the tide has been turning, propelled, in large part, by the burgeoning fossil fuel divestment movement. This grassroots network of students, campaigners and investors is naming and shaming the fossil fuel industry as climate change's biggest culprit, speaking in the language the industry knows best – money – and hitting them where it hurts most – their social reputation.

From its birth on US college campuses in 2012, the divestment movement has spread like wildfire through backyards and boardrooms. The premise of the campaign is simple – if the fossil fuel industry wants to take away our future, then we'll take away their social licence. Although the language of divestment is financial, the tactic is deeply political. Divestment is not out to bankrupt Exxon but rather to lessen the crippling hold that companies like Exxon have over our political processes by making it morally unacceptable to finance fossil fuels.

The tactic has a proven track record. From South African apartheid to tobacco, divestment has played a crucial role in winning regulation of rogue industries. The campaign has seen hundreds of institutions and individuals shift over \$50 billion out of fossil fuels, prompting debate among major pension funds, banks and sovereign wealth funds. Even Obama, Ban Ki-Moon and the World Bank have sung its praises.

In response, the industry has gone on a major offensive, throwing millions of dollars into counter PR campaigns. Suffice to say, at a time when the mercury is rising and climate predictions are growing ever gloomier, the divestment campaign has put our biggest climate culprit on the back-foot, winning us some much-needed breathing time to get our act together. From its success so far, it is clear that divestment has the potential to be a game changer.

One need only look at the sobering impacts that fossil fuel expansion is having on the public sphere to understand why taking on the fossil fuel industry should be everyone's priority. As noted, the industry plans to burn five times more carbon than the climate can safely handle. And with each new IPCC report, the projected impacts of climate change grow more dire. The most recent report, prepared by over 800 experts and backed by almost 200 world governments, speaks of climate change as 'severe, pervasive and irreversible'. According to the IMF, if we don't take urgent action to reduce emissions, future generations will be 'roasted, toasted, fried and grilled'. The IMF is right, however climate change is no longer a threat *only* to future generations – its impacts are here and now.

While the IPCC predicts climate change will slow economic growth, increase food shortages, floods, droughts, human displacement and conflict, and lead to greater levels of poverty and disease, so too it relates how these impacts are *already* being felt around the world, on an unprecedented scale. *Already*, the Arctic is shrinking at an alarming rate. Climate change is *already* responsible for over 400,000 deaths annually. According to the World Meteorological Association, climate fuelled disasters including storms, floods and heatwaves have *already* increased fivefold since the seventies, with some of the deadliest droughts on record responsible for the deaths of hundreds of thousands of Africans.

Fossil fuel use and climate change are also drastically transforming the face of our biosphere. A 2013 study in the journal *Nature Climate Change* found that climate change is likely to cause 50 per cent of plants and one-third of animals to vanish from half their current locations by 2080. Fossil fuel extraction is also changing the face of our most productive land

and water resources. For example, up to 80 per cent of the state of NSW is covered by mining licenses and applications as coal and gas companies increasingly force their way into forests and family farms, polluting precious freshwater resources.

And if all these social and environmental impacts weren't enough, the world is now waking up to the sobering *economic* impacts of our over-dependence upon fossil fuels. According to analysis from Lord Stern and the London School of Economics, fossil fuel reserves worth up to \$22 trillion risk becoming 'stranded', unleashing an economic crisis that Bush-era US Treasury Secretary Hank Paulson and ex-Liberal leader Professor John Hewson both agree will dwarf the Global Financial Crisis. Consequently, the terms 'stranded fossil fuel assets' and 'carbon bubble' are now well and truly cemented within Wall Street vocabulary.

By taking on the power of the fossil fuel industry to recklessly unleash all of these impacts, the divestment campaign offers a powerful means to protect the public interest and build a future free from the corrupting influence of Big Oil, Coal and Gas. As Naomi Klein argues in her recent book *This Changes Everything* climate change is an alarm signal that our economic system is failing. In this system, profit is valued over life, extraction over protection, dollars over sense and the present over the future. It's a system in which there are few incentives to fight for the common wellbeing of our fellow species. To change this is to change everything, but to change everything will take time. By naming and shaming the fossil fuel industry as climate's public enemy number one, the divestment campaign could buy us this crucial time, delivering us some breathing space and uniting communities and unlikely bedfellows to change everything, before it's too late.



# Urban water stewardship in the public interest

## Mike Waller

Mike Waller was a Director of Australia21 in 2003–2011 and has recently re-joined the Board. He has chaired the Business Council of Australia Greenhouse Committee. For six years he was Chief Economist BHP Billiton where he led the development of the company's greenhouse strategy. Prior to this he was head of the microeconomic division of the Department of Prime Minister and Cabinet responsible for the development of National Strategies on Ecologically Sustainable Development and Climate Change. Since founding Heuris Partners, Mike has provided strategic advice to the Victorian Minister for Transport and Secretary of the Department of Infrastructure on the restructuring of Melbourne's train and tram systems and to the Minister for the Environment and the Department of Sustainability and Environment on issues of greenhouse, sustainability and energy supply. In 2013 he was appointed the first permanent CEO of the Office of Living Victoria (OLV) established by the Victorian government to deliver transformational urban water policy.

For a service so crucial to all aspects of a civilised life, the water services of Australia's towns and cities receive far too little effective public policy attention. Importantly, performance in this sector serves as a litmus test for the effective provision of all essential urban services and government in Australia.

Urban water cycle services (which include water supply, wastewater management, stormwater and waterway health) are one of the last sets of utility activities still overwhelmingly under government control and ownership. With over \$100 billion in assets and annual revenues of over \$10 billion across Australia's

urban water utilities and local councils, the sector comprises widely varied types and scales of management structures (from large corporatised state monopolies to small local government operations). It is also a sector with an asset base largely at the end of its useful life that will need to service a doubling of the

populations of our major urban centres by mid-century. It will need to do so in the face of major changes in technologies, industry structure and climate.

In theory, government ownership of water services should secure the public interest. In practice, far too often it fails to do so. Planning and management of the water cycle are divorced from planning for the growth of our cities. As a result, economic signals and incentives do not reflect the full costs and benefits of different approaches to service provision. We are also constantly caught napping by the one certainty of Australian urban water supply – uncertainty. When the next inevitable, albeit unpredictable, drought arrives, we resort to expensive and disruptive responses – massively expensive water supply projects and/or rationing. Neither sustains the natural and civic assets (such as parks and gardens) that support a cooler, greener and more liveable environment. And when the rains come, the old complacency returns. Likewise, our towns and cities are increasingly exposed to the dangers and costs of urban flooding.

Why? Effective economic and environmental outcomes are generally trumped by ‘insider’ interests and priorities. These include: vested producer/supplier interests, political patronage, confused objectives and oversight, short sightedness (in both a temporal and spatial sense), and lack of deep understanding of the water cycle and the built and natural environment of which it is a part. The prevailing public service culture, incentive structures and organisational arrangements in the urban water sector are inefficient and inhibit innovation. They generally favour high cost capital solutions, induce lack of rigour in applying commercial/shareholder disciplines, and result in simplistic and expensive approaches to private sector involvement driven by financial engineering, rather than the broader public interest.

We can and must do better. We need, and deserve, far more rigorous and transparent public stewardship of our urban water systems. This would contribute to raising Australia’s productivity in the years ahead when facing the challenges of an ageing population and declining terms of trade and assist in addressing the challenges of urban growth and climate change.

What is required? We must recognise the value of our towns and cities as water supply catchments. More people means more urban development and more hard surfaces. More hard surfaces mean more run off when it rains. The challenge is the risk of more floods, but the opportunity is a more assured supply of water, close to its point of use. During the worst year of the Millennium Drought, for example, more rainfall fell on Melbourne than was used for all purposes, but nearly all of that water went, literally, straight down the drain. This 20th century ‘once through’ approach to stormwater planning and management remains the dominant paradigm in the driest continent on earth.

Adopting a new public interest approach will involve:

- reshaping urban form and building design to reflect the role and value of water services in meeting community and business needs for efficiency and amenity;
- greater competition in bulk supplies between our dams, rivers, desalination plants, pipelines and local water sources, with provision for prices to reflect supply conditions;
- greater competition and contestability for the provision of water services against government-owned water corporations (including mandatory market competition for all capital and operation activities on the basis of desired capability/outcomes not pre-determined engineering solutions);
- streamlining economic regulation to focus on activities not subject to competitive processes;

- much greater government focus on efficiency and shareholder value, utilising benchmarking of government water businesses’ management of revenue, costs and capital against the ‘best in class’ performance across all industry sectors; and
- publishing all physical and financial data in standard form to facilitate transparent analysis of water-cycle project and system-wide costs, benefits and risks of different servicing solutions.

These reforms would substantially benefit Australia’s water consumers and taxpayers by reducing costs: for example, a three-month efficiency review of Victoria’s seventeen water corporations in 2014 generated savings of some \$1.5 billion, only some twelve months after the regulator approved their plans after nearly two years of review. They would also deliver secure water supplies and pricing that enable consumer choice of quality and price matched to need, reflecting the changing value of water through cycles of drought and plenty. Our rivers and bays would be far better protected from the environmental damage caused by treating stormwater as waste, rather than a valuable resource.

The result would be a much more efficient, capable and innovative urban water sector, with water deeply integrated with the way our cities and towns are planned and managed, that would be much better suited to meeting Australia’s economic, social and environmental needs in the twenty first century.

Importantly, this approach would provide the template for the planning and management of other essential urban services, i.e. services provided in the integrated and rigorous manner that provides higher quality outcomes cost effectively, based on a deep understanding of the interconnected and complex nature of the challenges of meeting everyone’s needs for safe, secure and liveable urban communities. The people of Australia’s towns and cities deserve nothing less.



# Managing land, water and biodiversity in the public interest

**Peter Ampt**

Dr Peter Ampt is a lecturer in natural resource management and extension in the Faculty of Agriculture and Environment at the University of Sydney, and Visiting Fellow at the Institute of Environmental Studies at the University of New South Wales. He teaches and researches with farmer innovators on integrating production with conservation in New South Wales and with current and future agricultural and environmental graduates.

More than 50 per cent of Australia's land (about 70 per cent in New South Wales and 80 per cent in Queensland) is managed by farm families. Society expects these families to support themselves through sale of products with little or no protection from global market forces. It makes good economic sense to use scarce and expensive resources efficiently, so there is both public and private benefit in using as little water, fuel, fertiliser and pesticide as possible. There are many services provided by the private sector to increase adoption by farmers of economically efficient practices because they are also of private benefit. This has made Australian farmers very efficient by world standards.

Unfortunately, efficient doesn't always mean profitable. With the exception of irrigation farmers and those in prime cropping country, average annual farm cash incomes are low – around \$55,000 in 2014. Ever-increasing costs and an extremely uncertain climate combined with low prices have driven increasing levels of farm debt, which is currently at around half a million dollars per farm. The conventional response is to run ever faster on the productivity treadmill – just to maintain income. So most farm families survive by working or investing off-farm and many discourage their children from taking on the farm. Many leave and sell their land, which is usually bought up by neighbours.

Farmers are also expected to be good environmental stewards. Their actions should not just limit the damage done to the environment through the production of food and fibre, but should enhance the landscape on and around their farm. Policy-makers have responded to this public interest by introducing both 'carrots' and 'sticks'. While one hand provides some support for farmers to be better stewards of the environment, the other regulates and attempts to enforce environmental protection. Good environmental stewardship is considered part of farmers' duty of care and the ongoing 'license to practice' that is needed to retain access to markets and to ensure that Australia's clean and green image is maintained in the global market place. The food value chain,

which in Australia is dominated by two major supermarkets, has responded by placing hurdles between farmers and markets. These take the form of quality management systems, incorporating environmental components, which must be implemented and audited to retain contracts or to avoid having produce downgraded.

This may sound as if government and private enterprise are complementing each other for the public benefit: a 'protected' environment managed by 'supported' farmers producing clean, high quality food which is supplied to happy consumers at ever lower prices. But wait ... there is devil in the detail!

There is plenty of evidence that farmers value the environment and hold strong beliefs about their important role in environmental stewardship. However, their economic situation severely limits what they can do. In fact many describe the feeling of being damned if they do and damned if they don't: forced to act contrary to their stewardship ideals in order to remain financially viable.

What about good environmental stewardship practice that is not just about efficiency? Our biodiversity crisis requires more habitat for wildlife than is currently available in reserves and national parks. In particular, habitat on the most productive land is required, but this is almost exclusively being used for agriculture. So converting that to habitat will not only take time and cost money, it will reduce the land area from which farmers can make a living. This brings public benefit into direct competition with private benefit.

To counter this we have had a succession of Australian government policies such as Landcare, Natural Heritage Trust and Caring for Our Country to improve our landscapes by providing public support for the public benefit. These programs have supported the development of regional organisations to deliver programs to improve our landscapes for biodiversity and have had bipartisan support. Unfortunately, these programs have been plagued by, for example, chronic uncertainty over future funding, lack of continuity of personnel due to short-term contracts, changing priorities leading to a succession of changing criteria and a progression of projects, failure to tackle landscape scale issues, and cost and blame shifting between the commonwealth and the states and territories. Most recently, about half of the \$1 billion allocated to Caring for Our Country has been diverted to the 'Green Army'. Whilst this means some free, unskilled labour may be available for public benefit conservation, it is a cut to the funding available to support the communities that ensure green army projects can add value.

At the state level in New South Wales, the government agency responsible for this public benefit activity has been restructured continuously with a name change on average every 3 years. Most recently, yet another restructure resulted in the formation of Local Land Services (LLS) through the amalgamation (or closure) of the farm advisory part of NSW Agriculture, the Catchment Management Authorities and the Livestock Health and Pest Authorities. The philosophy behind this restructure was to provide integrated service delivery, but based on research conducted in one LLS in 2014, it has resulted in a 50 per cent reduction in people employed on public money to work with farmers for management of land, water and biodiversity and the control of weeds and pest animals. Whilst the impact of this hasn't yet hit farmers, the agricultural and environmental professionals who have shouldered the burden of this instability have suffered.

Farmers are highly adaptable and resourceful, and many are breaking new ground by developing strategies that are profitable and regenerative. These innovations would quickly spread with coherent, consistent and supportive public policy. It is clearly in the public interest to have productive farms producing clean and healthy food and quality fibre in perpetuity. It is also in the public interest to produce that food and fibre in a way that enhances the capacity of our landscapes to support biodiversity and provide clean water and air. Surely this public interest is served by public investment in high-quality professionals to work with farmers and local communities. Instead we have successive governments reducing this investment and leaving it to a small and struggling sector, agriculture, to carry an unfair and unrealistic burden. Consistent bipartisan support that also leverages private sector investment and innovation would pay for itself many times over, in the public interest.

# Section 4:

## Indigenous futures in the public interest



# Reframing the terms of engagement in Aboriginal affairs

**Patrick Dodson**

Patrick Dodson is a Yawuru man from Broome, Western Australia. He has extensive experience in Aboriginal Affairs, as former Director of both the Central and Kimberley Land Councils, as a Commissioner in the Royal Commission into Aboriginal Deaths in Custody and as inaugural Chair of the Council for Aboriginal Reconciliation. Patrick was also Co-Chair of the Expert Panel for Constitutional Recognition of Indigenous Australians, and is a current member of the ANU Council, Adjunct Professor at the Broome campus of the University of Notre Dame, and Chair of the Yawuru native title company, Nyamba Buru Yawuru Ltd.

Over the decades attempts have been made to improve the relationship between Aboriginal peoples and the settler state. The national reconciliation process, and the various policy and programs adopted by governments to address Aboriginal disadvantage, are examples of this effort. While we have made some inroads we have not resolved some of the deeper issues that continue to divide us.

When it comes to Aboriginal Affairs, the focus of public policy is on the administration of Aboriginal people rather than the nature or essence of our relationship. Other than recognition of the existence of disadvantage, there has been very little effort to understand the differences between us, and virtually no attempt to examine how our differences could be accommodated or viewed in an innovative or transformative light. Consequently, there is no agreed position on the resolution of the core political issues, and no mutually agreed framework for how we should move forward.

The pursuit of reconciliation based on truth and justice has proven a challenge for our nation. Without truth and justice there is no trust, and without trust it is difficult to reset the relationship and transition to a space where reconciliation becomes a real possibility. We have had several opportunities – the 1992 Mabo verdict, the national reconciliation process and the 2008 Apology to name a few – to deal with the unfinished business of the past and progress the reconciliation project in a just way, however we have always stopped short of resolving these matters in a complete way.

As a nation we have not engaged in a meaningful dialogue about Australia's colonial past and its ongoing legacy in a way that enables us to move beyond the politics of blame and guilt. We seem to spend a lot of negative energy caught up in false binaries around white guilt and black victimhood, white blind folds and black armbands, collective rights versus individual responsibility, symbolic reconciliation versus practical reconciliation, the Left versus the Right, and so on. The outcome of this dissonance is policy that responds to ideology and ingrained prejudice rather than the needs or aspirations of those to whom it is directed.

A fear of diversity and change militates against us advancing beyond our unresolved past, leaving a reservoir of injustice, mistrust and resentment. In a democracy like Australia we should be able to ventilate our concerns and work toward accommodating if not resolving our differences in a constructive way. But instead of engaging in a dialogue to find sustainable solutions to systemic problems, we tend to become locked in ideological disputes around policy and strategy. Too often there is a polarisation of views rather than a genuine attempt to listen to each other and engage in co-creating a new narrative that has meaning for both sides.

The difficulty for Aboriginal people is that Aboriginal Affairs policy is conducted within the normative framework of the dominant settler state and its institutions. The normative system is predominately concerned with rationalising the status quo and preserving the legitimacy of its own institutional authority. For the most part, there is little scope for Aboriginal peoples' worldviews or values to penetrate this system and drive the direction of policy. Any shift or devolution of power to enable Aboriginal people genuine control and autonomy over their affairs is also likely to be resisted.

In the absence of a treaty or some form of agreed political compact, the terms of engagement continue to be dictated by the settler state without negotiation or consent, leaving us vulnerable to the political whims of the government of the day. Parliament retains the power to pass legislation and governments are free to set policies that affect Aboriginal people without any imperative to consider our views. We comprise less than 3 per cent of the national population and lack the power or capacity to exert any significant influence over public policy, particularly in situations where our rights, interests or aspirations conflict with the mainstream.

The structure and nature of power relations have yet to be decolonised. Rather than mutual consent and just recognition, conquest and domination remain the philosophical foundation of our relationship, enabling assimilation to persist as the dominant paradigm for engagement and inclusion in the modern nation-state. Even though we are now in the second decade of the 21st Century, the possibility that Aboriginal people should be permitted to set the social, economic and cultural benchmarks for our wellbeing and development, and be enabled to navigate our own pathways within modernity on our terms, is something that is still not contemplated in public policy.

A new approach to address issues of concern to both Aboriginal people and the settler state is required to decolonise our relationship and reframe the terms of our engagement. Such an approach must move beyond mere consultation and give serious consideration to how we can incorporate the idea of free, prior and informed consent in policy and practice. But for this to be possible there must be a preparedness to develop a new paradigm that will entertain the possibility of a genuine post-colonial relationship. Constitutional recognition of Indigenous Australians presents us with an opportunity to at least take a step toward this direction, but recognition alone will deliver little if it is not also accompanied by meaningful dialogue and substantive reform. If we are to evolve and transcend the current state of paralysis in Aboriginal Affairs then we must give serious consideration to reframing the foundation and nature of our relationship.



# Achieving wellbeing for all through reconciliation action

**Kerry Arabena**

A descendant of Meriam people from Torres Strait, Professor Kerry Arabena is a social worker with a Doctorate in Human Ecology. She was inaugural Chair of the National Congress of Australia's First Peoples. She is currently Chair for Indigenous Health at The University of Melbourne and Director on the Board for Indigenous Community Volunteers. She is a founding member of ARLASH – Alliance of Regenerative Landscapes and Social Health.

A people's health can be defined as the minimal vulnerability to threats (e.g. parasites, viruses, bacteria) and the maximum adaptive capacity (i.e. high levels of strength, physical fitness, and high levels of resilience to psychological trauma, grief and stress). In Australia, rates of chronic diseases are increasing, as is the incidence of mental illness. Even though evidence is emerging that diet and lifestyle play a significant role in these illnesses, specific protective or causative effects are proving difficult to isolate and prescribe.

The health of a landscape can be similarly described as the minimal vulnerability to threats and the maximum adaptive capacity. Despite improvements in agricultural practices and management, the general health of the agricultural landscape is declining. Soils are systemically being eroded and becoming more acidic and saline, biodiversity is decreasing, nutrient cycling is failing, and climate is becoming more variable and extreme.

The next focus for building public interest capacity in an Australian context will necessarily be relational – between peoples and across institutions; situational – concerned with place; and integrated – between and across diverse knowledge systems and ecosystems. The public interest process will need to be meaningful for the people involved. I advocate for a regionalised system of public interest engagement, supported through a network of nationally accredited public interest peaks endorsed by a panel of 'new' public interest specialists. The system will implement 'thinking global, acting local' philosophies. This approach is not without its challenges, but could be achieved through extending the current Australian concept of reconciliation from a process between peoples in a nation state to a process that invests in reconciliation between all peoples and the landscapes in which we live.

Public interest processes are founded in discourse that uses a language that structures outcomes. We need a new language in a new public interest discourse, one that enacts an extended reconciliatory process and understands and honours the integrity of landscape as a whole interconnected life system. What needs to be reinstated in public interest discourse is the holistic relationship between all Australians with nature. We need language that celebrates this as being the desirable state of health and wellbeing for all people in this country. We all need to decolonise our minds. The culture of colonisation is now affecting the living and non-living processes that give us life. The mal-development practices underpinning colonisation are disrupting the geological functioning of the planet to a level not previously known. We are all caught up in this and we all need to change. We can no longer promote differences and exclusions; instead we need to promote unity, solidarity and equality in diversity.

We all need to reconcile, Indigenous with non-Indigenous Australians, and all Australians with the natural systems in which we live, and with the other species that cohabit our Earth. This is a natural trajectory for reconciliation, a fluid movement between reconciling a people with a people, to reconciling people and a planet.

### **Alliance for Regenerative Landscapes and Social Health**

Alliance for Regenerative Landscapes and Social Health (ARLASH) is a 'community of practice' designed to improve landscape, ecology and human and societal health through regenerative agriculture. The community joins together innovative farmers with scientific, community and business leaders collectively motivated to regenerate Australian landscapes so as to deliver healthy ecosystem services. This unique but overdue approach involves the holistic redesigning and integration of Australia's broad-acre and pastoral industries with human, societal and ecological health aspirations.

There is mounting evidence that healthy food (as well as water and other ecosystem services) produced by regenerated landscapes can play a transformative role in addressing society's major disease epidemics. Extending reconciliation between peoples, institutions and landscapes also transforms the traditional market concentration and vertical integration in industrialised agricultural systems that have reduced the viability of rural towns to the degree that many are unsustainable. This is unacceptable; these communities are integral to sustaining healthy agriculture and society.

'Caring for country' programs provide other opportunities for people to create health and wellbeing while managing landscape. These are community-driven movements toward long-term social, cultural physical and sustainable economic development that challenge and interrupt the dominant modes of thinking that have been so destructive to Aboriginal and Torres Strait Islander peoples' health and wellbeing. Initiatives germane to caring for country include time on country, burning of annual grasses, using country, gathering food and medicinal resources, ceremony, protecting country/sacred areas, and producing art work. Many of these activities are conducted as partnerships between community and mainstream organisations.

A challenge for public interest is this: if these 'on country' approaches to managing landscape generate health and wellbeing outcomes for all who share in the landscape's ecosystem services, why is 'care for country' only for Aboriginal and Torres Strait Islander people? Why can't all people care for country? In order to ensure our country is available for future generations we have to reconcile older knowledge traditions with modern ones, then act on how to live within the structure and functioning of the planet. Our new public interest processes need to reconcile human and ecosystem health, and find a language for new discourses that allow this to happen.

# Section 5:

## Refugees and asylum seekers and the public interest



# What Australia's refugee policy has to teach us about our (not so) liberal democracy

**Joyce Chia**

Dr Joyce Chia was until recently the Senior Research Associate at the Andrew & Renata Kaldor Centre for International Refugee Law at the University of New South Wales. She was awarded her PhD on comparative immigration and refugee law at University College London in 2009. She has previously worked as a Senior Policy Officer at the Australian Charities and Not-for-profits Commission, as a Research Fellow at Melbourne Law School, as a Legal Officer at the Australian Law Reform Commission, and as a Research Associate at the Federal Court of Australia and the Victorian Court of Appeal.

It has been said many times that Australia's unusually cruel refugee policies reflect its peculiar history, geography and public attitudes. True enough, but it is not the whole story. For Australia's refugee policies also reflect its politics — and, in particular, its weak commitment to the 'liberal' part of liberal democracy. This is the part that's designed to ensure that the principle of 'majority rules' doesn't end up trampling

the rights of minorities. It means that it is not enough to say that 70 per cent of Australians support these policies, as if this is all that counts. It also means that the Minister's view is not always to be preferred over that of courts or independent government bodies, simply because the Minister is elected and they are not. These institutions, after all, exist to provide some counter-majoritarian balance to the democratic system.

Yet these basic political principles are commonly ignored by politicians, and they are poorly enshrined in our democratic institutions and processes. An obvious example is that, unlike almost every other liberal democracy (and many other countries that are neither liberal nor democracies), Australia does not have a national human rights law that can be enforced in its domestic courts.

This partly explains why Australian laws can be much more severe than in comparable countries. In these countries, courts have stopped policies such as transferring asylum seekers to third countries, rendering asylum seekers destitute, and depriving asylum seekers of access to health care.

Another, less obvious, peculiarity of the Australian political system is its extreme party discipline, with Labor politicians prevented from crossing the floor and Liberal politicians doing so extremely rarely. This means that the spectrum of views in the community is not fairly represented in parliament, or reflected in our laws. Further, in an age when strategy trumps ideology, the two parties can neutralise each other's politically popular policies by agreeing with them or seeking to outdo them.

This unnatural agreement is exacerbated by the rise of the career politician and the declining popularity of party membership. The result is that a modern politician in a safe seat is essentially beholden to the political machine, and therefore less likely to rebel. This is reinforced by the consistent media portrayal of internal disagreements as weakness rather than a democratic strength, and any shifts in policies as 'backflips' that destroy credibility, rather than recognise reality.

The effect of these defects in the Australian political system is that refugee laws get passed by parliament with unseemly haste, generally without amendment, and without much threat of invalidation by a court. (If it is invalidated, the general rule is that parliament will reverse the decision – unless the court manages to find constitutional grounds.)

These are the big problems in our liberal democracy that require big reforms. They may be big, but not impossible. Although the movement for human rights legislation has stalled, there is some hope that internal party reform may be driven by the need to revive flagging political parties. As well, the increased willingness of the electorate to favour new voices is likely to increase the diversity of voices within the political spectrum.

There are also a host of smaller problems that might be fixed, or at least improved, more readily. For a start, we could markedly improve the quality of policy development. One reform, adopted by a number of state governments, has been to extend the length of the electoral term, giving governments more time to develop and consult on policies. We could foster policy development by independent voices, such as by investing in non-partisan research centres, peak bodies and think tanks that are not government bodies – as in the UK and the US where philanthropists and foundations can enhance the public debate.

Another reform would be to improve pre-legislative scrutiny by, for example, requiring identified bodies to be consulted and allowing minimum periods for consultation. All too often, legislation is rushed through parliament on the pretence that it is urgent. For example, the first legislation introducing mandatory immigration detention was rushed through parliament in a single day. Oversight bodies, such as the Ombudsman and the Australian Human Rights Commission, ought to be routinely consulted. Another possible reform would be to adopt the UK practice of publishing major draft Bills for comment and public inquiry on matters of policy, rather than on the details of the drafting.

Measures could also be taken to strengthen the role of Senate committees. In other countries, equivalent committees play a key oversight role and possess considerable authority. In contrast, our Senate legislation committees rarely do more than recommend passage of government legislation, perhaps with one or two proposed amendments (often ignored). Changing the composition of the committees could help, in addition to spreading the heavy workload of the Senate Legal and Constitutional Affairs Committee between specialist committees. Committees should also have greater control over the scheduling of inquiries to allow for proper public consultation.

We should also do better in following up on the recommendations of government-funded inquiries and bodies on the effectiveness of legislation and on the implementation of legislation. Governments should be required to publish the reports of all government-funded inquiries, unless exempted for particular reasons, and to provide follow-up reports on recommendations that it has agreed to implement. Legislation should be automatically reviewed after a period, either by legislation itself or through routine reviews by committees. An independent office, similar to the UK Chief Inspector of Borders and Immigration, could be established to systemically review the implementation of immigration policies and laws.

These are but a few of the reforms that would strengthen our liberal democratic institutions and processes, leading not only to better laws and policies, but also to better democracy for all those living in Australia and for those who seek refuge in Australia.



# Lateral solutions to developing better global arrangements for displaced people

**David Evans**

David Evans OAM is a retired medical practitioner whose work in Tasmania specialised in Pathology and in Sexual Health Medicine. In retirement he has completed a PhD in Humanities with the University of New England entitled 'Romance Tragedy in India and Nepal in the time period 1993–2013'.

My first thoughts regarding those needing to leave their homeland under the threat of 'leave or be killed' are for their family and associates not able to get away who have to remain at their home in imminent danger.

Refugees who escape are lucky if they find a refugee camp where life's necessities are available. The flight for a family known to me now living in Australia was from Burundi to Zimbabwe. Six years living in the refugee camp was described as 'like living in a boarding school', yet they told me camp life was meaningful and positive. This theme is echoed in a 2014 article in *The New York Times* entitled 'How to Build a Perfect Refugee Camp', which reported that meaningful and positive life is possible within such confines

The shame of our Australian-supported refugee camps is that the talents of refugees are not being fostered and the concept of positive living in the camps is hard to find. In part this is due to the jurisdiction of the camp, where conditions cannot be first world western style with social support equivalent to what we have in Australia. Such conditions are also not feasible for the vast majority of global refugees.

Is there a way forward with realistic possibilities? Could we build a new country?

## **'New Country'**

My vision for refugees is of a 'New Country' with states on lands allocated by countries hosting long-term refugee camps all around the world. For a peppercorn rental and with local support, each state would be leased to the United Nations. The UNHCR would offer UN Citizenship with identifying passport to refugees registering with UNHCR. The jurisdiction and legalities would be established by United Nations.

The ideal refugee camp would train its own citizens, especially the young, making them eligible for skilled visas to countries other than the state where they reside. Refugees with nowhere to go other than their present long-term refugee camp would become UN citizens, some of whom would be offered placements in

other countries while others would make their refugee camp liveable and train their young in skills needed around the world.

The key elements to realise this vision are as follows:

- A place for refugees is provided
- Basic essentials of food and housing are available
- Health and Security support are provided
- Food production is undertaken
- Education is fostered
- Social activities are encouraged
- Voluntary local administration is established
- The principle of being self supporting is achieved wherever possible

In the present reality the UNHCR seeks to provide basic needs whilst investigating repatriation and resettlement possibilities. Key aims and concerns are listed in the '2015 UNHCR subregional operations profile – South Asia' report as:

- The need for sustainable livelihoods, reliable community-support networks, and access to specialised services for people with special needs.
- Refugees and asylum-seekers may face discrimination from local communities with little understanding of refugee issues.
- The quality of public health and education in Nepal's camps has been adversely affected by the departure of skilled refugee workers, who were resettled.
- UNHCR fills the gaps in terms of protection, assistance and durable solutions. It focuses on the most vulnerable, including women, children, the elderly, survivors of sexual and gender-based violence, and those with special needs.

- UNHCR also advocates adopting national refugee frameworks and accession to international refugee instruments. Through stronger partnerships with the various Governments, UNHCR aims to enhance asylum space, including by: identifying opportunities for local integration; improving livelihoods for urban refugees; ensuring the smooth voluntary return of refugees ... identifying durable solutions for refugees ... supporting a sustainable return for those displaced,
- In 2015, UNHCR will continue to advocate for a favourable protection environment in South Asia, including freedom from arbitrary detention and *refoulement*.

What is missing from this report, however, is the concept of making life good wherever possible. The ideas behind the 'New Country' approach offer refugees a chance for self determination albeit confined to restricted travel within New Country, in ways that provide the UN and UNHCR with a way forward for refugee/asylum seekers.

Australia is part of South East Asia and needs to contribute support for refugees in the region. What we hear from the present Australian government is that new refugees will be exported in one way or another. However, there is no mention of us taking a responsible position in housing refugees (with nowhere to go) in long-term camps of the South East Asia Region. We need to work for UNHCR standards in these camps of the region, using more 'successful' camps as the yardstick. A study of these camps and working with UNHCR to create affordable positive living that does not insist on western standards may be necessary. Refugees confined to long-term refugee camps want to work and self provide. Let's make it happen.

The starting point will be currently functional refugee camps, with the following add on elements:

- Self-government on embassy-type land in a host country leased to UNHCR. The leased land will remain the property of the hosting country and can be changed by mutual agreement.
- The host country will provide external security.
- The refugee community will establish internal security. This may need help from the lessor and lessee if acceptable administration cannot be established.
- Standards of care will be on a liveable needs basis rather than Australian (western) social security standards that are unaffordable in most parts of the world.
- The concept of 'refugees as global citizens' will complement the current UNHCR registration of refugees and travel by a 'global citizen' will still need visa permission.

Refugees say 'Give us opportunity and freedom to work. We will do it ourselves.' Could Australia lease the first state of New Country to the UN on some part of Christmas Island, Manus Island, Nauru or elsewhere, and be prepared to help UNHCR with security and allow NGOs to help socially as well?

In summary, refugee resettlement placements are few both globally and in South East Asia including Australia. The realistic expectation for refugees is a long period in a refugee camp without guarantee of a placement. However, there are examples of refugees living on the land of the hosting country who make life meaningful and progressive if not hampered by legal restrictions. New Country is a concept for the self-management and government of refugees within the confines of allocated land, which will substantially assist the UNHCR (in collaboration with supportive NGOs) in their mission to provide safety and support for refugees with nowhere to go.

# **Section 6:**

## **Mental health and the right to die and the public interest**



# Improving mental health to build a more resilient Australia

**Allan Fels**

Professor Allan Fels AO is Chair of the Australian Mental Health Commission and was until recently Dean of the Australia and New Zealand School of Government (ANZSOG).

He also is Chairman of the Haven Foundation, which seeks to provide accommodation and support for the long-term mentally ill. He is a long-term advocate of mental health policy reform and a carer for his daughter. He serves or has served on a number of government advisory boards and is patron of many mental health networks. Professor Fels was Chairman of the Australian Competition and Consumer Commission from 1995 to 2003 and before that Chairman of the Trade Practices Commission and Chairman of the Prices Surveillance Authority.

Improving mental health and wellbeing is a nation-building issue. It is as fundamental to a better Australia as building new physical infrastructure, economic reform and social investment. This fact too often gets lost in our political debate. Every few years mental health

risks as a priority, and then is displaced by other, seemingly more important issues. This must change, because there are few issues more vital to the long-term welfare and wellbeing of the Australian population than mental health.

Mental health is a huge issue. Nearly half of all Australians experience mental ill-health at some point in their lifetime. It is an issue that cuts across all sectors of our society and touches nearly every family, workplace and community. For this reason, mental health must be consistently at the fore in our discussions about the public interest.

The impacts of mental ill-health are significant. People with mental ill-health experience higher rates of unemployment, are poorer than the general population, have more absences from work, and suffer more from 'presenteeism', that is, reduced productivity at work. In addition, they are more likely to suffer from cancer, diabetes and cardiovascular diseases. These factors lead to significant indirect costs, including informal care provided by carers and family members, as well as other related social costs, such as increased homelessness and crime.

What we also know is that mental health problems disproportionately affect some of our most vulnerable people. For example, the suicide rate of Aboriginal and Torres Strait Islander peoples is more than twice that of other Australians, while mental illness is second only to cardiovascular disease as the leading driver of the health gap between Indigenous and non-Indigenous Australians.

Of significant concern is the fact that our current system is not designed with the needs of people and families at its core. These needs are wider than health services; they are about supporting recovery and leading 'a contributing life'. The concept of 'a contributing life' recognises that all of us need the same things: a stable home, something meaningful to do, something to look forward to, and strong connections to family, community and culture. While there is significant expenditure on mental health in Australia, it is not necessarily being spent on the right things – those services that prevent illness, keep people well, support recovery and enable people to lead contributing lives.

Australia's patchwork of services, programs and systems for supporting mental health is not maximising the best outcomes from either a social or economic perspective. Many people do not receive the support they need and governments get poor returns on their substantial investment. In short, the status quo provides a poor return on investment, creates high social and economic costs, and inequitable and unacceptable results for people with lived experience of mental illness, their families and support people. Clearly, action on mental health is in the public interest.

As an economist, I probably seemed to many people an unusual choice for the inaugural Chair of the National Mental Health Commission. However, during my time as Chair, I've seen economic questions everywhere I've looked. What has become clear to me is the huge opportunity cost of inaction on mental health. Recent separate studies by the OECD and the International Labour Organisation put the costs of mental health problems at 4 per cent of gross domestic product. This figure can be applied here, and it is massive.

Martin Wolf of *The Financial Times* rightly identifies mental health as our biggest health problem, and states that given the considerable economic costs to society, treatment pays for itself. This is true. The business case for creating mental health workplaces, for example, is clear. A recent report from Price Waterhouse Coopers found that for every \$1 invested in mental health initiatives there's an average return on investment of \$2.30.

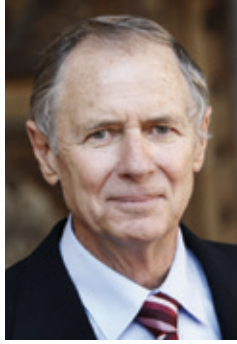
Improving mental health must be viewed as an invest-to-save issue. Tackling the causes rather than the symptoms, preventing mental illness and suicide in the first place, promoting good mental health for everyone, and timely support when things start to get tough add up to the best economic and social renewal strategy we can invest in.

Prevention and early intervention, for example, are absolutely vital. We must act earlier, and invest in early intervention across people's lifespans. About half of all adults with a mental illness developed that illness before the age of 15, so early identification and treatment can make a huge difference.

We also need to improve awareness and encourage people to look after themselves and each other, and get the help they need. For example, we know that more than half the people with mental health problems receive no treatment of any kind. It takes courage to knock on a door asking for help so we must make sure that every door that is knocked on leads to the right support, care and treatment that address health and support needs, prevent escalation of problems, and empower people to live a contributing life. Central to this is a person-centred approach where services are designed, funded and delivered to match people's needs. We must focus on outcomes rather than activity and, importantly, agree and implement national targets and local performance measures.

Real change will require courage. Courage will be needed to avoid just tinkering with a disjointed collection of linear services, systems and responsibilities that have long been shown to not produce the outcomes people and families need. Courage will be needed to embed a system that is truly in the public interest.

There is an extraordinarily high degree of consensus as to the directions needed to create a mental health system that promotes good mental health and wellbeing and a contributing life. Practical steps now need to be taken. I hope we as a society, as well as our political leaders, can find the courage to see this through, because all of us will benefit. Importantly, mental health must not be viewed as an issue solely for governments. It touches all of us, and is everyone's responsibility.



# The challenging quest for a right to die

## Marshall Perron

Marshall Perron grew up in the Northern Territory. Leaving school at 14 he tried his hand at a variety of occupations before winning a seat in the Legislative Assembly. During his 21 years in parliament he held almost every ministerial portfolio at one time or another. He was elected Chief Minister in July 1988 and served in that position for 8 years. He created world history when his private member's voluntary euthanasia bill, The Rights of the Terminally Ill Act, became law in 1995. Four terminally ill Australians used the provisions in the Act before the legislation was overturned by the federal parliament. He remains active in the voluntary euthanasia movement.

There would be few more classic examples of the public interest being denied than the inability of the terminally ill to determine the timing and manner of their own death.

A Morgan poll in 1962 asked the question, 'If a hopelessly ill patient, experiencing unrelievable suffering, with absolutely no chance of recovering, asks for a lethal dose, should a doctor be allowed to give a lethal dose or not?' The answer of 47 per cent of respondents was 'yes'. By 1995 the figure was 78 per cent. In 2012 it had climbed to 85 per cent.

Driving these changes in attitude are a more educated assertive population, advances in medicine that can maintain life way beyond any useful purpose, the knowledge that palliative care cannot relieve all suffering, and a conviction that quality of life should be treasured over quantity. Many of us simply reject the prospect of a senile penitentiary existence in a sterile nursing home, surrounded by strangers.

Thirty one bills supporting the rights of the terminally ill have been introduced in Australian state parliaments in the 17 years since the Northern Territory Rights of the Terminally Ill Act was vetoed by federal parliament. Most bills were never debated and only one has been considered in committee. None have become law.

You might think that a law that did not require anybody to do anything, saved taxpayers money, reduced anxiety and violent premature suicide and was desired by twelve million Australians, would be high on the agenda of our democratic representatives.

A read of political maiden speeches invariably reveals a plethora of pledges to fearlessly and honestly represent the voters who put them there. Sadly, powerful sectional interests soon interfere with these warm sentiments.

Every time a bill is introduced, a well-resourced religious lobby launches a standard campaign of fear-mongering, distortion and innuendo that is seized upon by politicians of religious conviction seeking grounds to bury the proposal. Genuine analysis of the doomsday predictions is absent. They are hastily accepted and repeated to justify blocking the proposal and so avoid the wrath of the clergy and powerful colleagues of faith.

The Australian Medical Association (AMA) also opposes law reform despite acknowledging that satisfactory relief of suffering when dying cannot always be achieved and that doctors do occasionally hasten the death of terminally ill patients. The AMA cannot contribute to the voluntary euthanasia debate honestly while it adheres to a hypocritical stance that fails to recognise the divergent views and actions of its own membership on this issue.

The case that allowing for a dignified death is in the public interest would be best served by acknowledging the need and working with others of goodwill to devise a responsible law. Examples abound with eight jurisdictions in Europe and the USA permitting elective death in limited circumstances.

Following extensive research, public hearings and an examination of operations in lawful jurisdictions, two recent Canadian studies concluded:

*The evidence does not support claims that decriminalizing voluntary euthanasia and assisted suicide poses a threat to vulnerable people, or that decriminalization will lead us down a slippery slope from assisted suicide and voluntary euthanasia to non-voluntary or involuntary euthanasia. (Royal Society of Canada)*

*.... after carefully studying foreign experiences, we can confidently say that allowing this practice (Medical Aid in Dying) would not harm society's most vulnerable, because there are ways to define and structure it to avoid any risk of abuse. (Quebec Parliamentary Select Committee on Dying With Dignity).*

Political intransigence on this issue is not uncommon, as demonstrated by the Oregon experience, which also provides us with a lead to a possible solution. Following years of political procrastination, concerned citizens founded Oregon Right to Die, an organisation that drafted a proposed law and gathered the necessary signatures to have it listed as a Citizens Ballot Initiative. In November 1994, the Death With Dignity Act was passed by 51 per cent of Oregon voters. The Act faced, and ultimately survived, a host of challenges, including court challenges aimed at having the Act declared unconstitutional, federal legislative efforts to effectively block the law and a federal policy directive aimed at preventing physicians from providing assistance under the Act. The hostile state parliament then imposed a second ballot initiative aimed at repealing the Act. The result was an overwhelming 60 per cent vote to keep the law which was finally, begrudgingly, enacted by the Oregon legislature in 1997. By November 2014, 752 eligible citizens had exercised their right to choose the time of their death.

Citizens in Washington State followed the example set by Oregon to circumvent opposition by minority groups and timid politicians. Vermont has since passed an assisted suicide law. The momentum in the USA is now probably unstoppable.

While it is unlikely Australian parliaments will, in the foreseeable future, adopt the American citizens' ballot system, the practice of submitting contentious matters to a public vote could be adopted. Following a public inquiry, a proposal to decriminalise voluntary euthanasia could be prepared by a Law Reform Commission or similar body and become law only upon it receiving support in a plebiscite. This could be a politically safe model for overcoming resistance to address this issue.

Our parliamentary representatives may not want an abortion, to visit a prostitute, or to own a firearm, yet we have laws allowing all of those activities in controlled circumstances. Equally, they may not want for themselves the option of a hastened death, however they should not continue to deny the option for others.

A callous paternalism is evident by the repeated refusal of our parliaments to implement a responsible right to die regime. The public desire is ignored, resulting in desperate individuals being driven to grisly methods of self-deliverance. It is not in the public interest that we continue to keep dying people alive, against their will, at great human and financial cost.

Australia's liberal democracy is failing to reflect the needs of society where attitudes to death and dying have evolved towards valuing life's quality over quantity. We need a structure devoid of vested interests and religious ideology to prepare a responsible, safe regime to permit voluntary euthanasia. With reticent politicians out of the way, the public should then be asked to make the final decision.

# Section 7:

## Inequality, education and early childcare



# Inequality and the public interest

## David Morawetz

Dr Morawetz is an economist, counselling psychologist and philanthropist. He is a board member of both Australia21 and The Australia Institute, and is a co-author of the recent Australia21/Australia Institute report *Advance Australia Fair? What to do about growing inequality in Australia*.

One key public interest item for Australia, growing inequality of opportunity, represents a retreat from what is often described as a core Australian commitment to 'a fair go for all'. Over the last decade, the richest 10 per cent of Australians enjoyed almost 50 per cent of the growth in incomes, and the richest 1 per cent received 22 per cent of the gains from growth. At the same time, scandalously, one child in six in Australia lives below the poverty line.

If a public interest body was set up to reverse this growing inequality, to increase equality of opportunity, to champion 'a fair go for all', what might it do?

1. It might aim to shift the Australian debate back to a point where fairness and decency – 'a fair go for all' – are non-negotiable starting points, not distant aspirations. An appropriate name for such a body might be The 'Fair Go for All' Commission.
2. It might present publicly the evidence that when income inequality rises too much, economic growth falls. The traditionally conservative International Monetary Fund, the OECD, Nobel prize-winning economist Joseph Stiglitz, *The Economist* and the Governor of the Bank of England, among many others, have confirmed this. In other words, reducing inequality is good for the rich as well as for the poor. It is important that all understand this if the more conservative sides of politics are to support attempts to improve the opportunities of the disadvantaged.
3. It might place major emphasis on early childhood education for all children aged 0–5, especially disadvantaged children, because early childhood education is so crucial for future life-chances. For many advocates of early childhood education, intellectual and emotional enrichment for disadvantaged kids is simply a matter of fairness. For Nobel Prize winning economist James Heckman from the University of Chicago, it is also sound economic policy. Professor Heckman established (and many others have since confirmed) that investing in early childhood education for the disadvantaged offers the most cost-effective path to a wide range of social benefits: not just higher future incomes for participants, but a more productive workforce, greater economic growth, lower crime rates, smaller prison populations, and substantial savings for taxpayers.

- We can learn much about how to improve early childhood education from the experience of the Australian Goodstart Early Learning Centres, named one of the 10 top philanthropic innovations globally by British-based New Philanthropy Capital in October 2014. Hopefully, providing excellent early childhood education to all, and especially to the disadvantaged, is something that all political parties can agree on. It would mark a huge step towards increasing equality of opportunity for all in Australia. The contributions to this volume by Michael Traill and Julia Davison expand on this point.
4. It might improve the quality of school education for all students. A public interest body focussing on inequality might monitor publicly the implementation of the Gonski needs-based school funding plans. The body might put out a report each year indicating what has been implemented and what has not yet been implemented, and what the results have been – rather like the annual reports that appear now on Closing The Gap. The aim is to educate the public – who may in turn put pressure on governments to continue supporting better education for disadvantaged students, a fair go for all. It is not yet too late to have these Gonski needs-based school funding plans implemented.
  5. At tertiary education level, it might present arguments to oppose the \$100,000 degrees that seem likely to be one of the outcomes of the budget changes proposed by the Coalition government in 2014.
  6. It might reduce inequalities in health care. The strong public reaction to the Coalition budget of 2014 indicates that Australians do not want more inequality in health. A public interest body looking after inequality in health in Australia might note that whereas the government has claimed that we need a GP co-payment of some kind to make Medicare sustainable, recent reports from three quite different, highly credible and independent sources all reach a very different conclusion. The sources are the government's own Australian Institute of Health, the OECD, and the recent 'Bettering the Evaluation and Care of Health' (Beach) report. According to the federal Shadow Minister for Health, writing in *The Guardian*, these three reports find that Australia has one of the most efficient and effective health systems in the world, with no evidence that health spending is unsustainable. A public interest body might note that these reports demonstrate that a government committed to Medicare can deliver an affordable and sustainable health system without making low-income families pay a co-payment every time they need to see a doctor or fill a prescription.
  7. At a broader level, it might examine all major pieces of legislation, and report publicly on their implications for 'a fair go for all'. This was suggested by John Hewson when he launched the Australia21/Australia Institute report *Advance Australia Fair? What to do about growing inequality in Australia*. For example, in examining budget legislation, a public interest body might point out that current budget deficits in Australia are being caused by big reductions in tax revenue, not by big increases in government spending. This means that the solution to budget deficits in the post-mining-boom era lies in raising more tax revenue in a fair manner, not in cutting spending in ways that impact especially on lower-income people. A public interest body might point out that, as outlined in the Australia21/Australia Institute report, there are many ways that tax revenues can be increased significantly while at the same time reducing inequality. It might suggest that the government should give more prominence to its low-profile Revenue Review Committee instead of focusing almost entirely on its high-profile Expenditure Review Committee.
  8. It might encourage media outlets to run a series of articles or reports on the many aspects of inequality in Australia.
  9. A public interest body might also continually update the public on newly emerging literature and evidence on (a) the negative effects of rising inequality (including the negative effects on economic growth), and (b) the positive policies to reduce inequality that have been tried successfully in other countries: for example, New Zealand's new liability investment approach to welfare reform (see the report of the recent Senate Inquiry on Inequality, 2014), and numerous policy examples from the Scandinavian countries identified in the book *Northern Lights* by Andrew Scott.



# The importance of a strong state school system

**Vaughan Evans**

Vaughan had forty years in the teaching service including time in infants/primary and in state secondary schools as a Teacher, Head Teacher (English), Deputy Principal and Acting Principal. Vaughan worked with Quality Assurance teams and as a presenter at teacher in-service courses. His teaching involved periods in both the Peoples Republic of China teaching English as a Second Language and the United Kingdom. In December 2013, as a mentor/advisor, he accompanied a team of Pre Service Teachers to India with the Tara Ed. Organisation.

Who speaks for and protects the public interest in NSW state schools? Certainly not the federal government. Governments under-fund state education and are slow to champion the achievements of state systems. There is a generally held view that the state system is of a lesser quality than that of both the independent and to a lesser degree, the Catholic system. With more than 70 per cent of the state's young people involved in state school education, such a view is not in the best interests of all.

Governments need to recast their attitude to the state system of education to help improve its status and hence encourage public confidence. Adequate funding and a more robust, positive rhetoric in defence of state schools are essential. The strongest state schooling systems overseas are those with vocally supportive governments.

The public would be best served by the extension of equality of opportunity to the entire school population to achieve the best possible educational outcomes. The recommendations of the Gonski report went far in ensuring a more equitable approach to school funding, moving towards more even outcomes from each system. However, a return to the pre Gonski economic status of our state and independent systems will maintain the current bias towards independent schools, thus serving the best interests of a minority of school students.

The federal government's proposed economic model will see a premature end to the National Plan for School Improvement (NPSI) funding recommendations in 2017. A neoliberal approach to funding state education will prevail and the gap between the advantaged and the disadvantaged will be maintained. The general public will be the losers, as a pool of talent will not get the best opportunity to realise its potential. The NPSI offered hope for the defence of the general public interest in education through its fairer basis for fund distribution to the benefit of all school students, state and independent.

The majority of key players reached a significant agreement in accepting the NPSI proposal to contribute to the base funding for all schools with targeting for disadvantaged schools as a fair distribution of funding for education. Despite its relatively short implementation period, positive effects have been noticeable.

Some of the desirable 'extras' that independent schools have been able to provide have now become available to their state counterparts. A state school principal may no longer have to decide between employing a grounds man to ensure that the pleasant ambience of his school grounds matches that of the Independent school down the road – a significant concern in the mind of the general public – or to employ an extra member of staff to assist in the management of the growing number of children from disadvantaged backgrounds.

Politicians, many of whom have been educated in the independent system, appear unaware of the needs of a system of schooling which accepts all-comers, not just those from a higher socio-economic background. Consequently the independent system, which is a lesser drain on the public purse thanks to the contribution of parents, has been encouraged to blossom. Not a bad thing in itself but not at the expense of the state system.

The independent school system is perceived by the public as being superior to that of the state. There has been, historically, a longstanding devaluing of state schools by governments, overtly through allowing a funding advantage to independent schools at the expense of the state system and covertly by not adequately defending state teaching standards. It is in the face of such lack of support that the public has come to see the state system as the lesser option when considering the best educational options for their children.

Certainly, teacher unions are negatively perceived through their strong and at times, strident, defence of state education. This is counter productive but who else speaks for teachers?

Elements of the media thrive on the unwarranted idea that state schoolteachers must be kept honest through strict supervision. This does not give people faith in the system. My experience in state schools shows the majority of teachers to be hard-working, dedicated professionals who are resigned to negative publicity and underfunding and simply get on with the job.

State schools have long been the target for criticism due to their all-inclusive nature. As far back as 1880, Archbishop R.W.B. Vaughan characterised state schools as 'seedplots of future immorality, infidelity and lawlessness', thus giving rise to the Catholic school system and subsequently that of the independent schools.

The Archbishop's concern for the protection of 'better' students from the taint of the offspring of the rest gave rise to the hierarchical basis of our current systems. Does that suspicion still resonate amongst us? Or is it merely a reflection of human nature?

It is not helpful to favour a perceived social elite. A basic democratic principle is at stake. Such behaviour does not help maximise the potential achievement of all young people in our society. However it will require courage and political will to make decisions that will ensure equity of outcomes.

The OECD in the early 1980s suggested that federal governments should encourage the independent school option in order to relieve the economic burden of the growing cost of public education on its people. Understandably, politicians capitalised on a growing enthusiasm for private schooling and funded it accordingly. In 2014 the OECD called on the government to address disadvantage and increase equity amongst its people. The current government is not as enthusiastic about this call.

So it is in the best long-term public interest for government to restore faith in the state system of education through equity of funding and championing the values of a strong and viable state system of schooling. Hopefully the Senate's wish will prevail and ensure that this happens in the current term of government.



# It takes a nation to raise a child

**Julia Davison**

Julia Davison is CEO of Goodstart Early Learning, Australia's largest provider of early learning and care, with 644 centres across Australia caring for 73,000 children from 61,000 families. Goodstart employs over 13,000 staff and has an annual turnover of around \$800 million.

Goodstart was created by a partnership of four of Australia's leading charities – Mission Australia, Social Ventures Australia, The Brotherhood of St Laurence and The Benevolent Society – which saw the potential to operate the failed ABC Learning Centres, transforming early childhood education in Australia.

Goodstart's vision is for Australia's children to have the best possible start in life. As one of the biggest social enterprises in Australia, Goodstart works to create social change by giving children access to affordable, high-quality early learning. Julia has a strong interest in public policy having completed a Masters in Public Administration at the Harvard Kennedy School.

The week after Australia Day each year, around 260,000 five-year old Australians start school. Of those, almost 60,000 children – 23 per cent – will start school developmentally vulnerable in some way. Children who start school behind often stay behind, and are likely to finish school with skills and competencies that have not equipped them for the workforce or future life. The economic and social costs can be profound and long lasting.

The first five years of a child's life are when most of their brain development occurs. It is a period when children are most open to learning and when the foundation stones for future learning can be laid. According to Nobel Laureate James Heckman, it is a period when the biggest returns on investment in education can be achieved.

Around the world, nations are investing more in the early years as a means of improving the ongoing learning capacity of their future workforce. As nations increasingly compete on the quality of their human capital, they recognise the vital national public interest in having an 'all hands on deck' economy when facing an ageing population and declining levels of workforce participation. In this global race to build human capital, Australia can no longer afford to leave 23 per cent of its future workers behind at the starting block of school entry.

Access to quality early learning has been demonstrated in numerous studies to provide the greatest benefit to the most vulnerable children. Yet these children are the least likely group to access quality early learning, often due to cost barriers.

Quality early learning provides more than mere child minding. Quality early learning involves qualified professionals delivering age-appropriate play-based programs. Quality early learning magnifies children's development, their social competency and their resilience, and is very much in the public interest. A study of 2000 Australian children found that those who attended a quality preschool with a degree- or diploma-qualified teacher achieved around 30 points higher on their Year 3 NAPLAN tests. A long-running study tracking 3000 English school children, now up to age 16, found that children who had attended more than 2 years of quality preschool finished their GCSE examination (Year 10) with scores on average around 51 points higher than those who did not. This represents the difference between getting 8 GCSE at 'B' grades versus 8 GCSE at 'C' grades.

Reflecting the overwhelming case for the importance of quality early learning, the commonwealth and all 8 state and territory governments agreed to a landmark National Quality Framework (NQF) to raise the quality of early learning in Australia just five years ago. It is particularly pleasing to note that this support is bipartisan, with both Coalition and Labor governments championing the importance of the early years. Though Australia is playing serious catch-up with much of the rest of the world, the decade-long reform process in the NQF gives us a pathway to get there.

However as any informed shopper will tell you, quality comes at a cost. And government assistance to families, to help meet the rising cost of child care has not kept up. The result has been that too many families have been priced out of access to early learning and childcare. This results in a double negative – for the children who miss access to early learning opportunities, and for their parents who are then unable to re-join the workforce. Both sets of lost opportunities carry big costs for Australia that will accumulate over time.

Price Waterhouse Coopers has produced some modelling of the benefits of investing in quality early learning. They estimated a threefold benefit to the future productivity of the economy over coming decades – \$6 billion from increased female workforce participation if childcare costs were made lower, \$10 billion in improved productivity from the benefit of raising the quality of early learning, and a whopping \$13 billion from increasing the participation of vulnerable children in early learning. Price Waterhouse Coopers' modelling also found that while there was a short-term fiscal cost to making quality early learning more accessible and affordable, in the medium and long term it more than paid for itself.

Other research suggests that Price Waterhouse Coopers' estimates could be understated. The Grattan Institute concluded that if Australia's female workforce participation rate rose to that of Canada, our economy would be \$25 billion better off. This is a figure often quoted by federal Treasurer Joe Hockey in making the case for increasing Australia's low rate of female workforce participation, which ranks as the fourth lowest in the OECD.

Public investment should mirror the public interest, and the public interest case for investing in childcare and quality early learning is very strong. The National Commission of Audit, the Henry Tax Review, the OECD Going for Growth report, and the recent Productivity Commission Inquiry into childcare and early learning have all recognised this.

It is in the public interest for more children to start school ready to learn. This not only gives children the best start, it also saves the public many millions of dollars. It is in the public interest to provide additional support and early intervention for children facing disadvantages, and the first five years provide a crucial short window to redress the development gap. It is in the public interest to remove barriers to women's workforce participation through the provision of affordable early learning and care for their children. And it is in the public interest to invest now in Australia's future economic productivity by investing in the learning capacity of our future workforce. Australia invests far less in making quality early learning accessible and affordable than most industrialised countries. That needs to change. As a nation, we should not leave any of our children behind. We cannot afford to.

# Section 8:

## Funding the public interest



# The merits of an efficient social purpose capital market

## Michael Trail AM

Michael joined Social Ventures Australia (SVA) as founding CEO in 2002 after 15 years as a co-founder and Executive Director of Macquarie Group's private equity arm, Macquarie Direct Investment. Michael is Chair of GoodStart Childcare Ltd, Chairman of the Opera Australia Capital Fund, Assetic Pty Ltd, and a Director of M H Carnegie & Co. Michael stepped down as CEO of SVA to take on an Executive Director role in October 2014.

Throughout my time at Social Ventures Australia (SVA) we've thought very hard about why it is that despite a generation of economic growth, and in many areas quite significant funding growth, the data tells us there hasn't been much progress in what to us is the core moral and economic issue we face in this country – that many Australians live in a cycle of exclusion and cannot participate fully in the community. When ambition and participation in community and the economy are limited by the postcode into which we are born, something is not working.

If we looked at this in business terms, the reasonable conclusion is that we have an inefficient capital market in the social purpose sector. Quite simply, based on the evidence of what hasn't changed, large chunks of funding being allocated have too little regard for results.

In the pivotal area of education for example, a 45 per cent real increase in spending in the decade from 2000 has seen no material evidence of positive change. In fact, global data tells us that we are lagging on the OECD tables as benchmarked by performance in the widely respected PISA data. In terms of equity, children from bottom 20 per cent postcodes are on average 2½ to 3 years behind their peers in the top 20 per cent by the age of 15. We are also slipping in aggregate performance.

We have learnt much from our experience at SVA of working with a wide range of high performing social purpose organisations that, with the requisite funding, can shift the dial on issues of disadvantage in this country. Organisations like the Australian Indigenous Mentoring Experience or AIME (which mentors indigenous high school students and practically encourages and develops their educational aspirations) and the Beacon Foundation (now working in more than 130 schools in 'tough postcode' areas providing pathways to further employment and education) are making a tangible and large-scale difference.

Why?

They focus on evidence and are clear about tracking the efficacy of programs and documenting what works. They have outstanding *talent* with high quality leadership teams and boards committed to their mission and bringing passion and experience to their task. As a result they have been very good at accessing capital, i.e. the sustained philanthropic funding and support they need to continue to grow the reach of their work.

The bellwether GoodStart transaction, in which \$165 million of capital was raised from a unique cocktail of funders including conventional bank debt, federal government debt funding and a new breed of impact investors who invest for financial and social return, highlights the different and innovative thinking that is needed if we are to be serious about addressing the compelling public interest case for driving social change. GoodStart successfully acquired 700 childcare centres from the failed ABC business. It works as an effective \$800 million revenue social purpose business because it is clearly focused on driving performance – both business and social outcomes – and is run by a high quality management team and board, and this combination has enabled large scale capital access.

### Capital. Talent. Evidence.

These themes are reflected in the SVA foyer. If we are to be serious about reconstructing what is in our experience an often highly inefficient social purpose capital market, we need to focus on what gets in the road of these things being connected consistently.

If outstanding programs can demonstrate with reliable data that their solutions are both effective and sustainable, why aren't these solutions being invested in at a level that will solve the social challenge they are tackling? In too many cases we have funding by heart, not head. We have funders obsessed with process and not results. We often have no funding for that most obvious of beneficiaries: well run programs and organisations with a track record of results that need support to do more of what they do well.

None of this is simple. Social change is hard, and measuring it is hard too. But while defining performance expectations and target outcomes in the social purpose world is much more challenging than business metrics of performance, we must address what it takes to do this better.

There are promising signs afoot.

Governments globally, and here, are increasingly focused on being explicit about outcome measurement, and measurement approaches like Social Return on Investment (SROI) analyses are increasingly being used.

The growth of impact investing that underpinned the GoodStart transaction – using financial instruments to pursue both social and financial returns – is another encouraging sign. It's a compelling approach for two main reasons: it attracts new capital to social challenges, and it requires measurable outcomes to distribute returns, a powerful incentive.

We can each play a part in ensuring momentum for efficient investment in social change continues to gather.

Government, by orders of magnitude, is the major funder in the social purpose sector. Where change is happening, it is often driven by political leaders who understand the need to take risks, be clear about outcomes and use their soapbox to prosecute the case. As citizens we should demand this of them.

A pioneering, risk-taking investment like social benefit bonds happened in Australia because of political leadership. Brave successful experiments – like Goodstart Early Learning – would not have happened without government support for doing something new, something that carried risk.

The social sector too must step up to a new way of doing things. It must be explicit and brave in measuring the outcomes of work and programs. This includes being transparent when things don't work as intended, and candid recognition that the most valuable learning frequently comes from failure.

The philanthropic community also has a responsibility to apply capital in a more strategic and rigorous way, using the same energy, intellect and focus that frequently drove wealth creation in the first place. There is too much 'spray and pray' philanthropy and not enough rigour and discipline from those who should apply the same skills to their philanthropy as they usually did in building their wealth.

The education data that shows our investment in the critical human capital that will drive our nation forward is significantly inefficient should be a call to arms for all of us. We must build a smarter social purpose capital market to change that trajectory.



# Funding the public interest

## Ross Buckley

Ross Buckley is the CIFR King & Wood Mallesons Professor of International Finance Law, and a Scientia Professor, at the University of New South Wales. His principal field of research is international financial regulation, focusing at the moment on the regulation of digital financial services. He co-edits the International Banking and Finance Law Series and the Global Trade Law Series of Wolters Kluwer of The Hague. He has consulted to government departments in Australia, Indonesia, Vietnam and the United States. He has twice been a Fulbright Scholar and many times a half-bright scholar.

The public interest must not only be articulated and defended, it must be funded. World-wide, most governments of developed countries struggle with insufficient tax revenues. This is unsurprising. Voters generally want the services governments provide and resist funding them through taxation. However, current funding shortfalls are not caused by an inadequacy of personal taxation revenue as much as by an inadequacy of corporate taxation revenue. This is a direct result of economic globalisation and the shift to the knowledge economy. In the days when companies were national and paid tax where they earned profits, corporate taxation revenue streams were larger.

The standard practice for multinational corporations today is to locate their intellectual property (IP) in a low-tax jurisdiction and charge very substantial licence fees to their operating subsidiaries in high-tax jurisdictions to use the intellectual property. The result is that the great majority of corporate profits end up in a low-tax locale. A recent example in Australia saw Apple paying only \$80 million of tax on over \$6 billion of revenue for the year 2014. While the precise details of Apple's taxation situation are confidential, Apple is not selling low-margin products. It competes on the basis of quality and innovative design, not price.

If a multinational corporation begins life in a low-tax jurisdiction, royalty payments for the use of IP flowing back into that jurisdiction may be defensible. However, this is almost never the case. These companies begin life in high-tax jurisdictions because they benefit from their advanced educational, legal and financial systems. It is only once established and highly profitable that a company typically transfers its headquarters or, more commonly, the locus of ownership of its IP assets, to a low-tax country. This is an entirely artificial legal device to minimise taxation and the fact that the governments of the world, acting through the G20, have not already stamped out this practice exemplifies the political power of major multinational corporations today.

Certainly, most of the value of Apple's products lies in the IP embedded in them. Likewise, most of the value of Starbucks lies in the ambience of its stores and the innovative drinks and products they sell – surely few people enjoy the coffee. But while the core value of these companies lies in their IP, there is no defensible reason why they should be allowed to transfer their IP to a low-tax jurisdiction and the world's major nations are quite able to pass laws to prevent and unwind this practice. However, taxation appears to be one of the most difficult policy issues for contemporary democratic governments. The recommendations of the Henry Review in Australia lie gathering dust some five years after the report was handed down. It should be relatively easy for rich country governments to make the case against profit-shifting by multinationals to low-tax countries. Yet precious few governments globally today are resolutely attempting to do so.

Campaigning politicians still prefer to offer less taxation and more services. Yet this is only achievable by removing public service inefficiencies, and in the main in Australia our public service has been pruned back so hard that much of its deep expertise and capacity to perform well have been lost. Surely it is time for a mature conversation between voters and their leaders as to how promises will be funded, and surely a major part of the answer is the taxation in Australia of the real profits earned here.

Then again it should have been relatively easy for the former Labor government to make the case for their carbon tax. The cut-through argument was that hard work and effort are good and as such should be taxed as lightly as possible through income tax, whereas carbon emissions are bad and threaten the entire future of agriculture in Australia and our coastal communities and so should be taxed heavily.

Before enacting a carbon tax, the government could have passed a law mandating that every dollar raised by way of the carbon tax would be returned to individual Australians. The funds could have been returned in a variety of ways. My choice would have been to return all carbon tax revenues equally to all Australians by way of a single government payment into their bank account on the first of December each year. Most families find Christmas and annual holidays financially challenging. A sizable cash payment every year on the first of December would have had tremendous appeal.

Economists will argue against collecting income tax and returning other revenue in payments on efficiency grounds and call instead for income tax rate cuts. But again the packaging of the reform matters enormously, and if one wanted to go this way, I'd have argued for a rebate on taxes for all Australians of a set amount (being the total carbon tax revenue divided by the number of Australians), coupled to payments to Australians who don't pay income tax. Rebates or cash payments are more concrete and attractive than raising tax thresholds or tinkering with tax rates. A law that required every dollar raised by the carbon tax to be returned directly to the people would have changed the debate.

Instead the government of the day attempted to make its initiative politically palatable by offering a complex package of some ten inducements ranging from increases in individual tax-free thresholds and in some pensions and benefits, through to a complex raft of benefits for business, especially for small businesses, and farmers. The complexity of the countervailing measures meant that none cut through politically. The carbon tax was mostly seen as yet another impost from government.

The carbon tax should never have funded the public interest – its mere existence was strongly in the public interest, and the confused thinking in this regard means that not only does the world's driest continent not have an effective carbon reduction scheme today but we also let slip the opportunity of proving to the world that a carbon tax can work well without causing economic disruption.

The factors needed to make this important policy measure politically viable were clarity and imagination – the two factors, together with courage, that are usually missing when politicians consider funding the public interest.



# Financing the federation

**Alan Morris**

Alan Morris is the former Chair of the Commonwealth Grants Commission and also undertakes consulting and advisory work for AusAID and the World Bank. His prior appointments have included: Executive Director for Australia, Korea, New Zealand and Egypt at the European Bank for Reconstruction and Development, London; Secretary, Department of Premier and Cabinet, Tasmania; Secretary (Chief Executive Officer) and Secretary to Cabinet, Department of the Chief Minister, Northern Territory of Australia; Assistant to Executive Director, International Monetary Fund, Washington DC; Chief Financial Officer, International Finance Section, Australian Treasury; and First Assistant Secretary, Department of Finance, Papua New Guinea.

According to the *Australian Constitutional Values Survey 2012*, around two-thirds of Australians do not believe governments (in Australia) work well together, and believe the federation needs reform.

While it is perhaps surprising that the proportion of Australians who think our governments do not work well together is only two-thirds, the conclusion that reform of the federation — even if it could be achieved — can, and will, bring about a strong and effective working relationship between and among governments seems at best untested, and probably quite unwarranted.

Establishing a sound structural and institutional framework (which in this instance we might call the architecture of the federation), while obviously highly desirable, is not of itself guaranteed to produce sound outcomes. Robust institutional arrangements can be rendered ineffective by the way key stakeholders in a position to influence outcomes behave. Is it the apparatus and architecture of the federation that needs reform, or is it the processes surrounding the working of the federation that need to change?

These general questions are relevant in thinking about the way in which the federation is financed. The architecture for financing the federation has been in place, essentially unchanged, for over thirty years. The specific questions are — whether we can improve and strengthen the way the federation is financed, whether the principles and objectives that have remained essentially unchanged over three decades continue to be appropriate, and, if change is called for, whether a common sense of purpose can be found among the nine commonwealth, state and territory governments of Australia?

Australia has a comprehensive process for financing the federation — possibly the most comprehensive process of any federation internationally. This is fundamentally driven by the high degree of vertical imbalance (VFI) in our federation. In simple terms, the commonwealth raises more tax revenue from its tax bases than it requires to fund its own obligations, while the states (and territories) have expenditure obligations which far exceed the revenue they can raise from their own tax bases. This demands a system of fiscal transfers from the commonwealth to the states and territories.

Currently commonwealth fiscal transfers to the states and territories total around \$100 billion per annum, of which more than half take the form of untied general revenue assistance (the distribution of the goods and services tax [GST] pool). While the significance of these transfers to state budgets varies, in aggregate they represent about 45 per cent of total state revenue. Given the states' responsibilities for the delivery of services that are fundamental to the public interest, this order of magnitude is significant.

The second part of the fiscal architecture is the way these transfers are allocated across the states and territories. This is the principle and practice of horizontal fiscal equalisation (HFE), a poorly understood but very powerful principle encapsulating a simple concept. It is essentially about promoting equity for Australians in very different circumstances. Its aim, as far as it is possible to do so, is to use fiscal transfers from the commonwealth to the states and territories to equalise their capacities to provide access to and quality of services to their constituents similar to those elsewhere in Australia, notwithstanding the very different circumstances they face.

HFE is not, as doorstep interviews ahead of ministerial council meetings might encourage us to conclude, a plot to deny any state a just and equitable share of the total funding available. Without unwarranted intrusion on the policy and priority prerogatives of the state, its objective is to permit states, in ways of their own choosing, to provide equity in access to and quality of services for their communities.

The major criticism levelled at HFE from the doorstep is paradoxically an admission that the process works! States do not receive equal per capita shares of the GST pool because their needs are not the same. And their shares of the available funds do vary over time, reflecting changes in their relative fiscal circumstances.

There have been several reviews of equalisation over the years. Most have concluded that fundamental change to the GST distribution system is not required. The 2012 GST Distribution Review, for example, found the current system to be well established, internally consistent and working satisfactorily *if the goal and definition of equalisation as currently set out is accepted*.

This should not be taken to mean that improvements to the current system should not be contemplated. It is time to acknowledge that HFE cannot do all the financial heavy lifting in the federation — there are issues of national priority beyond equalisation that HFE is sometimes assumed to address, but which it is not designed to, and does not, do.

One of the more obvious of these is Indigenous disadvantage. HFE can and does recognise the costs facing particular states and territories in providing services to Indigenous people, but it does not provide them with the resources needed to seriously address entrenched disadvantage.

While there have been reviews, what has been lacking is a rigorous discussion among governments — and between governments and the community — about the principles

and objectives of equalisation and whether these continue to serve the interests of our contemporary federation. This discussion should not be put off any longer. It would be regrettable if dissatisfaction in some states about their share of the GST pool were to be the basis for advancing the debate on changes to the way the federation is financed. Without a continuing commitment to equalisation, the system of fiscal transfers will inevitably lead to increasing inequity across Australia, with the states and territories with weaker economies, weaker revenue bases and more pressing expenditure burdens bearing the consequences.

Is this what the Australian community wants? It is difficult to conceive that the Australian community would want a system that will inevitably lead to increased systemic inequity between the states and territories and between Australians throughout the country. Equity ranks high in the way we think about ourselves and is a foundation stone of who we are as a people. The doorstep interview does little to advance rational and balanced discussion about the principles on which the federation is to be financed.

The questions of what is the national public interest and who would shape and speak for it are questions that concern all Australians. While all Australians would welcome the provision of better services, would they do so if this were to be achieved at the expense of other members of the community and a less equitable federation?

Might there be better ways to finance the federation? The forthcoming White Papers on Reform of the Federation and Reform of Australia's Tax System may well identify avenues worthy of serious consideration. But that is the easy part. The political process to forge consensus about the need for and nature of change to promote the national interest, and then to act, is the difficult part. Recent history does not inspire great confidence that this will be done.

# **Section 9:**

## **Fresh insights and mechanisms for protecting the public interest**



# **A contribution from neuroscience and evolutionary biology**

**Lynne Reeder**

Lynne Reeder was formerly Executive Director of Australia21 and remains a Board Director. She has worked in universities in administrative and academic roles, and her PhD thesis examined the international relations theory of global interdependence.

Lynne trained as a meditation teacher with Deepak Chopra in the US, and is currently teaching meditation and mindfulness at a regional hospital-based Wellness Centre. With a long-standing interest in meditation and its influence on the brain and nervous system,

Lynne recently attended a conference and workshop run by Stanford University's Centre for Compassion and Altruism Research on new aspects of meditation and mindfulness gained from neuroscience and evolutionary biology.

Any review of the public interest should consider the aspects of human regulatory systems now being articulated within evolutionary biology and neuroscience by researchers investigating brain development from an evolutionary perspective.

One such researcher, Dr Paul Gilbert from the UK-based Compassionate Mind Foundation, references three systems that regulate human behaviour – threat (protection/survival), achievement (drive/pursuing) and affiliation (soothing/kindness) – and contends that these systems are now out of balance. Our threat and achievement systems are working overtime, while our affiliation system urgently needs to be enhanced in order to support our stressed minds

and bodies. The result when regulatory systems are out of balance is individuals getting locked into their threat and drive systems without considering the potential damage they can do – as evident in the example of rogue traders disrupting financial systems. Similarly making public policy decisions based on our survival regulatory system can result in the influential few being protected at a time when what is needed is better-developed conditions that nurture social connectedness.

Understanding this will assist us to move beyond the regulatory systems of threat/survival and drive/achievement to better develop our affiliation/soothing regulatory system. However taking care of the welfare and wellbeing of the majority (in contrast to the selfish interest of a person or group) will require the community and government at all levels to protect the public interest when making complex public policy decisions, and to put in place the frameworks to deliver fairer policy outcomes. Improving public interest outcomes will require a greater focus on community wellbeing and social connectedness.

Studies have shown that higher levels of social connection support more trusting and cooperative behaviour, and as a consequence recipients are more open to trusting and cooperating in return. This is not new research. In *The Descent of Man*, Darwin argued that 'communities that included the greatest number of the most sympathetic members, would flourish best and rear the greatest number of offspring'.

Recognition of our interdependence and the increase in scientific data demonstrating the significant benefits of compassionate and integrated behaviour are important components in progressing societal wellbeing. Compassion is an important trait of the affiliation system and has a place to play in increasing social connectedness. So at a time when evolutionary biologists are telling us that compassion is critical to our resilience and social cohesion, it is concerning that Antonio Guterres, UN High Commissioner for Refugees, recently reflected that the international community (of which Australia should be a significant contributor) has largely lost its capacity to prevent and solve conflicts.

If Australia is to contribute to new ways of progressing the debate on the public interest, then both the structure and content of social contracts need to be considered. With regards to structure, *The Politics of Compassion* notes, 'compassion is a political emotion that promises to help sustain stable democratic communities, expand the scope of moral and political responsibility, and motivate reparations for the violence that haunts post-conflict and post-colonial societies' (Ure & Frost [eds], 2014:5). Models of compassion that incorporate the public interest are already in place.

I recently attended a Stanford University conference on the Science of Compassion addressed by four US mayors who have committed to making their municipalities compassionate cities. These mayors referenced a model being developed as part of the Charter for Compassion set up by Karen Armstrong with funds received when awarded the best TED talk in 2008. This Charter is working with over 230 cities world-wide to create a network of people caring about the way in which their communities work for the wellbeing of all, including in business, in healthcare, in education, in government, in faith groups, and in caring for the environment. The Charter states that creating a compassionate city requires two kinds of leadership – from the bottom up through neighbours, places of work, community groups and schools, and from the top down in the offices of all levels of government. The result is communities committed to making compassion a driving force with a measurable impact.

The Australian parliament signed the Charter for Compassion on 10 January 2010, the first time the Charter had been recognised in a parliament anywhere in the world. Danielle Lauren then consulting for Australians for United Nations High Commissioner for Refugees had collected over 100,000 handwritten signatures supporting this. She noted at the time that the Charter provided 'a wonderful opportunity to spread the principle of compassion to our leaders to help make Australia a more compassionate society for all'. The then Parliamentary Secretary for Social Inclusion also said 'For those of us who work in this place, the Charter reminds us that it is not just the legislated laws that shape a nation, but the way in which we behave to each other.' However for the Australian parliament to move beyond simply being a signatory will require improved understanding of the way in which our three regulatory systems influence policy development. For example it is clear that current asylum seeker policy is very much anchored in our threat and drive systems.

Of course the notion of compassion is not without its critics; it can be confused with pity and with being patronising, and in our 24-hour news cycle compassion fatigue is also a factor. More importantly compassion needs to move beyond platitudes when influencing policy outcomes with measurable impact.

The recent Stanford University conference concluded by posing the emerging research question: 'What are the factors in our society that separate us, and stop us caring?' At this time in Australia's history we should also be asking, 'Given that the Australian parliament is a signatory to the Charter for Compassion, how are our legislators incorporating compassion into all public interest considerations?'



# Leadership in the public interest

## Helen Sykes and David Yencken

Helen Sykes AM is the Director of Future Leaders,  
President of the Trust for Young Australians,  
Chair of The Australian Collaboration, Vice President of the Council  
for the Humanities, Arts and Social Sciences, Associate of Melbourne  
Sustainable Society Institute, Member of the Future Justice Executive,  
Summit Governor of the Hillary Institute,  
and Board Member of the Public Interest Journalism Foundation.  
She has published and edited many books.

David Yencken AO is Professor Emeritus and former head  
of the School of Environmental Planning at the University of Melbourne.  
He is Patron of the Australian Conservation Foundation.  
He was the inaugural Chair of the Australian Heritage Commission  
and the former Secretary for Planning and Environment in the Victorian  
government. He was later the founding Chair of the Australian Collaboration.  
He has written, co-authored or edited eight books.

*No fundamental social change occurs  
merely because government acts.  
It's because civil society, the conscience  
of a country, begins to rise up –  
demand – demand – demand change.*  
(Joe Biden, Vice President of the  
United States)

History shows that the public interest can  
vary over time and between societies.  
These are, nonetheless, ideals that every  
nation should have for the wellbeing of  
its citizens. For Australia they include the  
protection of core values of democracy  
and society and the proper care of  
its people. They require the protection

and nurturing of the physical environment  
as the source of sustenance and life.  
They ask that we maintain decent  
standards of living for all citizens and thus  
a fair and efficiently operating economy.  
They mean that our artistic and cultural  
heritage and traditions are treated with  
respect, support and encouragement.

Many of these ideals, core values and social needs are under serious threat. One forceful way of confronting this challenge would be to try to reach agreement across Australian society about the major issues facing the country and to focus attention sharply on them. How might that be done and who should take a leadership role? Government clearly has a major role to play but the deficiencies of the political system in dealing with critical issues facing Australia and the world are all too apparent. Business has its part but works to its own rules so while it is an important source of enterprise and wealth generation for the country, it is not principally focussed on the broader public interest and often works contrary to it. The university sector has a critical role in carrying out research, promoting research findings and making its undergraduates and postgraduates aware of societal issues, but it rarely takes the main initiative in promoting new policies to protect the public interest except through the views expressed by individuals in university communities. Neither old nor new media are likely to don this mantle.

There is another major sector, the civil society sector (or not-for-profit or non-government sector), which could play a lead role in bringing about change that serves Australia's public interest. The Australian Productivity Commission in its 2010 'Contribution of Not-For-Profit Sector Report' points out that the Australian Bureau of Statistics (ABS) 'identified 59,000 economically significant NFPs, contributing \$43 billion to Australia's GDP, and 8 per cent of employment in 2006–07'. In support of greater recognition for the sector, the Productivity Commission Report also notes that 'the level of understanding among the wider community of the sector's role and contribution is poor and deserves attention'.

There are other reasons why this sector is ideally placed to take a leadership role. One is the rich array of skills covering the widest range of issues to be found within it. Another is the standing of the sector in the eyes of the public and the trust in which it is held. Edelman, the global public relations company, has just released the findings of its 2015 Trust Barometer. Once again the survey shows that non-government organisations (NGOs) enjoy the highest levels of public trust, ahead of government, business and the media, although disappointingly the level of public trust in all institutions has fallen this year. The drop in trust for NGOs has only been small, however, and still leaves this sector highest ranked and well-placed to take the lead in promoting the public interest.

What stops the civil society sector acting more vigorously? Key problems are its fragmentation and lack of resources. Australia is a rich pluralistic society within which many different voices speak out freely for the causes about which they are concerned. But such diversity can blunt a sharp focus on the most important issues and thus the likelihood of the media or politicians paying serious attention.

A challenge for the sector is how to make the most effective use of its diversity and skills to generate a list of critical issues and get wide agreement about them. This could, no doubt, be done in many different ways. Since there is not space to explore alternatives in any depth, we focus here on two key principles that should inform the task and one proposal that might produce a powerful outcome.

The principles are that the work undertaken should fully engage the civil society sector and that it should be intellectually rigorous. With these two principles in mind we suggest that a representative group of civil society organisations should take the first step by preparing a preliminary list of the most important issues facing Australia, inviting the widest possible inputs.

The second step would be to submit this list to a consortium of academics from Australian universities for checking, review and further development. When the academic review is completed a series of 'citizen parliaments' would be an ideal way to test and promote the research findings with community members. All community consultations should have multiple aims: to gather further valuable inputs, to create a learning environment for all concerned, and to gain the greatest amount of media attention and reporting.

The civil society sector would have the responsibility for promoting the findings of the research, individually and collectively, so that they become key issues regularly taken up in the media, leading in turn to pressure on all political parties to respond and incorporate into their policy commitments. Ideally the exercise should be repeated at regular intervals. The ongoing research team should be a dynamic group constantly kept alive with the injection of new voices, ideas and energy.

Funding of the project would no doubt be a challenge. Every effort should be made to ensure that the funds needed come from the combined resources of civil society organisations, universities and philanthropy and not from business and government.

Sir Gustav Nossal reminds us that: 'Community leadership is the courage, creativity and capacity to inspire participation, development and sustainability for strong communities.' Australia's civil society sector is well placed in Biden's words *to rise up, demand change* and show that leadership.



# Leading police in the public interest

## Mick Palmer

Mick is a police officer with extensive experience in police leadership and reform in community, national and international policing in a 33 year career. He served as Commissioner of the Northern Territory Police, Fire and Emergency Service agency in 1988–94 and as Commissioner of the Australian Federal Police (AFP) from 1994 until March 2001. Since retiring from policing in 2001 Mick has conducted a range of government inquiries and reviews, including the inquiry into the immigration detention of Cornelia Rau. He is a former member of the Alcohol and other Drugs Council of Australia and is currently an adjunct professor with the School of Criminology and Criminal Justice at Griffith University. He is a Director of Australia21.

The question of how well policing serves the 'public interest' has been alive throughout the development of modern policing since its creation in London by the Home Secretary, Sir Robert Peel in 1929 as a response to the urban disorder that accompanied industrialisation.

The role of police in these early days was essentially to protect those with status and property from those who had little or none. As a consequence, policing adopted a military style structure in which command and decision-making rested at the top of the organisation and subordinates followed orders. In this early environment, crime was local and usually unsophisticated, offenders were generally easily identified and a police officer's beat was the town or village in which he or she lived. Leadership was simple and uncomplicated.

A range of issues quickly identified themselves, however, which continue to create tensions within the practice of policing and for police leaders.

The office of constable is independent and the exercise of lawful, discretionary, arrest and other powers is a matter requiring individual, not organisational, judgment.

The concept of community policing, easily practised in the early days of policing, became a more complicated challenge as communities grew in size and mobility, and crime and criminality matured from humble local beginnings into a creature with national and international tentacles.

As wealth, prosperity and public expectations increased, politicians found themselves under ever increasing pressure to reduce crime rates, increase conviction rates and improve public safety.

While the government dictates the size of police service budgets and the policy objectives and priorities against which police performance and effectiveness are judged, the general public independently make their assessments of policing performance and not infrequently come to different conclusions on how well police serve their general wellbeing and safety.

The tragic stabbing murder of Stephen Lawrence, a young black man, by white racists in London in April 1993 graphically illustrates these tensions. Police were not criticised for failing to prevent the killing of Stephen Lawrence but for how they reacted and responded to it, including their lack of professionalism on the night of the crime and in their subsequent investigation. In the Lawrence investigation, the police service as well as individuals was found at fault. This was a major failure of leadership.

Effective response in such circumstances is at the core of policing in the public interest.

Police leaders have a responsibility to assess competing risks and operational priorities and identify who are the most vulnerable and exposed members of our society, what is being done to protect them, and what more can realistically be done to do so.

The events of 11 September 2001 added a new dimension to these responsibilities in ways never previously contemplated.

The myriad of counter terrorism related responsibilities created by '9/11' and its continuing aftermath altered and increased policing priorities and led to more autocratic, centrally controlled policing and greater political involvement in policing operations. These changes made it more difficult to maintain an operational environment which:

- encouraged discretion and personal judgment,
- ensured a fair and even-handed approach was applied to operational decision-making, and,
- facilitated police serving their communities fairly, proportionately, impartially and in the communities' best interests.

- So how, in this increasingly complex and publicly examined policing world, can police leaders' best ensure that police strategies and operations do appropriately and fairly serve the public interest?

The challenge for police leaders is to create an environment where the vast majority of what police do is done with the consent of a community which trusts them, what they do and the way in which they do it. The reality is that effective policing cannot operate without the support of the community. This is more, not less, important in an environment of uncertainty, instability and extremism-driven fear than in calmer, more stable times.

In the post 9/11 climate, tough decisions and actions will be necessary and sometimes unavoidable. However, every effort must be made to ensure they are justified and proportionate. Attention to detail has never been more important, nor has the preparedness to admit fault and accept blame.

While police have responsibility to respond to all crimes, requests and complaints, the challenge is to perform these duties fairly and impartially: to be as prepared to listen to the complaints of the minority as to those of the majority, to assess the concerns of the powerless as carefully as those of the powerful, and to understand not only the behaviour they are tasked to investigate, but also the reasons for it. To do otherwise is to risk a culture of rejection which will operate to further divide an already fragile society.

People with influence create pressure and governments are too often swayed by pressure. This does not always lead to a just and equitable response and police leaders are often caught in the middle of political, community and sectional interests. When this occurs they must be prepared to act apolitically, honestly and fearlessly, no matter how unpopular, with some stakeholders, this may be.

Peter Villiers, in his chapter on Leadership by Consent in the text *Police Leadership in the 21st Century*, identifies a critical combination of factors that good police leaders need to keep in mind if police are to operate with minimal force and maximum community cooperation. Many of these have assumed greater importance in the post 9/11 environment.

They include the need to:

- Uphold the rule of law
- Resist acting as political police, and deal with crime on its ordinary merits
- Maintain a visible presence in the community
- Retain a civil not a paramilitary role
- Prefer to use persuasion rather than coercion wherever possible
- Exercise the official power of the law only as a last resort
- Attempt to balance the rival interests at stake in any conflict and find solutions in which no one is the absolute loser
- Define 'other duties' inclusively rather than exclusively
- Demonstrate, by actions, that the idea of police being a friend is not entirely mythical.

These factors, if reflected in police practice, will be a clear demonstration of policing in the 'public interest'.

The challenge for police leaders, in this current autocratic, centrally controlled world, is to have the courage to afford their members sufficient trust and autonomy to exercise their individual discretions in accord with them, to do all within their power to ensure their officers are trained and enabled to act more as a police service than as a police force.

It has often been suggested that police are street corner politicians whose essential role is to negotiate between conflicting parties and find a solution or way forward. This role has never been more difficult or more important.



# The voice of the people — kitchen table conversations

**Mark Spain**

Mark is Chair of SEE-Change ACT and leader of the Belconnen SEE-Change group discussed below. He works as a professional facilitator and is a leader and learner in developing systems, structures and processes that build innovation, curiosity and high-trust relationships with people and their organisations to produce sustainable business results. He is particularly passionate about implementing sustainable and ethical business management systems that build success for all players, and for the future.

I think the public interest can be better served when citizens become active agents in collective decision making. I am one of ten members of the Belconnen SEE (Society Environment Economy) Change group which decided to test a model of engaging local citizens in a series of conversations in their homes with their neighbours.

Kitchen Table Conversations (KTC) were used in several projects by Mary Crooks at the Victoria Women's Trust over several decades. The first project called Purple Sage engaged women in café conversations about what was important to them during the time of the Kennett government. This process strengthened Mary's courage to ask Jeff Kennett a question at a public town hall

meeting where journalists saw the first signs of Kennett heading towards a loss at the next election. The second project, conducted during the long drought in Victoria, brought scientists, citizens and government together as partners in a process that empowered citizens to have Kitchen Table Conversations about the role of water in their lives and how it could be managed effectively.

This project was called Watermark and the report it produced still informs decision-making about water across rural and urban Victoria. The third project called Voice4Indi involved engaging citizens in the federal electorate of Indi in conversations about what was important to them. This project contributed to the momentum which led to the election to parliament of independent Cathy McGowan in a safe Liberal seat held by Sophie Mirabella.

The Belconnen SEE Change group invited Mary to Canberra to run a workshop on how to design and run a KTC process to listen to the voice of people in Canberra. The group experimented with two types of conversation, one starting with participants pre-reading a one-page conversation starter on a broad social topic written by one of the group members, the second asking participants to do no preparation but to speak to the question 'What is important to you?' Both conversations included ten participants. A 'talking piece' was used which entitled only the person holding the piece to speak, the intention being to create a climate of respectful listening to all points of view rather than one in which some dominant participants argued their views while those who were more reserved felt excluded. These conversations were engaging and interesting and people were pleased to hear the similarities and differences in each other's views.

The group then invited members of the public to a meeting to explore 'How to be a Kitchen Table Conversation Host', attended by 80 people. A host kit was given to those who wanted it and hosts were given 8 weeks to host two conversations with up to ten neighbours. The first conversation explored the questions: 'What is important to you? What are your concerns? What are your hopes?' The second conversation explored: 'What needs to change? What action will you take?' The host kit also explained how the host could find a scribe to record each of the two conversations. Host and scribe checked with each participant that the record accurately reflected their views and adjustments were made before each host submitted their report to the organising group. Twenty-four hosts from across Canberra submitted their reports by 30 November 2014.

On 3 December the SEE Change group held a KTC Hosts Debriefing workshop attended by 25 people. Hosts had completed an online survey beforehand and discussion focused on what worked well, what would be done differently next time and what the hosts had learned. While hosts had a positive experience, many would have liked more diversity and differences in their groups.

The organising group has now collated the reports of the 24 hosts and 180 people involved into an overall report published on the SEE Change website at [www.see-change.org.au/voicesofthepeople](http://www.see-change.org.au/voicesofthepeople) and distributed to all participants.

The organising group is encouraged by the participation and goodwill generated by this project and would now like to make the Host Kit and methodology available to more people with the intention that community groups of all political and social persuasion will form a Canberra Alliance to continue the Voice of the People Project. The Belconnen SEE Change Group will provide the Host Kits and support each group to run and report on their own public meetings.

This project has strongly demonstrated that when the right forums and avenues for engagement are created, citizens actively involve themselves in public interest expressions of democracy.



# Defending the public interest through community organising

## Phoebe Howe

Phoebe Howe is the training program director of the Australian Youth Climate Coalition. She has supported hundreds of young leaders in campaigns to change the direction of climate change policy in government and businesses in Australia.

She is a board member of Climate for Change, an organisation conducting kitchen-table conversations to educate and engage people on climate change. As a student at the ANU, she founded a community climate action group whose campaign contributed to ambitious climate legislation in the ACT.

The community organising process for discussing values and issues such as what is in the public interest leads to public action that can see vision brought into reality. Participating in the process can teach individuals about power, develop skills fundamental to constructive public debate, and give a voice to marginalised people who have valuable insight in mainstream culture. At a time when opportunities for fostering strong public conversations are lacking, community organising should be nurtured.

Community organising has been described as the power of organised people versus organised money. Where people have taken coordinated action in large numbers, they have subverted the powerful forces of those who have more resources. People have put their bodies in front of weapons in non-violent actions for independence in India, or for civil rights in the USA, and won major change. However the basic process of community organising in itself impacts on society's capacity for healthy debate that can defend our public interest.

Community organising can teach individuals and groups about how power operates. Many are disillusioned with world affairs and feel powerless to change anything. Community organising is about transforming that feeling into empowerment with the confidence to act. The Australian Youth Climate Coalition (AYCC) for example empowers young people to have their say on climate change, where they have little say over decisions that will disproportionately affect their future. In late 2013 the AYCC called on a major construction company

to withdraw its funding bid to expand a major coal port. Young people had to understand what would influence the company's decision-makers: internal pressure on staff. After four months of direct conversations with staff outside company headquarters, internal questions and complaints, the company withdrew their bid. These young people had a transformational experience, seeing firsthand how power works, building their own power base, and exerting this for the public interest they shared: climate change mitigation. Community organising creates an environment for public debate by activating individuals with the knowledge that it is possible to create change.

Community organising can also teach the skills to successfully engage in public debate. Though we may be convinced that participating in debate about the public interest is valuable, it can be difficult to see how to participate constructively. So much public conversation is combative, unconstructive and offensive, designed to entertain and win a point, rather than build shared understanding. Many people disengage from public debate rather than risk being harmed by the process.

A community organiser invests in respectful relationships. A key skill is identifying shared values among the individuals or groups they are organising. Organisers must be expert listeners, able to hear behind emotion or opinion in a heated conversation the fundamental values and concerns of the speakers. The Sydney Alliance, mentioned by Amanda Tattersall in this volume, teaches effective listening. The organising model of the Alliance is grounded in relational meetings, meetings with no agenda which consist of telling your own story, hearing another's story, developing an understanding of what the other values, and seeing where those values coincide with your own. Relational meetings quickly build the trust that makes organising possible. Groups as diverse as Jewish and Muslim representative bodies, which disagree on many things, have taken action together on issues of shared concern. Done well, community organising provides opportunity and tools to engage in effective debate that can construct what is in our public interest from the best ideas and knowledge rather than the loudest voice.

Community organising has grown out of the struggles of people who have been marginalised in systemic ways, and can give a voice to alternative views that shed new light on issues of public concern, strengthening public debate. People who are suffering due to systemic inequalities have had to fight for their personal safety, their identity, or their land. Communities who do not experience day-to-day hardship have little reason to agitate and call for change; though they may be concerned about injustices, their physical safety and economic security mean they have a choice. The marginalised often have no choice but to organise and push for change. In doing so they can offer insights to people living comfortably in the mainstream and move public sympathies that can change laws and policies.

In 2014, Pacific Islander activists peacefully blockaded the world's largest coal port in Newcastle with traditional canoes. After years of lobbying foreign governments for international climate action with no result, and facing losing their homelands underwater, their catchcry was 'We are not drowning, we are fighting!'. The sea level rise caused by climate change, now claiming their homes, gave them no choice but to fight. This act of civil disobedience by telling a different story about the effects of climate change caught the attention of the media. The human face of climate change moved Australians, who are among the world's highest per capita emitters of carbon pollution, in ways that scientific facts or news reports of distant disasters could not. Dozens of Australians joined their protests leading to arrests across the country. The marginalised voices of Pacific Islanders, galvanised through a community organising effort and a powerful action, brought climate change home to Australians in a way we couldn't see on our own.

To defend the public interest, we should nurture the processes that strengthen our collective capacity to defend it. Community organising gives us a chance to learn about our own power to make a difference. It teaches us how to engage in the civil debate essential to building an understanding of the public interest. It gives an avenue for marginalised voices to be heard, voices which can uncover blind spots that the mainstream are unable to see, and thus strengthens our capacity to define and defend the public interest.



# Community organising aims to win back civil society's rightful place

**Amanda Tattersall**

Amanda Tattersall is the founding director of the Sydney Alliance, a coalition of religious organisations, unions, educational organisations and community organisations. She has published *Power in Coalition*, the first international comparison of how coalitions are built.

She has an Arts/Law Degree with Honours, and the University Medal for Law at University of Technology Sydney.

She was President of the National Union of Students, co-founder of Labor for Refugees (and for a time a member of the ALP), and completed her PhD both at the University of Sydney and as a fellow at Cornell University.

In the wake of the Second World War, Karl Polanyi wrote that the public arena is made up of three interconnected sectors: the market, government and civil society. He argued that democracy thrives when these three are in balance. If only that were the case today. Since the late 1980s, the global influence of the market sector has increased and, at the same time, civil society has decreased.

This can be felt every day in Australia's cities. We see it in declining investment in community infrastructure – everything from a lack of public transport to unaffordable housing. First in Sydney, then in other Australian cities, as well as across the world, civil society organisations – like churches, schools, unions, community and religious organisations – are rebuilding the power of civil society using community organising.

Community organising is a way of working that trains and builds citizen leaders inside community-based organisations. Community organisers argue that in order to fix our cities we need to fix our democracy. That means we need to build strong and vibrant civil society organisations that act for the common good.

Chicago-born Saul Alinsky was the grandfather of community organising. He first organised immigrants and industrial workers into a diverse coalition named the Back of the Yards Neighbourhood Council in the late 1930s. Alinsky created the Industrial Areas Foundation (IAF) to spread this success.

Today, community organising coalitions can be found in more than 60 cities in countries around the world, including the United States, Canada, United Kingdom, Germany and Australia.

### The Sydney experience

The Sydney Alliance translated community organising to Australia. The alliance was built slowly between 2007 and 2011, with a focus on one-to-one meetings across a remarkably diverse array of partners. These include the Catholic Church, the NSW Jewish Board of Deputies, the Cancer Council, the Uniting Church, Arab Council and the nurses' union, among others. Partner organisations fund the Sydney Alliance and supply the people who lead it. These leaders are supported by a small team of community organisers.

Community organising borrows from traditions as diverse as Catholic social teaching, the Jewish self-help tradition and union action. The alliance's extensive community organising training uses texts as diverse as the Bible and Greek philosophy, then mixes those traditions with the experiences of social coalitions like Sydney's Green Bans movement and modern-day heroes like Gandhi.

The alliance's first campaigns were local. The first victory was in Liverpool, in south-western Sydney, where community leaders from religious, union and community organisations advocated for the creation of '15-minute drop-off zones' outside six medical centres in Liverpool City.

In Glebe, churches and unions teamed up with the Glebe Youth Service to create local jobs for young indigenous men and women living in Glebe's public housing estate. In 2013, this culminated in a 350-person assembly where Mirvac CEO John Carfi agreed to create an apprenticeship program for local men and women at the Harold Park Housing Development.

With the 2015 NSW state election looming, the alliance spent 2013 running listening campaigns across the city. This work produced our election agenda, which was launched on March 26 at Sydney Town Hall. About 1500 leaders from the alliance's 49 partner organisations came together to commit to running public campaigns that could improve transport, housing and job opportunities.

The proposed solutions included:

- dropping the extra charges on the airport train line to reduce congestion and make public transport accessible;
- setting targets for affordable community and public housing;
- funding a pilot employment support worker program to reduce youth unemployment by helping people from disadvantaged communities get and keep jobs;
- making every train station disability – and pram-accessible by 2020.

The alliance will hold a campaign of suburban assemblies in Sutherland-St George, Western Sydney, North Shore and Nepean. The campaign will climax with a 3000-person Accountability Assembly – most likely at the Opera House. The NSW premier will be invited to tell the assembly what he has done to progress each of these issues after 100 days in office.

### Making leaders and building relationships

The Sydney Alliance is an advocacy organisation with a difference. Its primary purpose is to help thousands of community members develop into community leaders. We say leaders are made not born: the alliance provides training, teams and mentoring that can gently and intentionally support people from all walks of life to take on leadership roles in public life.

The alliance is creating remarkable relationships between Muslims and Christians, unionists and Catholics, schools and synagogues. It is also breathing new life into those organisations, by providing them with a means to not just talk about the things that worry them but do something about it. A similar organisation is growing in Brisbane called the Queensland Community Alliance. There is also interest in community organising in places as diverse as Adelaide, Melbourne, Auckland and Newcastle. Civil society may have its work cut out for it, but in Sydney and Australia it is making a comeback.

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# Decisions by the people: Melbourne City Council's experiment

## Michael Green

Michael is a freelance journalist in Melbourne.  
He writes about environmental, social and community issues.  
This article was first published in The Age in December 2014.

When Shuwen Ling received the letter from the City of Melbourne, she thought it was spam. Or maybe it was a fine? 'It was on good quality paper,' she says. 'But when I read it carefully, I thought: "This is pretty cool".' Ling is nearly 20 years old and it's three years since she left her hometown, a few hours from Kuala Lumpur, Malaysia. She studies finance and civil engineering at the University of Melbourne and lives in an apartment near the Vic Market.

She was one of 6500 people who received the letter, 600 who responded, and finally, 43 who were randomly selected to reflect the city's demographics. Their task? To make recommendations on the council's budget for its first ever 10-year financial plan – spending that is worth, in total, up to \$5 billion. Citizens' juries, such as this one, are being used increasingly often around the world. They're another kind of representative democracy, one that steers policy making away from the entrenched positions of political parties, lobbyists and squeaky wheels, and towards the considered voices of ordinary, well-informed citizens. In Melbourne, the 'People's Panel' was coordinated by the new Democracy Foundation, a not-for-profit research organisation that says it's aiming to move our democracy out of 'the continuous campaign cycle'.

The panellists were posed this question: 'How can we remain one of the most liveable cities in the world while addressing our future financial challenges?' I spoke with five of them, including Ling, from the panel's inception to its aftermath. The process began in August. In the following weeks, panellists spent six Saturdays hearing evidence from councillors, staff and experts of their own choosing. They read reports, did sums, asked questions, and wrangled over the answers. It was a bigger commitment than they'd expected, still most poured themselves into the challenge. But would the council act on their recommendations?

When Maria Petricevic enters the first session, she feels a little intimidated. Dr Petricevic is a Collins Street dentist – her practice overlooks the town hall. 'I was scanning the room and thinking: "Are other people better informed than I am?"' She is enthusiastic about Melbourne – throughout university, for seven years commuting on the V/Line train from Geelong, she dreamed of one day moving north. 'I just love this city,' she says. By the second session, she feels more confident about her ability to contribute, but slightly overwhelmed by all the information. "'It's been an eye-opening experience,' Petricevic says in the lunch break. 'I just have so much more insight into how much goes into operating a city'.

It is a bright Saturday in September and the panellists are gathered in a grand room on the lower level of the Melbourne Town Hall. Through the windows, you can see the legs of pedestrians and the bodies of trams passing by on Swanston Street. The City of Melbourne's chief finance officer, Phu Nguyen, gives the group a rundown on the budget, and its longer-term projections. 'We've reached a level of what I call "Peak Parking Revenue",' he says. 'People are complying more than they used to.' Nguyen lays out the broad challenges for the city over the coming decade, all with implications for the bottom line: rapid population growth, climate change, technological transformation and economic uncertainty. The renewal of the Queen Victoria Market site could cost up to \$250 million, and serious upgrades to infrastructure and facilities will be required. On current estimates, he says, the council will fall short of cash.

The panellists split into small groups for a 'speed dating' session with councillors and senior staff. With the weight of town hall above them, and established voices in their ears, it is hard to imagine the panel's advice straying too far from the status quo. But one of the panellists, Hani Akaoui, an architect with a thin moustache, a considered manner and an office at the top end of Bourke Street, notes that his fellow citizens aren't shy about asking critical questions. 'We want to be informed,' he says. Cr Stephen Mayne, chair of the city's finance and governance committee, uses speed dating to pitch his agenda, including rate rises, more efficient staffing practices, and selling Citywide, the council's wholly owned waste service company.

'I can see the potential political power of the recommendations, so I was very keen to push them to focus on the big material issues,' he says later. Some were swayed, others irked; all noted his forceful approach. (The panel recommended against selling Citywide.)

For the third session, the panellists are able to request any experts they want – among those chosen are demographer Bernard Salt and climate scientist Graeme Pearman. In the break, panellist Bruce Shaw, a barrister who lives in Southbank, expresses his scepticism about the ubiquitous cheerleading for the city: 'If I hear one more person say Melbourne is the world's most liveable city, I'm going to scream.' (Later, he did – quietly.) While they aren't hemmed in by party politics, the panellists do bring their own concerns. Shaw thinks our public transport is poor, especially the sluggish trams, and must be made more reliable. Ling is interested in high-rise developments – her dad is a property developer in Malaysia. In Melbourne, she thinks, there are too many new towers, too tall and too small inside.

Panellist Renee Hill recently moved to Kensington with her partner. She works in marketing in the finance industry, and her primary worry is about how the city is promoting sustainability and preparing for climate change. 'If we don't start planning now, we won't be in a position to deal with it,' she says. 'That's really top of mind for me.' This represented one of the main struggles for the panel. The council's powers are constrained. Decision-making on critical issues such as public transport, planning for big buildings and systemic responses to climate change all rest elsewhere. 'We always have to remember that the purpose of the exercise is to improve the budget of the city,' Akaoui says. 'It's not theoretical, and it's not master planning; it's literally financial.' An annual budget of \$400 million takes some reckoning. Can the hoi polloi analyse it? And can they do it on Saturdays?

Professor John Dryzek, from the University of Canberra, is a world expert on deliberative democracy. He says there's been an 'explosion' of citizens' forums in the past decade, and experience has proven lay people worthy of the task. 'All you need to do is give people time,' Dryzek says. 'Give them access to information, enable them to ask questions of the experts and people really can get their head around incredibly complex issues.' The Danish Board of Technology has been running these juries for 20 years, seeking citizens' views on controversial issues such as genetically modified food and electronic surveillance. Recently, South Australian premier Jay Weatherill convened deliberative panels on questions of how to reduce alcohol-related violence and how motorists and cyclists can share roads. Earlier this year, the Darebin City Council in Melbourne's north ran a citizen's jury to direct \$2 million in spending on community infrastructure. The residents returned with eight recommendations, including a new neighbourhood house, exercise equipment and sports courts.

Each jury requires careful planning and hard decisions about demographics. In Melbourne, there are more than 116,000 residents and nearly 18,000 businesses, but two-thirds of rates revenue comes from the latter. The facilitators, new Democracy Foundation, recommended that the People's Panel should comprise an even split of residents and non-residents (both business owners and workers). As a consequence, 60 per cent of the panellists are male – a proportion said to reflect the over-representation of men in CBD businesses.

### Jury deliberates

On the fifth Saturday, the citizens deliberate. But they don't finish, so they have to return for an unscheduled sixth day. To pass a recommendation, the panel requires 80 per cent agreement. Each person is given an electronic voting paddle and five options from 'Love it' to 'Loathe it'. The results flash on the projector screen immediately. This process – the jury's deliberation – is the system's promise, its claim to legitimacy. For outsiders, however, its merits are impossible to judge. The panellists had resolved that in order for everyone to feel comfortable venturing their opinions, they would close some sessions to observers. And so, whenever they were debating or voting, they excluded their fellow citizens.

Shaw maintains that when the room was closed, no one dominated. 'The word "democracy" describes it well,' he says. 'Whether or not the council will regret it is another thing.' Ling observes that some people who came with strong opinions softened them, or compromised significantly. The facilitators instructed voters to apply the following test before spiking a proposal: 'Can you live with it?'

For the most part, agreement came easily. 'There's been a lot more consensus than I expected,' Hill says.

On the final day, as the clock ticks, the pressure rises. 'The people who were pushing wacky ideas saw that the game was up,' Shaw says. 'We finished up with a good report, with a realistic number of ideas presented fairly.' Their 11 recommendations, released in mid-November, included proposing rate rises each year of up to 2.5 per cent above inflation, more spending on mitigating and adapting to climate change, extra bike paths, selling 'non-core' properties, reducing new capital works and pressing the state government for a higher tax on developers.

### Councillors approve

There's a pitfall common to many of the citizens' juries, however: their recommendations are often ignored. The council promises the People's Panel a formal response at its meeting on November 25. At the meeting, Mayne is effusive as he presents the official reply: 'I think they're excellent recommendations,' he says.

The councillors postpone their decision, however, and instead, refer the proposals to staff for analysis and modelling. When the council's draft 10-year financial plan is released in April, the panel's report will be included in its entirety, along with an explanation about whether or not each recommendation has been adopted.

Akaoui was in the gallery that day – he'd returned early, especially, from a business trip to Sydney. He is pleased with the outcome. On the question of rates, he believes increases are reasonable. 'The overall mood of the panel was that the council is doing a good job. We're happy with the city and we want to keep it at the forefront.' Among the panellists, the process engendered loyalty and pride – and, also, not a little chagrin that they weren't given more time. But they had an opportunity to participate, deeply and meaningfully, in civic debate.

'You really should know that people have been so passionate and committed to participating,' Petricevic says, citing evidence: one man sent his views by text message from hospital, where his wife was in labour; another woman was undergoing chemotherapy, but continued to attend. Petricevic feels like she has made a contribution to the city she loves. She's also gained trust in the council for its commitment to community engagement. 'Other levels of government could take a leaf out of that book,' she says. Ling too, feels she's made a contribution to the community, and it has kindled her interest in the affairs of her adopted city. Now this panel is over, Akaoui believes others should begin. 'I think this shouldn't be done once in a blue moon,' he says. 'It should be done every year.'



# What can we do when self-interest undermines the public interest?

**Nicky Grigg and Steve Cork**

Nicky Grigg is a Senior Research Scientist at CSIRO Land and Water where she has worked on a diverse range of research projects concerned with impacts of global change on social-ecological systems. She is a Director of Australia21.

Steven Cork is an ecologist and futurist, with over 30 years experience researching interactions between people and the natural environment and the ways in which humans make sense of complex social-ecological issues. He is an Adjunct Professor in the Crawford School of Public Policy at the Australian National University, Principal Consultant at EcoInsights, and a Director of Australia21.

The philosopher Jean Jacques Rousseau, writing in the 1700s, was concerned about social processes that encouraged self interest and discouraged the natural human impulse for compassion at a time when people were becoming increasingly dependent on one another for their wellbeing. Subsequently, philosophers and political scientists have debated and researched the ways in which humans make individual and collective decisions in societies. Opinions differ about the extent to which human societies require top-down control to achieve the common good.

Dominant political and economic thought in the western world, for example, assumes that allowing individuals to make informed decisions based on self-interest, through elections and markets, is an efficient and effective way to share resources. But there are increasing concerns that existing social processes do not encourage the amount of communication and information sharing required for people to understand what is in their long-term individual and collective interests and to make informed decisions.

It is not always necessary for self-interest and public interest to be in conflict. In most

countries, citizens accept some degree of traffic regulation (the degree varies, of course) because they understand that they gain individual benefits (e.g., safety and avoidance of gridlock) by acting in the common good. In this essay, however, we are concerned with situations where individuals pursuing their long term self interest, independent of impacts on others, will not serve the public interest without some collective coordination and/or attention to better access to and understanding of information and viewpoints.

Many social issues are not so easy to address because they are complex, information is unavailable and/or open to multiple interpretations, opinions differ on the origins of the issues and the solutions, and society lacks mechanisms for open dialogue about such issues. These are sometimes called 'wicked problems'. Examples include: climate change; transformation of our energy system; governing the distribution of benefits from a boom in non-renewable resource extraction; handling waves of asylum seekers; and making long-term provisions to care for an ageing population.

Recent research has drawn heavily on lessons from game theory to explore social dilemmas, which has proven to be a powerful way to make sense of some of the challenges faced when navigating individual-collective interactions. A social dilemma is where individually reasonable actions create an outcome where everybody is worse off, and these are illustrated by metaphorical stories such as: the Prisoner's Dilemma (two people choose whether to 'co-operate' or 'defect', where each individual stands to gain more by defecting, regardless of their opponent's choice, but the worst option for both is mutual defection); public good dilemmas (where all can benefit from a public good, such as public radio, even if they contribute nothing to its provision or maintenance); and the tragedy of the commons (where an individual stands to benefit from over-extracting a shared resource, with the costs of the degradation being borne by all).

These dilemmas illustrate a key risk for societies managing the public interest: non-cooperation with the public interest can be a demonstrably rational decision for individuals. One common response by governments is top-down intervention to discourage this 'free-riding'. But others, most notably Elinor Ostrom and colleagues, have developed alternative principles based on careful analysis of real-world cases where communities have been successful long-term stewards of common pool resources. David Sloan Wilson and colleagues have generalised these findings for groups acting collectively.

Their research highlights many ways in which we can improve governance for the long-term public interest, however in this essay we highlight one dimension: communication. One robust research finding is that where there are opportunities for people to communicate face to face, their likelihood of cooperating to serve the long-term collective interest increases. Several of Ostrom's principles require constructive modes of communication within and between groups of individuals (e.g. conflict resolution mechanisms, rights to organise, collective-choice arrangements, coordination among groups from different spheres of activity across multiple scales). We would benefit from a greater capacity for open dialogue about difficult issues so that misunderstandings and misinterpretations can be reduced and mutual respect and understanding of alternative viewpoints can be improved.

The capacity of a society to hold productive public conversations provides benefits to all of its members. The requirements for productive conversations among individuals and across society include trust (including trusted sources of information, and honest exchanges of knowledge and experience) and safe places to explore disagreements with respect for different perspectives. Dialogue methods are particularly effective. Where debate emphasises opposing voices advocating positions strongly and seeking to discredit other positions, dialogue emphasises suspension of judgment, respectful openness to multiple perspectives and a willingness to build constructively on others' contributions. Many aspects of modern society work against these requirements, including: combative interactions in our media, courts and houses of Parliament that foster attack and defence interactions rather than trust and openness to learning from different perspectives; powerful vested interests having greater access to advertising and marketing opportunities (with no bodies investing comparable resources into giving voice to the long-term public interest); and trolling in public internet conversations.

Futurists and psychologists have concluded that evolution has favoured neural pathways that identify and react to immediate threats rather than pathways that imagine future possibilities. While organisations and societies provide the opportunity for many views to be shared, the evidence indicates that people tend to defend their own views of the world rather than embracing other views (this is done, for example, by selective hearing, recall and biased evaluation of information) and to leave it to 'others' to consider future possibilities. For these reasons and more, true conversations are difficult, even confronting. But if we avoid the discomfort and logistical difficulties of societal conversations we leave ourselves individually and collectively vulnerable to future challenges and unprepared to take opportunities to shape futures we desire.

In summary, social dilemmas involving interactions between individual and collective interests are a fundamental part of modern civilisations, but failure to deal with these dilemmas effectively is increasing risks to wellbeing and the sustainability of our societies. Our democratic and market instruments currently favour short-term individual interests at the expense of long-term public interests, discourage open and respectful exchange of ideas, and favour competition over cooperation and understanding of alternative views. There is increasing evidence that strengthening our capacity for constructive public conversations would greatly improve Australia's ability to deal with emerging and future social and environmental challenges and opportunities. The first step is to acknowledge the need and commit to searching for ways to meet that need.



# What can be done to address the current imbalance between public and private interests?

**Alex Wodak**

Dr Alex Wodak AM, a physician, was Director of the Alcohol and Drug Service at St Vincent's Hospital, Sydney from 1982 until he retired in 2012. His major retirement project is drug law reform. Together with colleagues, Dr Wodak started Australia's first needle syringe program and supervised injecting facility when both were pre-legal. He was also involved in establishing the National Drug and Alcohol Research Centre, the Australian Society of HIV Medicine and the NSW Users AIDS Association, an organisation for and by people who use drugs. He is a Director of Australia21.

The public interest, meaning 'the welfare or wellbeing of the general public', has always competed with private interests. Furthermore, public and private interests will always be in competition. What is so unusual about the current tension is the extreme imbalance: these days, private interests almost always get what they want. The policy domination by huge companies and extremely wealthy individuals has severe adverse consequences for

the community in areas such as health, social cohesion and the economy. The current extreme imbalance between private and public interests is now not merely an Australian phenomenon but is also international. Examples of this policy imbalance abound in Australia and include mining, alcohol, fast food, transport, taxation and gambling.

The increasing dominance of private over public interests coincides with an increasing inequality of income and wealth. Inequality in Australia waxed and waned over the years with low levels reached in the 1970s. Inequality then began increasing in Australia, growing under Labor and Coalition governments. Inequality increased to even higher levels in the United States where the imbalance of private and public interests is even more evident and has had striking political repercussions.

The health of Australians improved dramatically during the 20th century. For example, average life expectancy increased from about 45 years in 1900 to over 75 years in 2000. About 25 of the additional 30 years of life expectancy resulted from improvements in public health while advances in clinical medicine only added five additional years. Yet in Australia, 98 per cent of health expenditure funds clinical services with only 2 per cent allocated to prevention. In the first half of the 20th century, improved sewerage and drains substantially reduced deaths and disease. In the second half, the decline in smoking, improved diet and increased exercise were major factors improving health. Tobacco control has been a rare victory for a public interest David over a corporate Goliath. Yet in 2014, the federal government blocked the implementation of a national agreement to alert consumers to the potential health risks of some foods. Some powerful food producers were the only beneficiaries.

The fate of the proposed Resource Super Profits Tax (RSPT) is another example of the recent dominance of private over public interests. In 2010, the federal government proposed the RSPT, modelled on the well-regarded Petroleum Resource Rent Tax levied on the off shore petroleum extraction industry, after accepting a recommendation from a review of Australia's tax system. A distinguished committee chaired by a highly regarded Secretary of Treasury had carried out this review. Vociferous criticism from the mining industry including an effective advertising campaign followed, and after the deposition of the Prime Minister by the Deputy Prime Minister a heavily watered down and ineffective Minerals Resource Rent Tax (MRRT) replaced the RSPT. The then government contributed to its own problems through its political incompetence. Once again, powerful private interests got their way and the community lost.

One of the common links in these examples is the development of monopoly, or near monopoly, arrangements used to generate vast wealth and thereby political power sufficient to extract huge economic rents.

Taxation arrangements in Australia in recent decades including the abolition or reduction of inheritance taxes, capital gains taxes, private income and company tax, and generous concessions for superannuation and negative gearing, have benefited the wealthier members of the community and large companies.

The coming to power of Thatcher in the UK and Reagan in the USA and the fall of communism in the USSR and its satellites increased support for the view that private economic interests are inherently more efficient than publicly owned enterprises.

The replacement in China of a central command economy by a free market system which lifted hundreds of millions of people from poverty over the following decades seemed to exemplify the benefits of a free market economy with minimal restrictions for large companies and wealthy individuals. In the United States, major economists including Paul Krugman, Joseph Stiglitz and Jeffrey Sachs have warned that the currently high levels of inequality have corrupted the political system and there is increasing concern that with a radically extreme Republican Party often prepared to disregard the national interest the United States may have become ungovernable – surely a warning for Australia.

What is to be done? The first step for those concerned by the increasing dominance of private and corporate interests over the public good is to articulate their views.

Could a Public Interest Commission maintain a better balance in the future? First some difficult questions would have to be answered. How will the public interest be defined and measured? Where will successful examples of a Public Interest Commission be drawn from? How will issues be selected and enquiries be conducted?

And finally, what sort of Australia do its citizens want – an individualist Australia with marked inequalities, poor public services, choked roads and shrinking taxation on the American model, or a more collective and more equal Australia with less poverty, better public services but more taxation similar to the Scandinavian countries and Japan?

A political correction to the current imbalance can only occur if Australians start to debate their values and visions. The political class can only do so much. Extensive polling shows that a majority of Australians want improved public services and are prepared to pay higher taxes to fund them. However, if large numbers of Australians want to see a different country emerge, they have to be prepared to work for these changes starting at the community level.



# Engaging citizens in defining national progress: the ANDI project

**Mike Salvaris**

Mike Salvaris is Chairman of the Australian National Development Index (ANDI) Limited. He began his career in the 1970s as a barrister and legal aid lawyer with Fitzroy Legal Service, co-founding the Tenants Union of Victoria. He went on to work with the Victoria Council of Social Service, and then as chief policy adviser to Victorian Premier John Cain in the field of strategic policy-making and social justice. He has been a research professor at Victoria, RMIT and Deakin universities. He has worked for over 20 years in the measurement of progress and wellbeing, at community, national and international levels. He has a particular interest in community wellbeing measures as a means for citizen engagement, community development, human rights and stronger democracy. He is a committee member of the International Advisory Group for the Canadian Index of Wellbeing and the OECD Global Progress Research Network.

The public interest is a concept with a long, deep history and special significance for social democracy, but not easily defined. It is inherently elastic and adaptable, and operates on at least three levels. Most literally, it means the interest of the collective versus the self-interest of individuals or groups.

Secondly, it connotes the broader notion of the common wellbeing or the public welfare (manifested in policy terms in fields such as defence, education and public health etc). But it also has a higher, and distinctly ethical and purposive, implicit dimension, going back at least to Aristotle and Confucius: 'the very

existence of the state as a collective would seem to prompt the formulation of basic common purposes' and these necessarily include the goals and values of the community as a whole. We might call this a shared vision.

Whichever element we use as a yardstick, there seems no doubt that the concept has been seriously weakened in modern democracies over the past 20 years, to the point where critics despair that the 'collective pursuit of the public good has been replaced by the solitary pursuit of private advantage', and the idea of citizenship has been 'hollowed out by the sweeping assault of neo-liberalism'.

Ultimately though, the erosion of the public interest is not an isolated event. It is only the most prominent symptom of a broader decline of democracy, and while neoliberalism may be the major culprit it is not the only one.

Certainly, 'the growing interpenetration of the worlds of politics and business' has been devastating for the idea of public interest – but even more so for democracy itself. Indeed, the maintenance of the market economy, rather than the public good, seems to have become the central rationale for government, to the point where the two are actually thought identical (and where GDP is considered the key measure of national progress). Globalisation has reinforced this trend culturally while at the same time reducing the power of national governments to deviate from this agenda even if they wished.

Along with this larger paradigm shift has come a suite of changes in government and politics: the privatisation or marketisation of key government assets and services and of the public sector; a growing culture of secrecy, justified by slogans like 'commercial in confidence' and often accompanied by a process of creeping corruption (in government contracts and appointments, political donations etc); and as well, the growth of a specialised and self-interested political class reared on the notion of politics as short-term management, electoral success and a well-paid

career, rather than the pursuit of the common good. Noel Pearson captured this distinction well when he said recently that Gough Whitlam personified the older idea that 'reform trumps management'.

These specific problems are all made worse by larger systemic flaws: low levels of public confidence in government and in the capacity of the political system to solve our problems; a failure of innovation and imagination in our democratic forms and practices; and a historical weakness in Australian political culture and debate, marked by apathy, complacency and ignorance.

Perhaps underlying all of these is our collective failure to identify and define clearly and concretely just what is our shared vision, the kind of Australia we strive for in the longer term. Such a shared vision could be very different from the politics of shared platitudes we have now, and could itself become a more precise and powerful definition or driver of the public interest.

To fully restore the concept of the public interest to its rightful place at the centre of Australian democracy will require different solutions and approaches over time, but the key must ultimately be citizen engagement. It has been rightly said that 'only the citizen can bring our political and governmental institutions back to life, make them responsible and accountable, and keep them honest'. And only citizens committed to the values and the concrete requirements of the public interest can bring it back to life.

One important way to engage citizens in redefining the public interest is by promoting a process of national debate about the kind of Australia we want. This should aim to identify a series of clear and concrete outcomes, and measures of our progress towards them, which together add up to our shared vision of the kind of Australia we want.

This is what the Australian National Development Index (ANDI) project aims to do, and in this it is part of a growing global and community movement to restate and reclaim the public interest in countries as diverse as Canada and Bhutan. ANDI is a long-term community and research initiative, established as a not-for-profit public corporation, with directors including Reverend Tim Costello and Professor Fiona Stanley and over 60 organisational members spread across many spheres: welfare, church, trade union, business, Indigenous, ethnic, human rights, environmental, local government, and philanthropic.

Over the next 3 years, ANDI aims to engage directly with 500,000 Australians across the nation, partnering with a team of universities to promote a national debate about what matters for Australia's future, our future common good. From this process ANDI and its partners will develop a set of clear and authoritative measures of progress beyond GDP and produce an annual index and status report of overall progress and progress in each of twelve key domains of wellbeing (such as health, education, the environment, work-life, Indigenous wellbeing, children's and youth wellbeing, justice and human rights, etc). Domain indexes will be released annually, but in different months to promote continuous discussion and awareness in the media and the public about the quality of Australian life and what Australians believe are the priorities for true national progress.

In this way ANDI hopes to make a significant contribution to the restoration – and better still, the clearer definition and understanding – of the public interest as the centrepiece of Australian democracy.



# **Building better relationships across government, research and the community sectors**

## **Gemma Carey**

Dr Gemma Carey is a Research Fellow at the National Centre for Epidemiology and Population Health, Australian National University. She is also co-leader and developer of 'The Power To Persuade' initiative, a symposium and blog about social policy.

Currently, federal and state governments alone spend over \$120 billion a year on welfare and social services, while three quarters of a million people work in community services sector. Yet inequality in Australia is growing. This tells us that there are major systemic issues preventing us from achieving social change. This essay focuses on the systemic blockages between the different groups involved in the design and implementation of policy, which impede progress and social change for the public interest.

In the last three decades, there have been a lot of changes to the way in which government 'does business'. Arguably, the most radical of these changes is the outsourcing of public services. Community and private organisations, in areas such as aged care, disability, employment and social support, now deliver large swathes of our public services. There are a number of powerful arguments that underpin this change, including cost shifting measures and a genuine belief that those closest to communities are best positioned to provide effective

and efficient public services to citizens. Alongside this shift has been a growing interest in developing closer relationships between government policymakers and academic researchers, to ensure public services and policies are 'evidence based'. It has been said that we are now working in an era of unprecedented collaboration and partnership between sectors. Indeed, the complex challenges that now confront us as a society do not fit neatly into one sector – collaboration and closer working relationships are needed if we are to find solutions.

However, the rhetoric of partnership and collaboration is often much stronger than the reality, or at the very least masks the contested and fraught nature of these 'cross-sectoral' relationships. Currently, tensions run high and stereotypes abound. For example, when taking up the role of Executive Chair at the ANU Institute of Public Policy in 2013, former head of Treasury, Dr Ken Henry, lambasted academics for the inability to contribute to public policy debate, stating that 'most have retreated into the ivory tower and become divorced from real world political debate'. In return, policymakers are regarded cynically – seen as only seeking out evidence to justify decisions that have already been made or making decisions on the basis of political expediency. Meanwhile, the community sector is frequently accused of pursuing self-interest and crying poor. These stereotypes are born of a lack of understanding. They do nothing to further the public interest through fostering genuine collaboration across sectors.

### **Moving beyond the rhetoric of partnership**

Efforts to enhance the relationships between government and policy networks have largely been attached to political agendas and program delivery imperatives, thereby failing to invest in the health and longevity of relationships beyond a particular reform. To move beyond rhetoric, and create truly functional and productive (and even transformative) collaborations and partnerships, we need to recognise that the profound shifts that have occurred in the delivery of policy and public services have created skill and knowledge gaps.

Operating within complex policy environment requires more than the technical and professional skills of the past, those that we use to do our jobs as policy designers, researchers and social workers. It requires 'soft skills'. Soft skills include: knowledge of how to work across difference and diversity, problem-solving skills, brokering skills (such as getting people to the table and seeing what has to happen next), flexibility and coordination skills. To ensure that the type of skills required for 'policy work' are developed and nurtured, these soft skills need to be built into education and reward structures in each sector.

In addition to developing the skills to work within complex 'networked' environments, addressing the systemic blockers to better policy requires us to attend to and understand 'the whole', beyond how individual services, organisations or parts of government function – that is, how these different groups and sectors function in relationship to one another, and how that functioning can be improved. Currently, the functioning of the 'whole' is not attended to, largely because it is beyond the role or scope of any one group. The job of government is to pursue political and policy objectives, the job of academics is to do research, while the community sector's job is to deliver services and advocate of behalf of citizens. In other words, it is simultaneously everyone's and no one's job to examine the functioning of the whole system of actors involved in policy, and determine what skills are lacking, what knowledge needs to be built or harnessed, and what needs to change for progress to be made. Building knowledge and attending to the functioning of the whole system require us to remove ourselves from the day-to-day, and create spaces to 'meet differently'. By meeting differently, we disrupt the status quo and allow for robust debate and discussion that incorporates a greater diversity of voices. From this, creativity, relationships and ideas are fostered.

By building soft skills and tending to the networks of relationships between organisations and individuals that drive policy change, we will provide a strong foundation of collaboration and shared understanding from which more holistic, effective and equitable policy can be built.



# Democracy flourishes when the common good is front and centre of government

**Mary Crooks**

Mary has been the Executive Director of the Victorian Women's Trust since 1996. She has an extensive background in public policy and a passionate commitment to social justice. She has designed and led ground-breaking initiatives including the Purple Sage Project, Ordinary Women Extraordinary Lives, and the Watermark Australia project, an example of a nationwide, community engagement project based around issues of water sustainability. In 2012 Mary authored *A Switch in Time – Restoring Respect to Australian Politics*.

Australians live in a robust and enduring representative democracy. We are free to debate ideas and express dissenting views without being coerced or being placed under house arrest or worse. We can assemble in the streets and protest about issues without fear of victimisation or violence. Any citizen may stand for public office and we have the right to vote for people to represent us in all three levels of government – federal, state and local. We accept, maybe grudgingly, our responsibility to pay tax. We embrace the concept of a 'fair go' and have applied this over the decades in shaping our institutions, welfare systems and political discourse. Mostly, we see ourselves as standing for equality between people.

The idea of the common good appeals, even if largely at a tacit level: we acknowledge that our shared responsibility as citizens in a democracy is to debate with tolerance, directly and through our elected representatives, the best means to create opportunities, apply regulations, continue to build (and not sell) our public assets and provide services that meet the basic needs of the population (such as Medicare) and sustain the environment (such as an emissions policy).

This ethos of governing for the common good, however, is under threat – and from within. In the space of a few months, we have witnessed defeat at the polls of two first-term state governments in Victoria and Queensland. Current polling suggests that the federal Coalition government could also become a one-term wonder. Politicians and media pundits are reacting to this rotating doors syndrome by blithely ascribing it to 'public volatility', to poor communications by government, or to an obstructionist Senate. But there is something deeper at play. When it comes to governing for the common good, our politicians and major parties are losing the plot.

The explanation lies in some simple but powerful propositions. People have an entirely reasonable expectation that elected governments – whatever their political persuasion – will work hard, and transparently, for the electorate at large, respect the will of the people, debate ideas and issues with civility, implement pre-election promises, desist from back flipping in dishonest and cavalier fashion, refrain from introducing surprise policy measures that are patently unfair or punitive, work to people's best sides, and keep clear of corrupt and nepotistic behaviour.

Most of all, people expect their elected representatives to focus on developing the collective capacity to meet complex challenges and to govern for the good of all rather than taking their riding orders from vested sectional interests and/or US-based media moguls. They are frustrated by sledging, such as when both major parties treat minority parties or Independents with contempt, or when good ideas or deserved contestation are met by derision, cheap shots or personal attack.

Such corrosive attacks on the common good were catalysed by the tactics of Tony Abbott as Opposition Leader during the period of the Gillard minority government, and were clearly on display in the first Abbott/Hockey Budget, exemplified in its draconian unfairness with respect to young job seekers.

Tossing aside respect for democratic principles, sections of our politics, business community and media persisted with the claim that the Gillard minority government 'lacked legitimacy'. Frequent calls for a 'fresh' election were issued despite the fact that this minority government was legitimate, was constitutionally valid and was formed in accordance with the central provisions of our Westminster system. We also witnessed a vicious gender-based undermining of a female prime minister. This 'tear-down' mentality was aggressively promoted by sections of the Australian media. A politics of negativity and hate was fuelled by Abbott and his supporters. Noted journalists chose to become players in the game rather than provide dispassionate analysis. Vitriol was given undue airplay by radio presenters. Social media facilitated an unprecedented level of abusive language and misogynistic attitudes that flew in the face of personal accountability and civility.

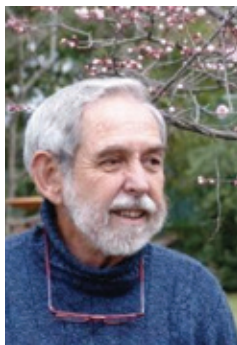
Disappointingly, media analysts persist with the narrative that Abbott was one of the most effective Opposition Leaders ever because he dispatched both Rudd and Gillard. This so-called measure of political 'success' might sit well with a male-dominated culture of adversarial politics. But it could equally be ventured that Abbott was a hugely deficient Opposition Leader because his tactical negativity savagely eroded the ethos of the common good.

This is no better illustrated than the destructive approach he took to the urgent need for effective action on climate change. As a nation, we were actually getting there! We had the compelling scientific evidence before us. We had the international treaty agreements, the public policy framework formed largely by the Garnaut reviews, strong community support for action and policies that reduced emissions, and finally, carbon pricing legislation in place.

Despite these crucial cornerstones for governing in the common good, Abbott gave oxygen to the climate deniers who muddied the water on global climate science. For two years he campaigned relentlessly against carbon pricing, playing to people's fear of a household economic penalty despite the clear threat of a planet in peril. The catch-cry of a 'Great Big New Tax' may have been politically effective for him and his party in the short term, but it has come at great cost, recklessly shifting people's attention from the message of climate science and the responsibility on us all to rise to the common good challenge. The huge reservoir of goodwill and confidence in government's ability to act for the common good and take correct actions to mitigate climate change was squandered and will need to be rebuilt. We are now in a hapless position with no effective remedy to reduce emissions, diminished community confidence, and a significantly tarnished reputation globally.

Pushing back against the continued corrosive attack on the common good is now our formidable challenge. It will take patient exhortation (at election time and in between) to remind the mainstream parties to govern for all; to better represent the diversity and talents of the wider community; to focus on building our collective capacity to take action on the big issues; and to become more grounded in the realities of people's lives and aspirations rather than focus groups and opinion polls.

Democracy flourishes when the common good is front and centre of our politics, when governments implement policies and programs that advance wealth creation as well as fairness, social cohesion and the protection of the most vulnerable, when opposition parties prepare viable policy alternatives to take to the people, and when the media provide impartial and substantive analysis of issues.



# The case for a national public interest council

**Bob Douglas**

Emeritus Professor Bob Douglas AO retired from his post as the Foundation Director of the National Centre for Epidemiology and Population Health at the ANU in 2001. In retirement, he works closely with two non-government organisations: Australia21 ([www.australia21.org.au](http://www.australia21.org.au)) and SEE-Change ([www.see-change.org.au](http://www.see-change.org.au)). Both groups are focussed on the challenges facing modern Australian society.

In Australia and indeed across the democratic world, the public interest is under siege from corporate and other special interests. Examples abound. The most glaring and most important relates to inaction on climate change. The effectiveness of the fossil fuel lobbies in placing their interests on this matter ahead of the public interest is the scandal of our age.

I define the public interest as the long-term welfare and wellbeing of the general population. There is no more serious crisis confronting the welfare of humanity than the effects of unconstrained greenhouse gas emissions on the future climate of the world.

But, collectively, the fossil fuel industries have succeeded in hijacking the debate, smearing climate science with falsehood and insisting that governments re-formulate the problem as an economic issue. Repeatedly we hear talk of the importance of the coal industry to jobs but huge sections of our media are complicit in the blanket of silence about the consequences of our continued use of fossil fuels as an energy source.

During the 2013 federal election Australia21 published a volume of essays under the general heading: 'Placing global change on the Australian election agenda: essays on vital issues that are being largely ignored.' Ian Dunlop, one of our directors, captured our concern with these words: 'Australia is living in a fool's paradise, ignoring the most critical issues which will impact upon this country in both the short and long term. Weighty reports are being published on our official future. Which would be laudable were it not for the fact that the critical scenario, of accelerating anthropogenic climate change and resource scarcity, is deliberately ignored – apparently too scary for political realism to contemplate'.

It is fair to say that our efforts to engage politicians in discussing policy on climate change, resource scarcity, living within ecological limits and tackling fundamental global issues around food and equity, had absolutely zero effect on the election agenda. The election was focused on 'axing the tax', 'stopping the boats', and 'dropping the deficit'. The corruption of the democratic process by media interests and by the voice of big business was clear throughout the campaign.

I do not believe our democracy can be mended by more of the same. Rather we must explore new structures and new processes to return a modicum of control to the voters.

In his book *Blessed Are the Organised: Grassroots Democracy in America*, Jeffrey Stout makes this assertion: 'The imbalance of power between ordinary citizens and the new ruling class has reached crisis proportions. The crisis will not be resolved happily unless many more institutions and communities commit themselves to getting democratically organised and unless effective vehicles of accountability are constructed at many levels of social complexity.' I think this also applies to Australian society.

I suggest that as well as fostering the traditions of Kitchen Table Conversations and community organising that are dealt with by other essayists in this volume, we need to consider the development of a peak body described briefly below.

Community organising has been an identifiable profession in America for decades. Barack Obama began his working life as a community organiser in Chicago. The central feature of community organisation is the brokering of alliances between organisations such as faith groups, trade unions, schools, environmental advocacy and civil society groups.

The organiser helps to build trust across groups through facilitated dialogue sessions. The alliance acts as a public interest group to lobby governments on issues of broad public concern.

The Sydney Alliance is Australia's most developed example of this kind of community organising. It has three full-time organisers and is beginning to make waves on issues of state and metropolitan importance.

Many organisations including non-government organisations, faith groups, unions, environmental groups and professional lobbies claim to speak for the welfare and wellbeing of the general public. But they seldom speak with one voice and pool their resources to effect or oppose policy change with anything like the single-mindedness of, for instance, the Business Council of Australia (BCA). Nor do they have the clout of the Committee for Economic Development of Australia (CEDA). Both business and the economy are important but they are of little importance if the future welfare and wellbeing of the population are being compromised by government actions or inactions.

Ross Garnaut in his recent book *Dog Days: Australia after the Boom* says that the pressures on governments to maintain 'business as usual' and neglect reforms in the long-term public interest are enormous. The entrenched special interests of those who stand to lose by reform are well resourced and well organised and easily have the ear of government and the media. Garnaut suggests that the counterpoint to 'business as usual' needs to come from what he calls the 'independent centre of public interest' represented in multiple organisations and institutions.

I consider that Australia now needs a new peak, non-government structure to coordinate debate on a range of pressing issues in the public interest. The new peak body needs to be able to build from the ideas and concerns thrown up by Kitchen Table Conversations and the coordinating efforts of community organisers.

'Business as usual' lobbies are co-ordinated, cashed up and have a highly sophisticated modus operandi, ready to spring into action whenever a whiff of reform is raised. I am suggesting that the Public Interest Council could do for Garnaut's 'independent centre' what the Business Council of Australia does for its members and what CEDA does to keep the economy healthy.

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# Australia21

Australia21 is an independent, non-profit organisation whose core purpose is multidisciplinary research and enquiry on issues of strategic importance to Australia in the 21st-century.

Australia21 offers the excitement of new thinking about the link between research and policy. We believe that ideas matter and that they can be harnessed effectively in the interests of Australian society by extending public discourse across research and policy boundaries.

Our capacity to convene expertise from across the nation means that we are able to delve into issues differently from a conventional university research institution.

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