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Some recent developments in
Aboriginal and Torres Strait Islander
Policy

Owen Stanley

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1. Introduction

The purpose of this paper is to provide an overview of recent policy developments and policy debate in Aboriginal and Torres Strait Islander affairs that may have significance for researchers concerned with service delivery for settlements. The emphasis is on Australian Government policies, since it has driven recent actual and proposed changes. The sources used are government documents and the media, in the form of *The Australian* newspaper, which has a good coverage of the relevant issues. No attempt has been made to use academic literature because, while it provides an important analysis of the issues, it generally lags behind current debate and developments.

This paper begins with an outline of what the author believes are the political motivations behind recent policy changes. It then provides a discussion of some of these actual and proposed policy changes, and finally, it speculates about the likely impact of these changes on service delivery for settlements.

2. Political concepts

Over the last few years, the Australian Government has adopted some existing political concepts and applied them with considerable intensity. This is having a significant impact on Aboriginal and Torres Strait Islander policy. How long this approach will last, and how extensive its impacts will be, is uncertain at this stage. These political concepts are mutual obligation, market based development, and the mainstreaming of Aboriginal and Torres Strait Islander policies and service delivery. Following is a definition of each of these concepts and some of the policies that appear to have been primarily inspired by them.

2.1 Mutual obligation

This is the idea that people who wish to receive benefits from government (the rest of society) should do something specific in return, either to help to solve their own problem or to make a contribution to the broader society. This idea now dominates approaches to both mainstream and Aboriginal and Torres Strait Islander welfare policies.

Examples of policies inspired by this concept include Shared Responsibility Agreements (SRAs) and Regional Partnership Agreements (RPAs), more stringent work tests for people receiving unemployment benefits, and the introduction of work-for-the-dole to the mainstream population.

2.2 Market-based development

This is the idea that the best way to create development for Aboriginal and Torres Strait Islander people is to abandon community-based development approaches and to replace it with market-based development.

Policies in this area include privatising (through leases) Aboriginal land to allow mainstream development and private home ownership; promoting the concept of the 'Aboriginal entrepreneur'; promoting non-Aboriginal investment on Aboriginal land and partnerships between Aboriginal and non-Aboriginal organisations; and denigrating community-based development as 'imposed socialism'.

2.3 Mainstreaming of Aboriginal and Torres Strait Islander policies and service delivery

This idea proposes that, where possible, there should be no distinction between policies for Aboriginal and Torres Strait Islander and non-Aboriginal and Torres Strait Islander people.

Examples include the abolition of ATSIC and the mainstreaming of its programs; the removal of the Remote Area Exemption (RAE) from the work test for Newstart and the Youth Allowance; moves to prevent courts considering customary law when making judgements; and proposals to withdraw government support for outstations.

3. Policies and debate

In this section a brief description of policies and aspects of the political debate will be provided, along with some comments on the impact they are likely to have on settlements. The discussion has been arranged in what this author believes is likely to be a decreasing order of impact on service delivery to settlements.

3.1 Introducing Shared Responsibility Agreements and Regional Partnership Agreements

Shared Responsibility Agreements (SRAs) are a new development in Aboriginal and Torres Strait Islander policy and they are having a significant effect on the relationships between the Australian Government and settlements. SRAs are agreements between settlements, governments and possibly others. They are designed to achieve 'long term improvement in the communities' in the words of the policy statement. It is intended that this be achieved by agreements that involve the Australian Government providing facilities or labour to the settlement and the community in turn agreeing to undertake specific actions. The archetypal case is where the government agrees to provide a swimming pool and the community agrees to increase the school attendance rate.

Regional Partnership Agreements (RPAs) are similar to SRAs, but are made between the Australian Government and a group of settlements. RPAs concern government investments which take place across a whole region, and are designed to promote coordination, eliminate overlaps or gaps, and meet regional needs and priorities.

By November 2005, 121 SRAs and one RPA had been signed. SRAs exist all over Australia and each has a different focus depending on the perceived needs of the particular community involved. The following table shows the foci and resources provided for various communities in states covered by the Desert Knowledge Cooperative Research Centre (DKCRC) and the Northern Territory (NT).

Table 1 SRAs

Community	Focus	Provided
Queensland		
Bundaberg	Young People	Drop-in centre
Burketown	Literacy	Reading and IT Resources
Eidsvold	Youth Employment	Community enterprise
Hope Vale	Activities for Youth	Refurbished hall; equipment
Mitchell	Heritage	Interpretive Walking Trail
Palm Island	Animal Welfare	Infrastructure; animal control officer
Western Australia		
Ngaanyatjarra Council (RPA)	Service Delivery	Framework for cooperation – covers 12 communities
Bidyadanga	Education and activities for youth	Swimming pool
Billiluna	Community Health and economic development	Airstrip lighting, fuel tanks and bowsers (designed to encourage tourists to visit the Canning Stock Route and the Tanami Road)

Eight Mile	Facilities for youth	Facility upgrade
Gelganyem	Education and training	Funds to support education and training
Mulan	Activities for youth	Facility upgrade
Ringer Soak	Community maintenance	Equipment
Warmun	Education and Activities for youth	Swimming pool
Northern Territory		
Areyonga	Improved access to services and facilities for youth	Bus service to take people to Alice Springs for services; oval
Arnhem Land Progress Assoc	Health improvements	Nutrition program and coordinator
Banatjarl	Health improvements	School holiday program
Dhurputjpi	Nutrition, education, arts and crafts	Equipment; renovated facility
Galiwin'ku	Health and fitness, art and cultural tourism, services, environmental health	Facility upgrade to allow for meetings; the development of a Rural Transaction Centre which will include banking, postal, and internet services, Centrelink and other services.
Larrakia Nation	Cultural promotion through art	Funds to design and paint a tank
Manyallaluk	Tourism	Consultant to develop tourism product, infrastructure
Minjilang	Education and Health	Nutrition program; Aboriginal education workers; clean up of school grounds
Wadeye	Education planning	Community planning workshops
Warruwi	Education	Aboriginal Education workers; training; educational promotion
Western Desert	Care for renal patients	Building; vehicle; health workers' training
South Australia		
Karna Plains	Children's Health	Shade sail, fencing for dental facility
Port Augusta-Davenport	Education	Education programs and courses, mentoring
Warriappendi	Increased involvement in education	Multimedia equipment, accreditation of media studies program

The government and other supporters of this approach believe that it will help change attitudes of people in settlements so that they will become more responsible for solving their own problems. The approach has also attracted criticism. In particular, it is said that:

- SRAs and RPAs are not normally part of a development planning process which would involve examining the benefits and costs to the communities of the projects being supported.
- There is at present, no established evaluation process to assess the success of the projects or the SRA/RPA approach.
- There is no assistance for communities so they can meet their side of the agreement.
- The approach is inequitable and possibly racially discriminatory, because it requires communities to do things that mainstream communities do not have to do, in order to gain resources or services which are taken for granted by the mainstream Australian community.

3.2 Reduced coverage of CDEP

Community Development Employment Projects (CDEP) began experimentally in 1977 as an alternative to paying unemployment benefits to Aboriginal people living in settlements. In the beginning, CDEP focused on community development, including housing and road maintenance. More recently, focus has shifted to creating employment for Aboriginal participants away from CDEP.

The aims of the CDEP scheme are to:

- create a range of employment opportunities for Aboriginal and Torres Strait Islander people
- provide funding and support to community organisations
- empower Aboriginal and Torres Strait Islander people to make decisions about the development of their community
- provide Aboriginal and Torres Strait Islander people with work to enhance individual skills, community self-management, and economic development
- provide work activities which will improve settlement infrastructure
- provide participants with training to develop the skills required to undertake work activities, improve their ability to gain employment in the mainstream labour market, and support activities that provide on-going employment opportunities to all groups, including women and youth
- maintain, preserve and restore cultural integrity to communities
- provide a base of trained and job-ready participants to facilitate the move into meaningful employment off CDEP.

CDEP has had many detractors over the years. The major complaints have been that the administration of the program has been inefficient and that it is costly to run (from government), that the jobs are often not ‘real jobs’, and that CDEP positions have little training provided so that they do not lead to mainstream jobs.

Nevertheless, CDEP has provided employment and a real subsidy for many activities and businesses that would not otherwise exist in settlements. In the past, most settlements had almost all of their unemployed persons on CDEP, but in recent years, the federal government has reduced the CDEP coverage so that many settlements now have both people receiving unemployment benefits as well as others on CDEP. This reduction in coverage represents a real loss to settlements in terms of jobs and output. The Western Australia Government and others have criticised these CDEP cut-backs on the grounds that unless they are reversed, the closure of small settlements will become inevitable (*The Australian*, 5 July 2006).

3.3 Removal of the Remote Area Exemption from the work test

In the past, a person living in a remote area may have been eligible for the Remote Area Exemption (RAE) which exempted that person from the work test for some welfare benefits such as Newstart and the Youth Allowance. In the 2005/06 Budget the federal government changed the CDEP guidelines to complement the Welfare to Work Initiative, and announced the phased removal of the RAE for people living in Aboriginal and Torres Strait Islander settlements. However, it also stated that it would increase the number of CDEP places in the remote settlements where there are Newstart and Youth Allowance recipients.

The impact of the removal of the RAE is uncertain at present. If the government does indeed increase the number of CDEP places so that all unemployed persons will have CDEP jobs, then this policy change will be an improvement from the current situation. If, however, insufficient CDEP places are created, as some people fear, then this policy will create a migration of people from settlements to towns, and this will be to the great disadvantage of people in settlements and towns alike.

3.4 Welfare and social engineering

Some commentators have argued that welfare entitlements should be dependent on the recipient meeting certain behavioural goals, especially in relation to their treatment of their children. In particular, Treasurer, Peter Costello, argued that welfare payments to ‘bad parents’ should be ‘cut’. This idea has been accepted by the National Indigenous Council. The move would redirect family tax benefits and child welfare payments to the carers of

Aboriginal and Torres Strait Islander children rather than their parents. Others have argued that welfare payments to parents should be dependant on school attendance (*The Australian*, 6 December 2005).

Regardless of the theoretical merits of this line of argument, the implementation of it would be difficult, and the whole policy may be discriminatory, unless applied to the mainstream community as well.

3.5 Education

The extremely poor outcomes in Aboriginal and Torres Strait Islander education remain an area of active policy debate. Examples of some views are as follows:

- Wesley Aird, a member of the federal government's National Indigenous Council Advisory Group has stated that Aboriginal and Torres Strait Islander children should be removed from small settlements and put in boarding schools in order to improve their education, stating that their education was more important than possible cultural displacement. It was also suggested that the government and the private sector should pay school fees for Aboriginal and Torres Strait Islander children (*The Australian*, 28 June 2006).
- Shane Houston, NT Aboriginal policy-maker, stated that Aboriginal children who are sent to cities to attend boarding schools and obtain jobs become 'culturally poorer' and she questioned the expectation that Aboriginal people should have to give up their own values in order to effectively participate in Australian society (*The Australian*, 8 December 2005).
- The federal government has supported a demand for the closure of schools in remote Aboriginal settlements that are deemed to be unviable. Arguments for the plan include the view that schools should not be used as pawns to keep remote settlements afloat and that long-term unviable settlements should not be 'propped-up' in a fruitless attempt to achieve some favourable outcome (*The Australian*, 30 May 2006).
- At the July 2006 meeting of COAG, it was agreed that all states and territories will work together on the complex issue of low rates of school attendance in Aboriginal and Torres Strait Islander settlements, which COAG believes reduces the future life chances for Aboriginal and Torres Strait Islander children. All jurisdictions agreed to collect and share data on truancy, enrolments and attendance. The federal government will establish a National Truancy Unit to monitor, analyse and report on this data.

One of the important issues not currently being debated is the reasons why parents do not see the benefits of schooling for their children. Possible explanations include:

- The education of the previous generation of Aboriginal and Torres Strait Islander people did not seem to lead to jobs.
- People may not see the relevance of much in the school curriculum to the lives that they currently live or are likely to live in the future.

3.6 Health

The two major issues currently being discussed are the difficulties of providing health facilities in remote settlements, and the problems of substance abuse. Examples of these views are:

- Professor Bob Gregory, a distinguished economist and onetime member of the Reserve Bank Board, argues that improved health and standards of living for Aboriginal people can best be achieved by having them move from remote areas into towns and cities. He also said that long-term government support will not be sufficient to sustain remote settlements, and that out-migration is necessary to significantly increase the income of those who leave. Gregory also says that current government welfare reforms which force single mothers and

the disabled to look for work increases the competition for unskilled work, which disadvantages Aboriginal people. Government policy should emphasise educational attainment to assist Aboriginal people to enter mainstream employment (*The Australian*, 28 September 2005).

- The South Australian Government, in an attempt to limit petrol sniffing and other problems of addiction, has introduced a bill which includes new penalties for the trafficking in petrol and other regulated substances on South Australian Aboriginal lands. These penalties provide for a maximum fine of \$50,000 or a jail sentence of up to ten years (*The Australian*, 31 May 2006).
- At the July 2006 meeting of COAG, it was recognised that poor child health and educational attainment can contribute to an intergenerational cycle of social dysfunction. COAG has agreed to an early intervention measure that is designed to improve the health and wellbeing of Aboriginal and Torres Strait Islander children living in remote areas, by trialling an accelerated introduction of the Indigenous child health check in high-need regions, with locations to be agreed on a bilateral basis.

Gregory's assertion that settlement people would be better off if they moved to towns or cities is a question of fact and deserves research. Left out of his consideration is the fact that people gain much cultural benefit from living on their lands and with their own history and relatives. It is also true that many of the people living in or around urban centres (such as Alice Springs) experience difficulties, such as substance abuse and violence, which are worse there than in remote settlements. The best counter to Gregory's proposition (from an economist's viewpoint), however, is the fact that Aboriginal and Torres Strait Islander people have the option to move to towns and cities but few of them choose to do so. That is, despite the fact that towns and cities offer some material advantages which settlements do not, people believe that they are better off in the settlements. The economics doctrine of 'revealed preference' says that despite what an outsider may judge to be the situation, people living in settlements are better off where they are.

3.7 Housing

Much of the debate about housing in remote settlements has been concerned with home ownership, tenants taking responsibility for the condition of the property, the costs of housing, and the inefficiency of Aboriginal housing associations. Some views are:

- Noel Pearson states that home ownership and reduced welfare dependency will reduce Aboriginal deprivation in Cape York. He says that welfare dependency encourages Aboriginal and Torres Strait Islander Australians not to work because money is provided regardless of their situation. He argues that encouraging Aboriginal people to have an economic stake in their homes will increase the life-span of a house in an Aboriginal settlement. Currently, the average life span of a house is less than 10 years (*The Australian*, 26 October 2005).
- The remote Aboriginal settlement of Wadeye in the Northern Territory was told by the Office of Indigenous Policy Coordination secretary, Wayne Gibbons, that no more money would be spent on housing and infrastructure in the settlement unless they clean up their houses and ensure that children attend school regularly. This ultimatum was rejected by settlement elders who said that they did not have the resources required to carry out the demands and that the requests were unreasonable. Former Indigenous Affairs Minister Mal Brough backed the statement and refused to provide any additional support to the settlement to carry out housing and infrastructure work (*The Australian*, 8 July 2006).
- Mal Brough, in a speech to the Bennelong Society in Sydney, launched an attack on the states' and territories' handling of Aboriginal and Torres Strait Islander housing, and on Aboriginal and Torres Strait Islander housing associations. He said that the federal government could not account for how up to \$2 billion, which had been given to the states

and territories in the past decade to build houses in Aboriginal settlements, had been spent, or how many houses had been built. He said the current housing delivery system was so 'fundamentally flawed' it needed to be overhauled to avoid 'throwing more good money after bad'. Mr Brough said basic houses were costing \$400,000 to build, when they should only cost \$150,000. Also the government had given funds to the states and territories for 600 Aboriginal and Torres Strait Islander housing organisations, each with its own board and management bureaucracy. The bodies administered 21,000 homes, or an average of just 35 houses each. The funding equated to \$95,000 to manage each house. In June, *The Australian* revealed that state and territory governments had failed to spend the \$141 million allocated to them in 2004/05 for Aboriginal and Torres Strait Islander housing. Mr Brough said that he was considering a drastic rethink of the funding system for Aboriginal and Torres Strait Islander housing due to the inability of the state and territory governments to detail what had happened to more than \$1 billion in taxpayer money given to them over the past three years. He is planning to change the way that the money is delivered (currently through the state and territory governments), and concentrate on funding more housing for remote settlements in need. Finally, he complained that rents were too low, saying that some of the homes are rented for as little as \$10 a week, yet housing organisations relied on taxpayer funding for repairs and maintenance (*The Weekend Australian*, 2 September 2006).

Some questions that arise in relation to these views are:

- Should Aboriginal and Torres Strait Islander tenants be required to maintain and repair their houses when this is not usually required by mainstream tenancy agreements?
- While there are strong arguments for the privatisation of housing (and some other community assets), and while the land tenure issue associated with home ownership can be dealt with by the use of long-term leases, the financing issues could be very difficult. Is it reasonable to expect that someone on CDEP can pay off a house? How will chronic indebtedness and bankruptcy be dealt with? Will this system lead to more problems such as people denying food to themselves and to their children because of they need to make payments to the financier?

3.8 The attack on remote settlements

In recent times, remote settlements have been attacked on the grounds that they are costly, unproductive, and have excessive levels of substance abuse and violence. Examples of these views:

- Ex-Indigenous Affairs Minister Amanda Vanstone complains that the cost of funding remote and unviable Aboriginal settlements is too high. She also says that that some settlements are particularly risky environments for women and children, and that amenities cannot be provided to these settlements at the same level as towns or cities (*The Australian*, 9 December 2005).
- In response to Ms Vanstone's comments, the ALP points out that, on the issue of the viability of remote Aboriginal settlements, non-Aboriginal people living in rural and remote parts of Australia should face the same scrutiny of their levels of government services as she was suggesting for Aboriginal and Torres Strait Islander Australians (*The Weekend Australian*, 10 December 2005).
- Research suggests that despite a decade of economic prosperity, the living standards of Aboriginal people living in urban centres has declined and that Aboriginal people are less likely to become urbanised in the future (*The Australian*, 17 July 2006).

The assertions by Ms Vanstone and others that the costs of services provided for people living in remote Aboriginal and Torres Strait Islander settlements are higher than if they lived elsewhere, and that violence and substance abuse would be lower if they lived elsewhere, need to be tested. With respect to costs, Taylor and Stanley (2005) found that this proposition

was false in the case of the Thamarrurr (Wadeye) settlement when compared with the average amount spent by governments on the Northern Territory population. That is, governments spent less per person (per cohort) at Thamarrurr than they did on the average NT citizen.

With respect to social problems in settlements, the situation is highly variable and a broad generalisation is difficult to support without detailed research. It is known however, that many Aboriginal and Torres Strait Islander people living in towns and cities are more likely to be poorer and have more social problems than the average non-Aboriginal person living there. That is, it cannot be simply assumed that an Aboriginal person who moves to a town or city will acquire the same income, education and health characteristics as the average urban resident.

3.9 Business development and investment

The emphasis on non-Aboriginal participation in investment and projects on Aboriginal land is now a longstanding approach. There are a number of businesses, partly or wholly owned by non-Aboriginal organisations, operating on Aboriginal land. The most notable of these are in the mining and tourism industries. Indigenous Business Australia (IBA) has a successful model of Aboriginal/non-Aboriginal partnerships which involve a partnership between the local Aboriginal community, IBA and an expert non-Aboriginal organisation (retailer, mining company, etc.) each providing one third of the capital required. As the project develops, it is intended that the local community buys the IBA share, leaving it a two-thirds majority shareholder.

This emphasis on Aboriginal/non-Aboriginal partnership has intensified in recent years, though not without difficulties. Some recent issues in this area are:

- In 2005 the Macquarie Bank proposed the formation of a development and investment project which would benefit Aboriginal people. The Bank intended to work with the NSW Aboriginal Land Council to create a fund that would develop freehold Aboriginal land between Tweed Heads and Eden, NSW. Profits from the developments would be shared with Aboriginal Land Councils (*The Weekend Australian*, 26 November 2005). It was proposed that the proceeds from developing Aboriginal land in NSW would be used to create the first Aboriginal and Torres Strait Islander superannuation fund which was intended to benefit the country's most disadvantaged settlements. However, the scheme was attacked by local land councils due to fear that the NSW Aboriginal Land Council could control the purchase and development of the land (*The Australian*, 7 December 2005).
- The Hillsong Church was criticised for exploiting and deceiving an Aboriginal settlement to obtain money for its own purposes. The funds were supposed to assist Aboriginal and Torres Strait Islander people to develop their business ideas and to provide business support. IBA reserved their decision about the agreement pending further information about the events from Hillsong Emerge. (*The Australian*, 10 January 2006). Later, IBA announced that it had considered its options for the future provision of financial support for micro-enterprise development for Aboriginal and Torres Strait Islander people and decided that it would not continue with the current micro-enterprise development pilots being delivered by Hillsong Emerge. These pilots arose from an initial funding agreement between the former Aboriginal and Torres Strait Islander Commission (ATSIC) and Opportunity International.
- There has been growing interest in the idea that development on Aboriginal land could be encouraged if settlements granted 99-year leases to developers. The federal government pushed this idea, and the NT government developed a proposal for a voluntary system under which an NT government body would negotiate 99-year leases of Aboriginal land

with traditional owners and land councils. This body would then have the power to issue sub-leases to third parties (developers, council, etc.) without the need for negotiations with traditional owners or land councils about the proposed land use. The annual rent for the land would have a cap of 5 per cent of value of the land. The Northern Land Council opposed this plan on the grounds that: traditional owners will not agree to a lease of their land without a definite development proposal whose impacts can be examined; the traditional owners would miss out on the benefits (employment, share of profits, etc) of the development apart from the rent; leasing can be dealt with now under the NT land rights act and does not need this new approach; and there is no proposal to deal with non-Aboriginal land in the same way (*The Australian*, 6 October 2005).

While the use of non-Aboriginal experts and partners has the possibility of creating wealth for people living in Aboriginal settlements, there are also many potential problems with this kind of arrangement, including the loss of settlement empowerment and control of land, the creation of internal divisions in the settlement, increased access to alcohol and other undesirable substances, and exploitation of people by the partner.

3.10 The law and order debate

The stimulus for a law and order debate has been allegations of the sexual abuse of children and other violence in Aboriginal and Torres Strait Islander settlements. This has led to a commitment by governments of more resources to combat violence, and to an attack on the application of Aboriginal customary law in the legal system by the Australian Government. To date there has been little defence of customary law in the debate.

The following items reflect some of the policy debate and developments:

- The Australian Government declared its commitment to combating violence in Aboriginal and Torres Strait Islander settlements. At the National Summit on violence in Indigenous communities in June 2006, former Indigenous Affairs Minister Mal Brough offered states and territories \$130m over four years to combat violence and sexual abuse, providing the individual states and territories match the spending. Some \$40m of the package was intended to provide extra police to remote settlements. The package was criticised by the Labor Party as being 'measly'. Other comments included the opinion that the focus of the funding was too narrow; with not enough focus on, and investment in, basic needs. At the time the announcement was made, the Australian Government also announced plans to remove the application of Aboriginal customary law from the Crimes Act. This would effectively ban the consideration of cultural factors when Aboriginal and Torres Strait Islander offenders are sentenced in courts.
- At the July 2006 meeting of COAG, it was agreed that states and territories would work together to fund and administer complementary measures that would address the key contributing factors to violence and child abuse in Aboriginal and Torres Strait Islander communities. The factors gaining most attention were alcohol and substance abuse. COAG believed that decreasing substance misuse can substantially reduce levels of violence and abuse, improve the overall health and wellbeing of Aboriginal and Torres Strait Islander people, and may also increase educational attainment, household and individual income levels, and reduce crime and imprisonment rates. The States and Territories have agreed to encourage magistrates to make attendance at drug and alcohol rehabilitation programs mandatory as part of bail conditions or in sentencing. They also agreed to provide additional resources for drug and alcohol treatment and rehabilitation services in regional and remote areas. Finally, COAG agreed to further support settlements seeking to control access to alcohol and illicit substances, and stated that Aboriginal and Torres Strait Islander leaders and organisations should play a vital role in addressing the problem of violence and abuse.

- The former Prime Minister, John Howard, called for ‘equal treatment’ for Aboriginal and non-Aboriginal people in the judicial system. He made this comment in support of the proposal of the former Indigenous Affairs Minister, Mal Brough, to scrap any consideration of customary law in determining the penalty for serious crimes (*The Australian*, 29 May 2006).
- In the July meeting of COAG, the states and territories agreed that ‘the law’s response to family and community violence and sexual abuse must reflect the seriousness of such crimes’. COAG agreed that no customary law or cultural practice excuses, justifies, authorises, requires, or lessens the seriousness of violence or sexual abuse. All jurisdictions agreed that their laws will reflect this, if necessary by amendment to their existing legislation.

According to the literature, economic development is assisted by good law and order, peace and good governance. A reduction in violence in settlements, so long as it is achieved in ways that are acceptable to Aboriginal and Torres Strait Islander people, is likely to assist their empowerment and development, as well as improving their happiness.

However, the proposal to completely remove the consideration of customary law when courts consider penalties for crimes is likely to be counter-productive. If its removal results in Aboriginal and Torres Strait Islander people considering Australian law to be unjust, they are less likely to accept Australian law in settlements. It is also possible that this measure racially discriminates against Aboriginal and Torres Strait Islander people, because courts typically take into account religious and cultural factors for non-Aboriginal people when determining sentences. A more sensible approach may be to exclude the mitigation factor of customary law for only certain offences, such as child abuse and domestic violence.

4. Overall impact of policy developments on service delivery

Each of the above proposed, suggested or actual policy changes will have implications for service delivery to settlements. The precise nature of the effects, however, is difficult to predict at this stage since the policy changes are evolving. One can expect that:

- SRAs and RPAs will result in settlements being required to undertake specific additional activities if they wish to have improved government services or facilities. At present the system is ad hoc, and a much more systematic approach is needed if it is to provide the intended overall development benefits.
- Any change to the number of CDEP places will affect the supply of labour the settlement has available to undertake projects, including the provision of their own services.
- Any improvement in education, health and housing will increase the settlements’ capacity to undertake services projects and influence the nature of services needed for settlements.
- Any reduction in funding for small settlements will lower the standard of living of people living in them. If people migrate to larger settlements, towns and cities, this will largely transfer the social problems to those places and may intensify the severity of the problems.
- The emphasis on business development and partnerships with non-Aboriginal and Torres Strait Islander organisations is likely to work in favour of settlements taking control of service delivery, either alone or in partnership with a non-Aboriginal expert partner. One could imagine schools and clinics, for instance, owned by the settlement, run in conjunction with an outside provider, and funded by the government.
- Law and order is always important for any community that desires development. Any improvement in it, as long as the improvements are supported by the community, will make a contribution to the ability of the community to achieve contentedness, empowerment and development.

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