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Australian history through the eyes of a dirt digger

REVIEWS

Barry Gittins and Jen Vuk

Girt The Unauthorised History of Australia, by David Hunt. Black Inc. Publication date: August 2013.

BARRY:

Some people care deeply for lived and recorded history, hoping that lessons learned will not be lost. Others view the canvass of history as a battleground, strewn with weapons with which to bludgeon their ideological or class enemies.

David Hunt is a satirist and history buff. As a newcomer, he presents as 'an unusually tall and handsome man who likes writing his own biographical notes for all the books he has written [one]'. For him, history is an abundance of mistakes, piss takes and riffs on life's absurdity and human fallibility.

Historiography as practised by Mr Hunt is an exceedingly clever way to skewer the rapier of truth through the carcass of officious mendacity. He unerringly hones straight into the bowels of reactionary handwringing over liberal re-examination.

I tend to rate humorists on their capacity to provoke 'laugh out loud' responses, seducing the reader through eliciting solidarity, bewilderment and epiphany. By any and all of those responses, Hunt quickly had his wicked way with me.

I appreciate, also, the weary and well-honed observational skills (and effective bull dust detector) concealed by his award-winning badinage.

Hunt largely focuses, tongue-and cheek in groove, on Oz post-European invasion, and sees Australia's often inept, sometime kind and inevitably surprising tale as 'fascinating…the greatest Australian sketch comedy that has never been made [and] bloody funny'.

If you cock a snook at his varied areas of interest you'll be encouraged to delight in the bizarre application of *terra nullius* to the nation's 'unoriginal non-inhabitants', the comparative paucity of exploration (and attribution) of European and sundry other silly persons, who may or may not have wandered around the place while adhering bits of crockery to scenery and killing locals and their crews.

Hunt really goes to town on the ludicrous decision making and governance processes that led to colonisation (read invasion), settlement and relocation of poor Britishers (read 'the Irish', etc.), the liberal use of rum as a unit of currency and Macarthur's grandiloquent sport of toppling governors.

Character evisceration (assassination is too mild a term) of historically repugnant chaps such as the mutineers' Captain/Governor William Bligh and hypocrite/gun-runner/flogger /killjoy/racist/misogynist the Rev. Samuel Marsden are joyfully interspersed with contemporary references and observations on diverse aspects of our heritage - sexploitation, corruption, cultural elitism, homophobia, eurocentrism and the pursuit of ignorance over observable truths.

It's somewhat a case of art vilifying grubby excuses for life.

There are gems that roll off the page and will stay with you, such as his observation that the Sydney mania over real estate is founded in the colonists' early struggles and Macarthur's anti-Bligh diatribes: 'Sydney people love real estate - It's all they talk about at parties - and were aghast at the thought that the government might seize their

1BDR/0BTH hovel with double lock-up convict.'

I fear Hunt pulls stumps way too early (post Governor Lachlan Macquarie's return to ignominious penury, wherein 'he deeply resented not having any money to not spend'), which leaves me eagerly awaiting Hunt's 'part two' offering. What about you, Jen?

JEN:

Well I'm wondering if there has ever been a word that better encapsulates what it means to be Australian? Girt. David Hunt certainly doesn't think so. As he reminds us in *Girt*, 'Australia is entirely and defiantly girt by sea'.

But with *Girt* there's also plenty of dirt: 'Australia was the place to be,' writes Hunt with tongue firmly in cheek. 'Unless you were black. Or a woman. Or gay. Or suspected of being Irish. Or even worse, all of the above.'

The author (who recently declined Joe Hockey's overture to employ him as his speech writer) doesn't rewrite our past as much as give it a good shake up; allowing little time for the dust to settle. On behalf of anyone who suffered through the dry retelling of the Eureka Stockade and the glossing over the Aboriginal experience during my history lessons, I, for one, applaud the audacity.

A point of fact we Aussies have sadly missed is that our beginnings were every bit as volatile, questionable and fascinating as America's. In that baptism of 'geography, economy and necessity', the lowly were elevated to greatness, while the mighty fell. 'Rich and poor, black and white, gay and straight, Catholic and Protestant and Jew were left to simmer in the cultural melting pot.'

And who would have thought that the retelling could be so 'bloody funny' (certainly not my form four teacher) or warrant so many footnotes? And so it is we learn that it was botanist Sir Joseph Banks and not Captain James Cook who was once known as 'the father of Australia' (although, Hunt drily notes, Banks spent as much time studying women as plants); that John Macarthur was instrumental in privatising NSW, and, perhaps most crucially, that it was rum rather than the pound that drove our economy. I was pleased to see that women, too, get their 15 minutes of fame. I loved that Elizabeth Macarthur and Jane Macquarie come across every bit as dogged and ambitious as their husbands. And I'll not look at a \$20 dollar bill the same way again, since learning that the woman on the note, Mary Reiby, was our first 'crossing-dressing, horse-thieving, sea-clubbing entrepreneur and standover woman'.

Hunt certainly fleshes out more than just the dry bones of these historical figures, and his hilarious observances often had me in stitches, but there were times when I felt that fact gave way for wit. It's but a minor criticism, because through *Girt's* delightfully distorted prism the question of where we came from-and, perhaps, where we go from here-seems somehow clearer.

Jen Vuk is a freelance writer and editor whose work has appeared in Fairfax Media, The Herald Sun and The Australian. Barry Gittins is a communication and research consultant for the Salvation Army who has written for Inside History, Crosslight, The Transit Lounge, Changing Attitude Australia and The Rubicon.

Article amended to reflect the fact that David Hunt declined Joe Hockey's invitation.

Toleration must include understanding

AUSTRALIA

Benedict Coleridge



Observed from a distance, Australia's treatment of religious pluralism in the last few months has been surprising and difficult to digest. The recent repeal of the burka ban in the national parliament brought an end to a period of *ad hoc*, knee-jerk tokenism. The whole fracas, including woeful comments from ignorant senators, and an obvious lack of real governmental consultation with Australia's Muslim communities, spotlighted an embarrassing level of illiteracy with regard to Islam.

But now that the general atmosphere of scandal has subsided, we might take the opportunity presented by these antics to reflect on how we think of - and practise - toleration in Australia, especially when it comes to religious traditions. The time seems ripe to ask: does 'toleration' as we commonly envision it encourage people to learn about religious traditions; or is the view of toleration that we put forward one that actually entrenches incomprehension?

We're used to thinking of religious pluralism in terms of our rapidly diversifying Western societies, where demographic change has transformed cities like Sydney and Melbourne into sites of inter-religious encounter. So pluralism is often dealt with through reference to law, the questions being asked centring on how the state should relate to religious groups and the proper demarcation of the 'civic' and 'religious' spheres. (Think of the conflicts over public display of religious symbols in France and Italy).

It's easy to come to the view that maintaining stable pluralism requires only the right legal framework enforcing the boundaries of 'the acceptable', and that with this in place we can just get on with it.

What the last few weeks, with their burka bans and Jackie Lambies, have really prompted us to confront is the challenge of *understanding*.

In sustaining a stable pluralism, how do we encourage people to form some understanding or literacy with regard to each other's moral, religious or cultural traditions? And by this I mean making efforts to learn, to come to some familiarity,

perhaps even some nascent sympathy, with things profoundly alien to them. What if our doctrines of neutrality and 'tolerance' are actually keeping us complacent and stopping us from enquiring into the sources that shape or inform other traditions?

Modern pluralistic Australian society is bound by principles that determine the boundaries of acceptable speech and action. One of the most important is that of toleration, which we tend to think of in terms of 'toleration as non-interference'. That is, we can tolerate the 'moral stranger', a member of another cultural or religious tradition, without further engagement being necessary.

We most readily think of toleration as an act of omission, an act of restraint or forbearance. Such toleration ceases, of course, when we encounter those whose agenda is forcibly to draw all within the bounds of a single tradition, in the way that ISIS has attempted in Iraq through mass gun-point conversions of Yazidis.

The point here is that we tolerate each other across the distance of incomprehension. I may not understand another religious tradition, but, in 'virtuous' adherence to the principle of toleration, I 'put up' with it nevertheless; I am willing to share geographic and political space with its adherents. So, toleration is often expressed in terms of restraint or 'silence.' It means to refrain from the possibility of demonstrating intolerance.

Nobody would deny that toleration is a vital principle in sustaining concord in Australia. But we need to re-arrange our understanding of what is required for the maintenance of such concord in our multi-cultural and multi-religious society.

We need to move beyond straightforward 'tolerance' paired with incomprehension of the religious other, to promote a more engaged understanding that entails some comprehension of how traditions - particularly religious traditions - fit together. And this effort has to be public. It has to be sustained by all of us.

It's possible for toleration to be interpreted so as to promote an asymmetry of responsibility. As the German philosopher Jurgen Habermas has noted, under the rubric of 'toleration' it falls upon religious citizens to make efforts of translation so as to make their own traditions publicly intelligible.

It's an effort that non-religious citizens are largely spared. This asymmetry, says Habermas, threatens to produce a 'secularist view' of religion, which fails to take religious language and reasons seriously. In other words it's easy to fall into the trap of 'tolerant' but disdainful incomprehension.

Of course, religious citizens are as much in danger of demonstrating 'disdainful incomprehension' as anyone else. The point is that the realisation of a stable and healthy pluralism can't rely only on the adherents of religious traditions making attempts to render their codes and customs intelligible to the public at large.

It also relies upon the wider public making efforts to engage with and interpret the traditions with which they share communal space. This effort of understanding, to be directed at all of Australia's religious traditions, should be a natural part of our public culture.

We should all attempt to come to some more detailed understanding of the faith-shaped lives of Australian Muslims, including the tradition of sharia. And that means breaking the 'silence' of toleration in its current popularly interpreted form, and taking up the challenge of dialogue.

Dialogue in Australia already takes place in many contexts - in a formal sense, through the interfaith meetings of religious leaders and simply through everyday coexistence in neighbourhoods around the country. But we can certainly make it more explicit as a principle of our common life.

When Australian school pupils are introduced to the idea of Australia as a 'liberal-democratic-tolerant' country, they need to be introduced to the practices and principles that will make this possible in the future, two of which are surely *learning* and *dialogue*. In the cause of making the principle of dialogue more public, it's encouraging to see the new Catholic Archbishop of Sydney, Anthony Fisher, communicating the importance of

inter-religious friendship so early in his tenure.

When we talk of multiculturalism in Australia, we tie it closely to an abstracted view of tolerance. Multiculturalism is reduced to a vision of living alongside each other without 'interfering.' But multiculturalism is also multi-religiosity, and both of these conditions demand energetic *learning* so as to improve mutual understanding, not only between faith communities but between religious and non-religious publics.

Australia accommodates a great diversity of religious communities, which have played a vital role in developing the cultural, political and material fabric of the country. Surely what we need is to espouse a principle of toleration that encourages engaged understanding, rather than 'tolerant' incomprehension. Tolerance can't be silent, something that sits undemanding in the space between otherwise alienated citizens. More proactive efforts are necessary.

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Religious tolerance image by Shutterstock.

Journalist martyr's war on drugs

REVIEWS

Tim Kroenert

Kill the Messenger (M). Director: Michael Cuesta. Starring: Jeremy Renner, Mary Elizabeth Winstead, Oliver Platt. 112 minutes

In 1996, American journalist Gary Webb, writing for the *San Jose Mercury News*, claimed the CIA and US State Department during the Regan administration had supported the smuggling of crack cocaine into the US, as a way to help fund Contra rebels against the revolutionary government of Nicaragua. This 'dark alliance', Webb claimed, contributed significantly to the crack epidemic in Los Angeles, and fuelled the War on Drugs that Regan himself famously escalated.

Although subsequent formal enquiries proved many of Webb's claims accurate, at the time Webb himself was made a pariah. He died of an apparent suicide in 2004, but he'd been a martyr to the cause long before then. His 1998 book, *Dark Alliance*, formed the basis of a biography by Nick Schou in 2006, which together have been adapted into a new, somewhat fictionalised account of Webb's ill-fated crusade, titled *Kill the Messenger* after Schou's book.

It stars Renner as the put-upon Webb, portrayed here as a fearless journalist and flawed but basically decent family man, who must keep an eye on simmering tensions in his home life while trying to persuade his sympathetic editor (Winstead) and somewhat more skittish publisher (Platt) to have the courage of his convictions. As his investigations bring him closer to the shocking truth, the inevitable, insidious backlash tests his alliances both professional and personal.

The film opens with a news footage mash-up that shows the war on Communism dovetail into the war on drugs, to underline the irony of Webb's revelations. It's not subtle, but little about the film is. Its exploration of Webb's home life, for example, where the blight of a past indiscretion humanises the character and provides fodder for some cheesy domestic drama, is heavy handed and clashes with, rather than complementing, the film's much more compelling central plot.

This is a problem largely with the scripting, rather than the performances, which are uniformly good. Renner's Webb especially is both tough and vulnerable, and does not so much unravel but is ravaged by the winds that conspire against him. His reputation brought low by the efforts to discredit him, he receives an award for which he was earmarked before things went sour. Warily, boldly, he stands and stares his peers and his disgrace in the face, and delivers a stock speech about journalism and Truth, with stirring gravitas. It's the film's best moment.

Tim Kroenert is assistant editor of Eureka Street.

Cash for refugees shames both Australia and Cambodia

AUSTRALIA

Andrew Hamilton



Cambodia's agreement with Australia to receive refugees from Nauru is moving to implementation, with Cambodian officials soon to visit Nauru. It has also been widely criticised, and refugees on Nauru have protested against it.

The urgency with which the Australian Government has pursued the agreement is politically motivated. Many asylum seekers on Nauru have been found to be refugees. Nauru is in no position to accept them into the community, and is unwilling to hold indefinitely those found to be refugees. The PNG Government is likely to adopt the same stance. The difficulty for the Australian Government lies in its declaration that none will be resettled in Australia. Cambodia is the circuit breaker that will allow Australia to save face.

The agreement has attracted strong criticism, including from the United Nations High Commission for Refugees which refused to be a co-signatory. Critics have argued that it breaches Australia's responsibility to provide protection for refugees. It is an exercise not of responsibility sharing for refugees but of burden shifting, from a wealthy to an impoverished nation. Australia's commitment to the United Nations Convention, built on a universal respect for human dignity, has been betrayed. In its place has been placed a price setting mechanism for people whom nations want to dump elsewhere.

Many parallels have been adduced. It has been described as a return to the transportation policy by which Australia was first settled. It has been seen as the reverse of the common surrogacy agreement by which a poor Asian woman is paid to bear a child for a wealthier Australian woman. Here a poor Asian country agrees is paid to rear the abused children of wealthy Australia.

The agreement itself does provide some benefits for refugees. But they are limited, falling short of full protection. And experience suggests that the promises made in them will not be expeditiously delivered.

The positive features are that Cambodia will accept only refugees who go there

voluntarily. They will be given recognition, and are guaranteed identity cards and residence certificates, have health insurance for five years, have been guaranteed freedom of movement and right to travel documents, be given a resettlement package, able to be reunited with families, and have a right to permanent resettlement.

?The limitations on these benefits, and so the threat to human dignity, come partly from Cambodian law dealing with resident aliens, partly from political considerations, and partly from the under resourcing of Cambodian administration. In employment, preference must be given to Cambodian applicants, and the number of Cambodians seeking employment is enormous.

The refugees will initially be housed in camps. The housing for refugees currently in Cambodia is in the community. It is not clear what process will be followed for those sent from Nauru.

?The protection against refoulement is less than watertight. Cambodia has already returned Uighurs to danger in China. And Australia is committed to help people return to their own nation or to other countries sounds ominous. The guarantee of freedom of movement is also fragile. Cambodian ministers have already ruled out residence in Phnom Penh.

?The limitations of Cambodian government also limit the guarantees. No process exists at present for receiving the vital residence cards, and no refugee has received one after five years waiting. Access to law is also limited.

?Together these provisions suggest that it will be difficult for refugees to enjoy the conditions for human flourishing while starting a new life in Cambodia. That is not Cambodia's fault. It is a very poor country served poorly by an authoritarian and corrupt government. It is hard for Cambodians to find employment, especially after many who sought work in Thailand were recently returned to Cambodia. Its bureaucracy struggles to meet the demands of its own citizens and is not equipped to implement the provisions of the agreement.

?The uncertain future promised by the agreement is not in the interests of the people who sought protection from Australia. Since no more than a handful of refugees on Nauru are likely to go voluntarily to Cambodia, it cannot be the political circuit breaker the Government wants. And it is shameful both for the Governments of a wealthy nation like Australia and of an impoverished Cambodia to put their names to such a cash for people deal.

?Neither prudence, decency nor expediency commends the Cambodian solution.

Andrew Hamilton is consulting editor of Eureka Street.

Image: Cambodia's Deputy Prime Minister and Minister of Interior Sar Kheng and Australian Immigration Minister Scott Morrison shake hands after signing the agreement.

Picking your battles

CARTOON

Fiona Katauskas



Fiona Katauskas' work has also appeared in ABC's *The Drum*, *New Matilda*, *The Sydney Morning Herald*, *The Age*, *The Australian*, *The Financial Review* and Scribe's Best Australian political cartoon anthologies.

Church legally liable for pre-1996 child sexual abuse

AUSTRALIA

Frank Brennan



In August the Royal Commission into Institutional Responses to Child Sexual Abuse turned its spotlight on the Melbourne Response, the protocol adopted by the Catholic Archdiocese of Melbourne after George Pell became the Archbishop of Melbourne in 1996. Much of the media attention was on Cardinal Pell's video link appearance from Rome (pictured), where he is now overseeing Vatican finances as Prefect of the Secretariat for the Economy.

His critics understandably fixed on his comments about the common law, vicarious liability and the liability of truck owners for the wanton criminal act of any truck driver. This is the third time Cardinal Pell has appeared and been cross-examined about his role as a bishop in overseeing church attempts to put right the tragic consequences of child sexual abuse perpetrated by church personnel, including priests. As a result of his three appearances, there is now greater clarity about past practices, as well as greater precision about the unanswered questions for those seeking a better and safer future for all children in all institutions, including the Catholic Church.

Reviewing Cardinal Pell's evidence, I have concluded that we Catholics need to accept moral responsibility and legal liability for all child sexual abuse committed by clergy prior to 1996, regardless of what might be the moral or legal position after 1996 when improved measures for supervision and dismissal of errant clergy were put in place. Ultimately, the High Court of Australia will be asked to reconsider the law of vicarious liability. But in relation to any abuse occurring before 1996, there is no way that we can argue that we had structures in place which gave priority to the well being of vulnerable children. That is why we are collectively responsible as a social institution. Reviewing Cardinal Pell's evidence I have also concluded that he made a fair fist of trying to fix things after he became archbishop in 1996. Credit should be given where it is due, even though we are yet to hear why he decided not to co-operate with the other Australian bishops in drawing up a more robust national protocol. I have no doubt that further

improvements can be made, both to the Melbourne response and the national protocol *Towards Healing*. Hopefully Justice McClellan and his fellow commissioners will be able to provide a politically achievable blueprint for all institutions.

1996 was a significant year, and not just because that was when George Pell took over as Archbishop of Melbourne. It was the year that all Australian bishops agreed to major changes aimed at correcting past failures to deal adequately with child sexual abuse in clerical ranks. It also happens to be the year that the Irish bishops adopted new procedures which have helped to stem abuse there. Everyone, including church leaders realised that there was a real problem and that it required urgent action different from the *ad hoc* measures which had been put in place and tried over the previous decade. On his appointment as archbishop, Pell wasted no time and spared no expense engaging the top end of town to design a scheme for redress and the provision of counselling services for those victims reporting sexual abuse by a church official. Before acting, Pell had discussions with Jeff Kennett, the Victorian premier, and Richard McGarvie, the governor. He consulted people like Sir James Gobbo and QCs Charles Francis and Joe Santamaria. The protocol was finalised in close consultation with the Victorian Police and with the Victorian Solicitor General. He set up a panel to oversee the administration of the protocol. Membership was not confined to Catholics. The chair of the panel has always been an outstanding lawyer: first, Alex Chernov, now the Victorian governor; David Habersberger later a Supreme Court judge; Sue Crennan now a High Court judge; and now David Curtain QC, one time Chairman of the Victorian Bar Council. These are not the sort of people you retain if you are wanting to engage in cover up or if you are wanting to maintain a secret Vatican approach at odds with contemporary community values. There can be no doubt that everyone has been on a steep learning curve and that Pell and his fellow bishops since 1996 have been keen to learn the lessons.

But prior to 1996, things were a mess. For nine of those years, Pell was an auxiliary bishop in Melbourne. Only his archbishop was superior to him in the archdiocesan power structure. Pell told the 2013 Victorian parliamentary inquiry, 'When I was Auxiliary Bishop of Melbourne I was not a part of the system or procedures for dealing with paedophilia.' By 1988, he like anyone else attentive to media reports was aware that there was a problem and that there were 'terrible situations, for example, in Canada'. In 1988, Pell's superior, Archbishop Sir Frank Little had set up a confidential subcommittee to deal with abuse complaints. Membership included a couple of clergy, a barrister and a psychiatrist. Pell says he knew nothing of their deliberations. In 1993, a Pastoral Response Office (PRO) was set up in the archdiocese. Pell says, 'Prior to my appointment as Archbishop, I had little if any involvement with the PRO.'

As an auxiliary bishop, Pell was responsible for one of the three zones into which the archdiocese was divided. He was charged with monitoring the priests in that zone. For example there had been complaints about an alleged abuser in his zone, Fr Searson. Pell told the Victorian inquiry:

There were two police investigations into Searson, I think in 1989 and 1991. They were inconclusive. The Catholic Education Office got the lawyers Minter Ellison to evaluate what was done and whether it was done properly, and they were still unable to pin anything on the man. He was not a pleasant man. He denied everything and anything. In the Searson matter I certainly acted on that, and this is one case where we consistently tried to do the right thing…

I met on at least two occasions with groups of teachers from Searson's school. One was in 1989 and the other one was in 1991 or 1992. I think it was after the second meeting I asked the curia about it. It was mentioned that the Catholic Education Office had been investigating these things - I certainly did not do nothing; I certainly did. I was sent back to Searson to tell him to follow the protocols correctly, because people were saying he was misbehaving.

Later as archbishop, Pell suspended Searson from all parish duties. Ultimately Searson pleaded guilty to a physical assault of children but no sexual abuse was ever proved.

In his sworn statement to the royal commission in August, Cardinal Pell said, 'During the period in which I was Auxiliary Bishop from 1987 to 1996, I did not myself have any direct responsibility for handling issues relating to child sexual abuse. It was not my role to assist Archbishop Little in managing these matters.' He told the Commission, 'I wasn't in the direct line of authority before I was Archbishop. I was an Auxiliary Bishop with no responsibility in this area.'

What we Catholics have to accept is that, at least until 1996 when the new protocols were introduced, we were part of a social institution so hazily structured that not even one as savvy as Cardinal Pell was expected to know or do anything conclusive about alleged child sexual abuse, regardless of how high he had escalated the ecclesiastical pyramid. He had been a priest in Ballarat where abuse was rampant, rector of the Melbourne seminary when abuse in some of the Melbourne parishes was frequent, and then auxiliary bishop for nine years when clerical sexual abuse was being constantly discussed in the mainstream media. Conceding that there was 'significant truth' in the suggestion that a 'systemic cover-up allowed paedophile priests to prey on innocent children', Pell told the Victorian parliamentary inquiry:

Nobody would talk about it; nobody would mention it. I certainly was unaware of it. I do not think many persons, if any, in the leadership of the Catholic Church, knew what a horrendous, widespread mess we were sitting on. I have sometimes said that if we had been gossips, which we were not, and we had talked to one another about the problems that were there, we would have realised earlier just how widespread this awful business was.

If only Pell and Little had the occasional responsible conversation, rather than a gossip, about these matters, how different things might have been before 1996. If only Pell and the clergy on Little's subcommittee had met for the occasional discussion, and just over a cup of tea. If only Pell had decided to seek out the PRO members in order to get a better understanding of the matters which were being raised in the media. The Church has not judged him to have failed in his duty as a bishop for knowing and doing little before 1996. The Church has promoted him as one of our finest bishops who could not be expected to have known or done anything more before 1996.

We have to accept that the institution until at least 1996 was structured so opaquely as to work against the interests of vulnerable children. The inner sanctum of an archdiocese in those days could be so fortified and so exclusive as to shield a competent auxiliary bishop from alleged abuse by a priest in the bishop's allocated monitoring zone. That fortification was not put in place and maintained with a care for children. It was maintained without sufficient regard for the well being of vulnerable victims whose interests were secondary to the name of the Church and the protection of its clergy. This is the shocking moral consequence of Cardinal Pell's evidence, and now we all as Church must accept the blame, committing ourselves to transparency and accountability in the Church so that this sort of thing can never happen again. We, and not just the deceased bishops who occupied the inner sanctum, must accept responsibility for the harm suffered by those who would not have suffered but for the existence of such a fortified, exclusive inner sanctum. We can do this, and should do this, even while acknowledging the exhaustive work done by our leaders like Cardinal Pell who have worked to clean up the unholy mess since 1996, making the Church safe for children. Whatever the High Court ultimately rules about abuse occurring after 1996, we need to wear the rap for everything that went on before 1996 when the procedures in place were hazy, porous and totally inadequate.

Frank Brennan SJ, professor of law at Australian Catholic University, is presently Gasson professor at the Boston College Law School.

Memories of Gough

AUSTRALIA

Frank Brennan



Gough Whitlam once asked me why there were so many social reformers to emerge from Queensland in the early 1970s. I told him it was simple. We had someone to whom we could react: Sir Joh Bjelke Petersen; and we had someone to inspire us: him.

I have written elsewhere about Gough's contribution to Aboriginal rights, [human rights](#) and [international law](#). Here, I reflect on the man who inspired me so affectionately, so supportively, and with such a sense of fun.

What he did for me, he did for countless other Australians who dreamt of a better world and a nobler Australia. Even his political opponents are forever in his debt for having elevated the national vision and for having given us a more complete and generous image of ourselves.

On Sunday I happened to visit the Museum of Fine Arts in Boston. I took the afternoon tour of American art. With pride, our guide ended the tour with Jackson Pollock's painting *No 10*. I was able to tell her it was not a patch on *Blue Poles*, purchased by a visionary prime minister down under who copped all hell for spending a six figure sum on just one painting. That was our Gough. We are forever in his debt.

I will share three vignettes.

In 1980, I took a busload of boys from Xavier College to Canberra on a politics tour. Andrew Peacock was their local member. They gave him a hard time because of Malcolm Fraser's boycott of the Olympics. I was anxious for them to meet Whitlam who was by then a visiting scholar at the Australian National University writing his large tome on the Whitlam years.

The boys, many of whom came from households very sympathetic to the politics of B.A. Santamaria, were testy. Why did I want them to travel across town to meet a 'has been'? They had met their fill of politicians up at Parliament House.

Gough wowed them. First he gave them morning tea, then he fielded their questions. The burly Dan Hess, with a passing wink to his school mates, asked, 'What was it like to be

sacked?' Gough drew back and then moved forward, telling the young Christian gentlemen that the events of 1975 had to be seen in the context of the decline in traditions and institutions in our society. He then asked a rhetorical question in conclusion, 'For example, how many of you boys from Xavier College would ever contemplate becoming a Jesuit nowadays?' No one answered, but the remark had some impact on the now Fr Edward Dooley SJ.

In 1981, Gough was awarded an honorary doctorate of letters. I had written congratulating him on his receipt of an honour which was both appropriate and ideologically sound. It was some months before I heard back from him, having had no expectation of a response. Then some months later again, he worked his way across a crowded room to speak to me. We both had the advantage of being considerably taller than most of our companions in the crowd.

He asked, 'Did you get my letter?' I told him how pleased and honoured I was. He asked, 'Did it arrive with Vatican stamps?' Indeed it had. He had instructed the embassy officials in Rome that the letter had to be posted from the Vatican. The envelope bore the crest of the English College. The letter commenced with words to this effect: 'It is with great pleasure that I write you this, my first letter from the Romans, and I do so from the most fashionable address in the eternal city.'

In late 1997, I landed at Sydney airport, having flown in from Broome, and was about to make my way back to St Canice's Church in Kings Cross. Gough and the good 'Dame Margaret' (as he liked to refer to his beloved) were there.

He offered me a lift in their government limousine. On arrival at the church, I asked whether he liked mangoes as I had some splendid ones from the Kimberley. He replied, 'I do, and Dame Margaret loves them.'

A few weeks later, I was preparing for the funeral of Nugget Coombs in St Mary's Cathedral Sydney. There had been a little tension in the background between Prime Minister John Howard's office and Aboriginal leader Patrick Dodson about what should be said in Dodson's eulogy about Aboriginal self-determination and conflict with government. It was at the height of controversy over the Wik ten point plan. Some last minute changes were made to Dodson's text.

With only minutes to spare, I made it out onto the front steps of the Cathedral to welcome the official mourning party, including Mr Howard, Mr Dodson and Sir William Deane. The TV cameras were in close proximity. Then up the steps came Gough, oblivious of all controversy. He grasped me firmly by the hand and with that glint in the eye said, 'Father, the mangoes were magnificent.' It was a blessed moment.

During the service, Gough, who was fond of describing himself as 'a fellow traveller - not so much a pillar of the Church but rather one of those flying buttresses you find on European cathedrals', came up onto the sanctuary to deliver his own eulogy.

This is how he commenced: 'Prime Ministers like to describe themselves as the servants of the people. The most striking claim of the Supreme Pontiff is to be the servant of the servants of God. If, in this setting, and as the last of the seven Prime Ministers whom Coombs served, I were to suggest an epitaph for him, it would be 'the servant of the servants of the people.' Everyone laughed; we were all at ease; Gough was in command. He concluded that eulogy with words I now apply to him:

At some time or in some place or in some way the life of everybody in this gathering and in our country would have been touched by Nugget's manifold activities and enriched by his talents. He was given many talents. He produced great dividends on them. All Australians can say, in the words of the parable, 'well done, thou good and faithful servant'.

We can all join a chorus of 'Amen, Alleluia' to that. Farewell loyal friend of many, dedicated leader of the nation, and visionary servant of the people in the great south land of the Holy Spirit.

Frank Brennan SJ, professor of law at Australian Catholic University, is presently Gasson professor at the Boston College Law School.

Synod affirms Francis' vision of church governance

AUSTRALIA

Andrew Hamilton

Popular expectations of the Synod on the Family rose to unexpected heights when the draft report was prepared. They fell to earth with the publication of the final report which removed more welcoming and positive phrases about homosexual relationships.

The Synod was thus reported as a defeat for Pope Francis at the hands of conservative bishops. Yet for one who had suffered a defeat the Pope seemed remarkably buoyant at the end of the Synod.

His equanimity is not surprising if we take seriously his frequent claim that he has neither wish nor intention to change church teaching. He simply wants to find new possibilities in it so that the Catholic Church can reach out to people who are marginal and estranged. His claim is given little weight by many of those who desire to see change in church teaching and of those who are opposed to change. Both believe that pastoral practice cannot be radically changed without changing doctrine.

But if the Pope means what he says, he may have seen the Synod as a victory for his vision of church governance. It allowed the participants to engage in open discussion in which nothing was put off bounds.

The openness of the conversation was emphasised by the frank and passionate differences of opinion between different bishops expressed outside of the Synod. Its transparency was expressed in the publication of the draft document and of the voting on the final document.

The participants voted, too, on a document which reflected their conversation and was not simply an affirmation of pre-arranged conclusions. Nor will it disappear into the archives, but will form the starting point of practical discussions at the Synod next year. The larger challenge that the Synod will pose to bishops who return to their own dioceses will be how to incorporate into their own governance the openness and transparency that was embodied in the Synod. Pope Francis has shown that a style of governance built on control and secrecy can be changed for the better by involving people, by encouraging open conversation and by transparency. Some Bishops may be encouraged, and others feel pressured by his example to explore its possibilities in their local churches.

It is also hard to see the treatment of the controversial issues of the Synod as a victory of conservative Bishops over Pope Francis. The challenge behind the question that dominated comment before the Synod, whether divorced and remarried people could receive communion remains on the table. Those who argue that it can be done within the framework of Catholic teaching still have to make their case.

The controversy about how to speak of homosexuality is more complex. It reflected partly an evident failure of the initial document to read accurately the sentiments of the participants. The voting on the amendments shows that clearly. Such failure is inevitable in any such draft: that is why the final document reflects the definitive view of a meeting.

In this case the controversy reflects another significant feature of transparent public conversation: the influence of the media. After the first draft public comments by the Bishops seemed exercised as much by the common journalists' view that it heralded a rethinking of the Catholic understanding of homosexual relationships than by the content of the document. At all events they recast the document in order to close the door on these perceived implications of the draft.

This way of proceeding is understandable, but its disadvantages are also worth reflecting on. When phrases like 'people who are homosexual must be 'welcomed', the 'gifts and qualities' of gay people and the 'precious support' they can offer one another are pulled from a public draft, the public perception is that they are not simply withdrawn from the text but that their opposites are commended. So people are to be made unwelcome, have no gifts and their support is valueless. The Catholic Church will now have much work to do to persuade people that this is not its meaning.

It is worthwhile to consider the strategy adopted by Pope Francis when his words are misquoted and misunderstood. He does not correct the misunderstanding at the time, but later reasserts quietly both his fidelity to church teaching and the need for pastoral openness. And he continues to find powerful symbols that embody unequivocally the Gospel he preaches.

If Pope Francis' assessment of the Synod is as positive as I believe it is, we may expect from him dramatic gestures of encounter and compassion to God's love that will reframe the questions addressed by the Synod in terms of the Gospel.

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Vatican Radio image of a satisfied Pope Francis arriving at the Synod hall to deliver his final speech.

The legal fiction that sealed Baby Ferouz's fate

AUSTRALIA

Kerry Murphy



Sometimes in law a 'legal fiction' is created to solve a problem that could otherwise lead to a ludicrous or even more complex and messy result. However successive Australian Governments have created fictions when dealing with asylum seekers. They are intended not to help asylum seekers but to find ways of excluding them.

The term 'illegal maritime arrivals' is a fiction, because the term does not appear in Migration Law. Instead we have the linguistic contortion of 'unauthorised maritime arrivals' - an invention of the Gillard Government. Other fictions are the idea of a 'queue' for asylum seekers, a fantasy that is used for political leverage.

The 2012 Expert Panel report on Asylum Seekers referred to the fictions of the 'no advantage principal'. The idea was that people arriving by boat should not get an 'advantage' in having their cases processed quicker than those waiting outside of Australia in the mythical queue. A problem was there was no average time or in fact any useful measure that could be used to give any meaning to what the 'no advantage principal' meant.

The latest example is the case of Baby Ferouz, whose protection visa application was refused in the Federal Circuit Court last week. The facts of the case raised complex legal issues. Baby Ferouz' parents are Rohingya, an Islamic ethnic group that is persecuted in Burma to such an extent that they are mainly stateless. Her parents arrived in Australia by boat in September 2013, after Kevin Rudd had announced that all those arriving by boat would be sent to PNG or Nauru for determination of their case, so off to Nauru they were sent.

However Ferouz's mother was pregnant and medical staff on Nauru decided it was not safe for her to give birth on the Island, so arrangements were made to send the mother to Brisbane for the birth. She was accompanied by her spouse and their other children, but to ensure they did not make a claim for protection in Australia, they were termed 'transitory persons'.

This unpleasant term goes back to 2001 when the first Pacific Solution cases were sent to Nauru and some had to be transferred to Australia for medical treatment, but also a ban on them making any refugee application in Australia was created in the Migration Act. Baby Ferouz was born in Australia to parents who were 'unauthorised maritime arrivals' when they arrived in 2013 and now 'transitory persons' since coming from Nauru. Normally, a child born in Australia is considered to have the same visa as their parents, unless one parent is an Australian citizen or permanent resident. However Ferouz's parents had no visa, so lawyers in Brisbane arranged for her to apply for a protection visa.

Immigration said the application was invalid because of the ban on 'unauthorised maritime arrivals' and 'transitory persons' from applying onshore as refugees. Her lawyers argued that as Ferouz was born in Australia, she had not entered Australia by boat, therefore the bans that affected her parents did not affect her. Baby Ferouz should not be deemed by legal fiction to be an 'unauthorised maritime arrival', because she did not enter Australia 'by air', even though she never arrived by sea, but in the Brisbane hospital.

Sadly the Federal Circuit Court Judge ruled otherwise. The Court held that in order to interpret the section dealing with children born here, it was necessary to consider what the section was intended to mean when it was first introduced back in 1986. Back then the similar section was introduced when the Citizenship Act was changed so that children born in Australia no longer became Australian citizens at birth unless a parent was a citizen. Rather they took the immigration status of their parents. As the parents were 'transitory persons' then so was baby Ferouz.

Counsel for the applicants, a former solicitor general for Queensland, pointed to a flaw in this reasoning namely if someone overstays their visa (not a 'naughty boat person' who has no visa to arrive, but say a UK backpacker) and they have a child to say another unlawful backpacker, the logic of the case is that the child becomes an 'unauthorised maritime arrival' because the parents are unlawful, even though the parents arrived on a visa but let it lapse. This means such child must be sent to 'a regional processing country' (ie Nauru or PNG) unless the Minister personally intervenes. The Judge accepted this could be the remarkable result of this reasoning.

The Minister already has a Bill before parliament to deem people whose parents are 'unauthorised maritime arrivals' or 'transitory persons' to take this same immigration status and thereby be unable to make any applications in Australia and be forced to go to Nauru or PNG. It is part of an omnibus 112 page Migration Amendment Bill which reduces right of refugees in Australia and creates another fiction - fast tracking processing - this is designed to be 'efficient and quick' but ignores fairness and justice. When we think of legal fictions it would be better to think of the celebrated Rumpole of the Bailey, rather than the harmful linguistic contortions used to cause harm to people who are claiming protection from persecution. Legal fictions like Rumpole do not cause harm and destroy hope, unlike what is happening in Australia to refugees who arrive by boat.

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Why coal is not good for humanity

AUSTRALIA

Bronwyn Lay



The earth isn't looking healthy. Most of us care about how we can engage with and keep safe the thing that our lives - and our children's lives - depend on. It's no longer an academic question, but one that stares deep into the human condition and how our communities relate to the material, nature and the ecological.

Recently I've spent time in the company of incredible people. I live in Europe, and at various conferences and meetings I've recently found myself surrounded by friends from home.

They were mainly Aboriginal Australians, and they reminded me of where I come from, and what's important in life. Some were professors, others were social workers, artists and writers, but what they had in common was an intense engagement with their communities and the wider Australian public discourse: they cared.

Australia has become one of the test cases for climate change, as seen in scary books like Jared Diamond's *Collapse*. The French social scientist Bruno Latour remarked in February this year on the 'uniquely Australian strategy of voluntary sleepwalking towards catastrophe'. In the face of the Abbott Government's ecologically suicidal policies and social science dismantling, Latour said that 'not thinking of the future, when you're Australian, [was] the most rational thing to do'.

We now have our own political paradigm: the uniquely Australian model of wilful ignorance is agnotology, where 'ignorance is not merely the absence of knowledge, but an outcome of cultural and political struggle.' A substantial, if not the major part of this struggle is the wilful ignorance of indigenous jurisprudence and what it entails for the land that all Australians now inhabit, enjoy and profit from.

I wish he wasn't, but Latour is right. 'Business as usual' pervades the politics and comfort of the country more than ever before. The International Panel on Climate Change warns that profit without limitations cannot continue. This conflicts with the language of our prime minister who said last week that coal is good for humanity.

But what he forgets is that humanity lives within the earth's critical zone, a home that's not looking so good for humanity. Abbott deliberately forgets the obvious: that humanity is inextricably linked to its environment. He's saying that it's okay to extract, own and abuse the land so that white history can continue its progressive, destructive and eventually suicidal path.

As the book from Bill Gammage, *The Biggest Estate on Earth*, illustrates, it doesn't have to be this way. Before invasion, the country thrived under laws and custodianship, which have been under attack since the tall ships landed. Is it too late to turn towards a different mode of living with the land that takes guidance from indigenous law? Where is the threshold of 'too late'?

While the Australian state believes it has given human rights and equal citizenship to Aboriginal Australians, its assimilation policies remain intact. Country, the land and its gifts have been assimilated into the jurisdiction of white settler law, which contains the principles of ownership, appropriation and now intense exploitation. Nothing since invasion has altered the hidden backbone of this law.

Our narratives of what's important are so cut off from history - from the taking of healthy country away from guardians who lived their respectful and reciprocal law with it - that we are addicted to laws that allow us to commit violence against the very home we profess to love.

While the world struggles to understand how we arrived in this position of planetary violence against earth, Australia has no excuse not to trace the origins of its relatively recent history of genocide and impending ecocide. If we kill, separate, assimilate and destroy the laws of the country that pre-existed white arrival and replace them with settler law that seeks to merely profit from earth, there has to be a kickback.

Australia is a fragile ecology, and home to the oldest continuing law in the world. This law older than settlement law and scares white history senseless because the foundations of the Australian state are built upon unsustainable resource exploitation.

This prior jurisprudence asks us to respect the land, to live lightly with it, to care and be custodians. It asks us to live with country and land as if our lives depended upon and were nurtured by it. Isn't this exactly the kind of solution that global communities across the globe are trying to reinstate in order to live ethical and sustainable lives?

Why would such principles of law need to be dismissed, erased and ignored? Can't they become central to other legal systems and, if not, why not? While recycling, emission limitations, mitigation, adaption, and increased use of renewable energy are all fantastic methods to manage our current dilemma, they seem like desperate attempts to treat the symptoms rather than soberly facing the cause. Australia's white history is built upon ecological violence: Aboriginal Australia was, and still is, in the way.

The legal doctrine of *terra nullius* not only sought to erase the peoples that existed on the land that had been invaded, but also the laws that connected country to those peoples. Native title has never sought to reverse the deeper aspects of *terra nullius*: the erasure of indigenous jurisprudence.

Like western jurisprudence, indigenous jurisprudence is not frozen in traditional time but speaks to the past, present and future through its interpretation of events. Dance, stories and ceremony are forms of legal transmission that continue still. The excuse that written law trumps this is arrogant denial.

Invasion cut through indigenous jurisprudence as though it didn't exist or belonged in museums and sepia notebooks of dead anthropologists. Unfortunately this was a fatal mistake that our grandchildren will hold us accountable for if they have to struggle in inhospitable environments that have been betrayed.

One of the most resistant and violent points of the white nation state of Australia is not only the attempted erasure of indigenous peoples but, equally, their law and land and the recognition that this relationship continues.

So while there are calls for indigenous people to be included in the Constitution, there should also be calls, given the connection of these peoples to land and law in equal

measure, for indigenous jurisprudence, and not only its criminal code but its deep law of land - to also be recognised. as these people are connected to land and law in equal measure, this calls also for indigenous jurisprudence - and not just its criminal code but its deep law of land - to also be recognised.

We should not forget that the land Australians live upon was under a prior jurisdiction where care rather than unfettered exploitation was a central guiding principle. A dear friend and law holder from Alice Springs said to me as we were discussing Australia and climate change in a Scottish pub, 'Well, I've been told by my ancestors that white people are just a blip in time.'

She smiled wide. But she wasn't talking about the colour of skin, but about the state of our souls, and how this moment, this seemingly long, violent moment, will eventually pass because it is unsustainable, and not only ecologically.

Bronwyn Lay is an Australian writer, lawyer and independent researcher currently living in France. She recently completed a PhD at the European Graduate School on the relationship between law, nature, materiality and ecology.

If Jesus was gay

CREATIVE

Barry Gittins



What if? What if Jesus Christ was gay, would the zealots turn away; fundamentalists have fanny fits and baulk in disarray? Would they worship Christ crucified, or kneel down to pray? What if Christ was born a girl? Would churchmen jive and whirl, profess their adoration, banners of love unfurl, or would they in deepest dudgeon choose their King James swords to hurl? What if JC was not a Jew, would 'no Semites' hate renew? If he was black or red or Greek (how to say to race, adieu?), would the Godman be less holy; less meek, somehow, or true? If nature-topping miracles 'didn't'; would divine grace be unstinted? Would the faithful find hope dented, would love by magic untinted conquer loathing, light a path? Or would hope's coin be unminted? What if virgin conception was a stuffed-up mistranslation; if the cross's murderous stations marked a finite, cruel partition? Would a brave man's pain and death mean his words suffer stagnation? If the words upon a page were inspired, but not sage, if the literalist obsession was no reason to rampage across a person's right to love or breed; would that be cause for rage? If the Bloke was atop the sod, still around, we could plod alongside him for a stroll and duly hope he'd give the nod to our concerns; Q.E.D, please God. **Pulses** Pulses in our temples. Carrots in our tombs. Plovers in our hearths, tourists in catacombs. Hymns and chants in salad bars. Offices in bloom, with paper mache manifestos calling for more room. Grievances in lockstep, faux pas in lengthy queues. Cruelty in cadavers' end, peace for ageing roués. Hope for unseen vistas Peace for travelled paths. Joy for slaughtered innocence. Love for aftermath. Grace for unsought trials. Faith for visions fouled. Quest for silenced harbingers. Dream for passion's shroud. Laughter in hushed voices. Confidence in eyes. We surpass our broken clay: We are God's surprise. **On your bike** Sixteen good years since I ceased mourning your detour through swathes of lovers and the gulf from yes to know. Denial from now. Revised, re-scored and recast, life is much greater than I'd hoped for; felt I deserved. For a long while there was a gap, a fell

hole that took laughter and innocence and belief. (Cue grief, experience and evaporated hatred.) No-one hurts more, no-one hits harder, than your first great betrayal. Hips a' grinding, bullshit flowing, hair coronating breasts, pledges vomited in passion and regret float down the Styx of tranquil reflection; hear dying echoes of apprehended lust and infantile shrieking. You burrowed into rationalisations. You settled. (Leaving me indebted; taking the linen and the good cutlery.) Platitudes and forgiveness come easy in G rated gyrations open to grace. It's the bitter dregs of flamboyant disdain: bites dismissed as bruises, sudden financial shortfalls, beds rotated for effect, venom in putdowns. You didn't give a shite. I blinded myself to self-worth and open, frank truths. (Sooky la la doesn't work in your 40s.) These days? Your shade merely looms, awkward, then bows out with left-hoofed hubris. A plop, a fart in a bath, you're gone. A scent here or there seeks to conjure a tune, a shared hope, an old joke doesn't cut it anymore. Doesn't manifest in any desire. Any anger. Any emotion. (Happily, your taste is lost to me.) Passion, honest, unexpected joys with a woman who knows herself and wants me. Tears, surprises, pride and unbounded hope in children grown from our raptures. Home and hearth alike make sense as I grow a brain; breathing out naïve fancies and taking in the good earth's deepest truths. (Pluck the fruit, enjoy the seasons.) Time, I've written, provides no manifest to memory's demise. So, too, I've plagiarised the bard: How do I love thee? Let me count the waste of time and tears I've spent aplenty. How do I love thee? Was it just your eyes? Your lips? Your thighs? Was it so empty? Yep. I gave, you took, satellites orbited. (I've pulled the plug on the bathos, girl.) I let you haunt me, before the good baker's dozen. Second guessing actions. Revisiting spats. Now? I'm done. I'm happy. It's over sans curtain calls or glib reprises. Let's agree to filigree your meagre contribution to my existence - a finely wrought bitch riding on memory's arse. (A considerably larger piece of work nowadays, at that.)



*Barry Gittins is a communications and research consultant for the Salvation Army.
Jesus image by Shutterstock.*

Catholic Church returns to pluriformity of Vatican II

RELIGION

Neil Ormerod



It's not often that Catholics get to see the processes of Church decision making made so transparent. The recent reports from the Synod on the Family have been a real eye-opener for those used to being presented with an ecclesial *fait accompli*, with all debate and discussion behind closed doors. Topics on which the Church has put a relatively uniform face, at least at an official level, now reveals a degree of pluriformity not heard since the days of the Second Vatican Council.

It would have been simply unimaginable for a bishop or cardinal to say something like the following during the pontificates of St John Paul II or Benedict XVI:

Without denying the moral problems connected to homosexual unions it has to be noted that there are cases in which mutual aid to the point of sacrifice constitutes a precious support in the life of the partners.

Yet this was published on the Vatican website as part of the interim *relatio* of the Synod. The backlash from more conservative elements has been quick. Cardinal Burke was so outraged that he publicly criticised the document.

In relation to homosexuals he noted, 'First of all we don't refer to people by their attraction to persons of the same-sex, calling people homosexual persons. That's not their identity.' And on the question of homosexual unions he went on, 'It is impossible for the Church to say that homosexual relations have a positive aspect. How can we attribute a positive aspect to an unchaste act? That has to be clear.'

Somewhat ironically he defined these relations in terms of 'an unchaste act' whereas the Synod document seemed to leave open the possibility that such acts do not define the 'identity' of the relationship, which may on other grounds have positive aspects, such as 'mutual aid to the point of sacrifice.'

Still this is just one front that the Synod interim document has opened up for discussion. Premarital cohabitation, contraception, and the possibility of communion for those divorced and remarried have also been put onto the table for debate. This is a long way from the years when such open debate was actively discouraged and silenced. And this is not coming from a few 'liberal' theologians or 'ill-informed laity' who should know their place, but from bishops and cardinals, encouraged to speak freely by Pope Francis. Further each of these bishops and cardinals was appointed by either John Paul II or Benedict XVI. These were men chosen for their fidelity to the Church and its teachings, whose appointment was subject to significant scrutiny by the Vatican. If anything this establishes that trying to keep a lid on debates on sensitive topics does not stop people thinking, and given the opportunity, these men have spoken their minds, not read from a rehearsed script.

Of course what many of these bishops are saying reflects attitudes already present within the Church. Those engaged in Catholic pre-marriage preparation programs report that the majority of couples coming to be married in the Church are already living together, and may well have children. Catholic use of contraception mirrors that of the general population, while attitudes to divorce and remarriage have shifted as so many families experience the reality of divorce somewhere in their families. Bishops in touch with their flocks know these shifts have occurred and are looking for a way forward to resolve the tensions they create.

Some might point to the *sensus fidei*, a notion first explicated by John Henry Newman and given formal expression at Vatican II to argue for a shift in the Church's teaching on all the matters under discussion. Still the *sensus fidei* is a slippery notion and it would be naïve for it to be reduced to an opinion poll. Even in the Church there is a tension between the empirical and the normative.

On the other hand, there are other shifts the Church is capable of making. It is common for conservatives to say that Vatican II did not change any doctrines of the Church, as if to say, therefore nothing changed. But the Church's identity is more than its doctrines. Without changing its doctrines, the Church radically changed its stance towards non-Catholic churches, towards other religions and towards the world at large. These changes shifted the Church's identity not by changing its doctrines but by this shift in relationships.

And so without changing its doctrines it simply stopped talking about non-Catholic Christians as schismatics and heretics and non-Christians as pagans and infidels. Such language we now find offensive, a faded memory of times past. Similarly some of the synod participants have called for a cessation of language now in use, such as 'intrinsically disordered' or 'living in sin.'

Undoubtedly there will be a push back as evidenced by the intervention of Cardinal Burke and other prelates. Where the final synodal process will end up is difficult to say. But in the meantime we are going through something not experienced since Vatican II, a Church willing to debate topics once felt long settled, without fear or favour. That in itself is remarkable and a reminder of the wide pluriformity of opinions present within the Church at all levels. And of course none of this would have been possible without the determination and openness of Pope Francis!

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Red tape leaves Australia with compassion deficit

AUSTRALIA

Michael Mullins



As if it is itself a virus, Australia's compassion deficiency in connection with asylum seekers has spread. Our government is now unwilling to send health care workers or Defence personnel to join the fight against Ebola in West Africa. It has its reasons. Officials have advised that a return flight to Australia would take 30 hours, long enough for a health care worker with symptoms of the disease to die. Australia has been unable to secure an ironclad guarantee from the US, UK or a European country that they would treat an Australian worker. But what does an 'ironclad guarantee' mean when the context is one of compassion between citizens of different nations? If these nations are willing to open their hearts and resources to West African victims of the Ebola crisis, why would they not be willing to also help Australian Ebola victims? The Government's thinking defies the logic of compassion, which says that if there is a will, there is always a way. Australia is prepared to risk the lives of Defence personnel by sending them to face danger and uncertainty in the Middle East, where the motivation is essentially border protection rather than compassion. Aside from any deaths or injuries, many members of the Defence forces will return to Australia from the Middle East suffering post-traumatic stress disorder and place a strain on mental health services for decades to come. This is a price Australia is willing to pay to put down threats to the existing system of international sovereignty. We label those threats 'terror' and are quick to wage war against them. At the same time, we are oblivious to what terrifies human beings elsewhere on the planet, when it comes to providing the help that is most needed. We have lost the ability to reach out to others in need. To use the obvious analogy from the Parable of the Good Samaritan, Australia is the priest who passed by on the other side of the road. Upon assuming office, the Government announced that Australia was 'open for business' and that it would 'cut red tape' to ensure that international investors regard us as a good

place to put their money. It's all about making Australia - already one of the richest nations on earth financially - even richer. But when asked to reach out to people in need in other parts of the world, the Government is prepared to impose extra layers of red tape.

Other nations and non government organisations apply Australia's 'open for business' mindset to humanitarian emergencies. For example the Jesuit Refugee Service emphasises flexibility and rapid response in the way that it responds to international emergencies. President Obama has acted quick to dispatch 3000 military personnel to West Africa. They will train as many as 500 health care workers a week, erect 17 health care facilities in Liberia of 100 beds each, and much more. For its part, Australia is putting red tape in place to stop skilled individual volunteers who are willing and able to travel to West Africa.



*Michael Mullins is editor of Eureka Street.
Red tape image by Shutterstock.*

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Mrs Clooney chooses patriarchy

CONTRIBUTORS

Catherine Marshall



It came as a surprise, in our apparently post-feminist world, to hear that human rights lawyer Amal Alamuddin had adopted her husband's surname upon marriage. I discovered this snippet of information in a lead [opinion piece](#) published in the *Guardian* online and provocatively titled 'Amal Alamuddin took George Clooney's name? Oh please - put your torches and pitchforks away'.

The title referred to the many, nameless feminists who were allegedly 'losing their minds' over the decision by Amal - née Alamuddin - to forthwith be known as Mrs Clooney. Nothing fires up feminists more, wrote columnist Eleanor Robertson, than 'whether or not women take their husband's name upon marriage'.

There are many things that fire up feminists more than the relatively benign patriarchal tradition of adopting one's husband's surname: the deeply damaging practice of female genital mutilation, for example, or gendered violence, sexual harassment, discrimination and the growing pay gap between men and women.

But that's not to say that feminists don't have something valuable to say - or the right to comment - on a patriarchal relic that somehow continues to endure long after the supposed 'liberation' of women. After all, here is a modern, highly-educated and high-performing adult in her fourth decade making the conscious decision to allow her husband's identifying family name to subsume her own. By deleting her own birth name, Amal Clooney is buying into the Western tradition of coverture, established with the express intention of legally constituting women as possessions of their husbands.

That this once deeply sexist tradition has been retained into the 21st century and transformed into an expression of love and romance doesn't make it right. Love and romance are quite capable of flourishing within an egalitarian marriage. And feminists - even those who keep their own names - are quite capable of inspiring devotion in men and of exuding femininity. Yet implicit in the renaming of women upon marriage is this coda: in so doing I have demonstrated my love and commitment - as only a female can

do - to my husband and to the children we might one day have.

On a deeply personal level, it is not really any of our business whether Amal Clooney (or anyone else) changes her name; women, after all, should be free to make their own choices. But it's important to consider, in the broader socio-political context, the circumstances under which such choices are made, and to examine how they are defended by the women who've made them.

When little girls grow up in a society in which patriarchal practices are entrenched, and where few role models exist for change, they will be less likely to question the status quo and more likely to adopt the prevailing rituals themselves. Girls socialised in societies where women are respected as individuals, where they have their own identities, would see as anathema outmoded practices originally designed to subjugate them. While the retention of women's names upon marriage is common in Latin America and many parts of Asia, in the supposedly developed and feminised West women are still choosing a practice they have been taught not to question, one which in fact reinforces male privilege.

It's also important to question the role of men in this custom. Many men fiercely cling to the right to retain their own names while expecting that their wives will change theirs'. There is still the belief that men own their names, while women borrow their names from their fathers (even though men and women come to the marriage as equals, each with a name bestowed - usually - by their fathers). There is also the strongly-held conviction that family unity is achieved through the sharing of a common surname, and that the surname must always come from the husband. This is because boys are socialised to believe their names are indissoluble, while girls are brought up to believe their names are disposable. In truth, every newborn is gifted with a name - whether from their father, mother or invented - and this is their birthright.

If the name-changing decision is all about choice, it is strange that only women (largely) have to make this choice. If the reasons women cite for changing their names can be assumed to occur equally across the population - dislike for their former name, no connection to family, desire to have the same surname as the children - then surely men would make the same complaints in equal numbers, and adopt their wives' names at least as frequently as their wives adopt theirs'.

This antiquated tradition remains an important feminist topic, because it is a reflection of the society in which we live and the gendered expectations that still course through its veins. It also exposes the 'choice' that women face upon marriage as being not much of a choice at all, for either they rock the boat by opposing convention and keeping their own name or submit to the broad expectation that it is the woman who must make sacrifices of self for the greater good of the family.



Catherine Marshall is a Sydney based freelance journalist and travel writer.

Quality childcare an investment in the future

AUSTRALIA

Lin Hatfield Dodds



Childhood looks different for each generation. Teenage Mutant Ninja Turtles are lining toy shelves all over again, yet the daily patterns of life look very different for today's children than they did for their parents.

While the majority of children growing up in the 1980s were cared for full-time by a parent, those eighties children who are parents today are likely to be combining paid employment and parenting demands.

The majority of children under the age of twelve in Australia now participate in some type of regular childcare. A large swathe of formal early education and care has become commercialised, generating about \$10 billion annually.

The workforce has changed and so has family life, but funding and policies relating to childcare have some catching up to do. Parents in urban centres are putting their unborn children down on dozens of waiting lists in the hope that space will be available in a childcare facility months or years later when it is needed. The system is undoubtedly in need of improvement, and the Productivity Commission has been tasked with identifying how that could be done.

The Productivity Commission's Inquiry has been asked to achieve twin goals that tend to tug in opposite directions. On one hand there is a desire to make childcare and early learning services as affordable and flexible as possible. Where children are seen as a barrier to workforce participation, childcare is presumed to be a solution to that obstacle. If workforce participation is your goal, it makes sense to keep costs low and remove barriers, to incentivise paid employment.

But the other priority, which is perhaps easier to ignore, has to do with the quality of care and learning offered. The Commission has been asked to address not only parents' needs in relation to their participation in the paid workforce, but also the learning and development needs of children. In a tug of war between these competing goals, it is the needs of children that should be given priority. The early years of a child's life set their

course for the decades that follow.

Childcare centres may have begun as a pragmatic solution to a labour market problem, but they are more than a babysitting service. They are now one of the primary contexts in which our children are growing up. We need to ensure the services are the best they can be.

In recent years, the [National Quality Framework](#) and [National Quality Standards](#) have been developed to set a consistent benchmark across the country for what is an acceptable level of care for children. This has resulted in a step change for many services who have improved their quality.

Yet unfortunately, one of the recommendations in the Productivity Commission's [Draft Report](#) is to erode that benchmark for children under the age of three. Under the Productivity Commission's proposal, the level of qualifications needed for educators working with this age group would drop and Early Childhood Teachers-professionals with degree level qualifications-would not be required at all for this age group.

The brains of children between the age of zero and three grow rapidly if the conditions are right. The relationships and interactions that children have during their early years are critical for the rate, level and structure of their brain development.

If children are not in a nurturing environment their development will be impeded. For our most vulnerable children, participating in quality childcare and early education is incredibly significant, helping them make significant gains academically and socially, and enabling them to transition to school on a much better footing. Early childhood education and care then becomes a cost-effective intervention that can prevent other challenges later in life. But critical to all of this is the quality of the care and learning provided.

A couple of years ago, a study was conducted in the United States by Li and others, which looked at the impact of the quality of care provided in early childhood education and care settings. They found that infants and toddlers who had received high-quality care had better memory skills and higher cognitive development than children who had been in low-quality care. What made care 'high quality'? Low child-to-adult ratios and substantial investment being made in skilled caregivers.

Given that Australia's achievement results in mathematics, reading and science are falling compared to those of other countries in the OECD, we would be wise to invest more in these early stages of education.

The idea that qualifications are needed to look after children can seem counterintuitive. After all, parents don't receive qualifications before giving birth. But while a parent may not need special training to look after their own child, asking a stranger to daily care for numerous children with whom they share no familial bond is a different request. Looking after a number of children with diverse backgrounds, some with special needs, is a challenging task that requires training and experience. Why wouldn't we give our children the best we can deliver?

Australia's childcare system needs to change and the Productivity Commission has many good ideas for how to do this, but cutting quality would be a short-sighted mistake. We should be actively pursuing higher quality care rather than eroding recent gains.

As our grandparents knew, caring for young children has always been costly-even when it wasn't monetised. Investing in children is one of the most important things we can do. We should not be short-changing the future.

Lin Hatfield Dodds is National Director of UnitingCare Australia.

Father and son image by Shutterstock.

National Curriculum a step forward

RELIGION

Chris Middleton



Review of the Australian Curriculum Final Report

In last year's announcement of a review of the Australian Curriculum, Federal Education Minister Christopher Pyne acknowledged the value of a national curriculum but argued for a review to ensure that 'it genuinely met students' needs, matches parents' expectations and drives education quality'.

Dr Kevin Donnelly and Professor Ken Wiltshire have delivered a 288 page report with 30 recommendations. The report traverses widely over the educational landscape, from the governance of the Australian Curriculum, Assessment and Reporting Authority (ACARA) and consultation with parents, to discussion of teaching pedagogies and analysis of curriculum content. It also suggests areas for further research and analysis.

A specific focus is that of the three cross-curriculum priorities that were designated to be taught as part of every subject in school: indigenous history and culture, Australia's engagement with Asia and sustainability. The practicality of applying these priorities across the whole curriculum in a meaningful and relevant way appeared problematic, and ran the risk of notional reference in teaching programmes so as to satisfy the requirement.

In Recommendation 17 the Review argues that these cross-curriculum priorities instead be embedded 'explicitly, and only where educationally relevant, in the mandatory content of the curriculum'. Provided this is done, and done well, this recommendation will be well-received by those on the ground entrusted with designing teaching and learning programmes.

Another focus of the Review is that of an overly crowded curriculum. There is also a perceived need to emphasise more strongly the core material necessary for a good foundation for learning.

The Australian Curriculum had made some significant progress in this area. In English, for example, it included an emphasis on a return to basics in teaching grammar. In Mathematics, also, the amount of content was diminished somewhat in favour of greater

depth in covering the three main 'content strands' - numbers and algebra, measurement and geometry, statistics and probability. There are times when we need to teach less so as to teach more.

There remained concerns, however, that too much content was being delivered, particularly in the Primary sector. In Recommendation 12 the Review called for a narrow core of required teaching, and more explicitly that Foundation to Year 2 should focus on literacy and numeracy. This recommendation should find favour with many teachers worried about overloaded programmes, and with parents concerned that the basics of literacy and numeracy be established in the early years. The challenge here is to not become too restrictive - an emphasis on back to basics, in conjunction with national testing, may unduly narrow the curriculum, limiting imagination, curiosity and creativity. Throughout the formulation of the Australian curriculum, subject content naturally enough attracted greatest attention and critique. What was to be included or not included, and questions of balance and fairness would always excite interest, as any curriculum must be selective and will never be value-free.

History attracted most critical coverage. The emphasis is on teaching Australian history, but with a greater focus on setting it in a world context - both European and Asian. There is a strong focus on Aboriginal history and culture. And the skills of historical enquiry were emphasised.

Nevertheless, the subject does risk being overloaded with content and seemed too prescriptive in style. There appeared to be something of a civics focus and more than a touch of teaching students what they should believe. There appeared to be too great a focus on abstract social forces rather than on the story and on individuals, and it remained vulnerable to the charge of indoctrination.

As was expected the Review does have a significant amount to say on content, and especially in History, though it was not as ideologically driven as feared by some. In Recommendation 15 the Review calls for greater recognition of 'the contribution of Western civilisation, our Judeo-Christian heritage, the role of economic development and industry and the democratic underpinning of the British system of government to Australia's development'.

Broadly speaking I would concur with their observations. Of particular interest to those of us involved in faith schools was the observation that the History curriculum is largely silent on matters of religion, and especially the impact of Christianity on the Australian story.

It must be remembered, too, that the Australian curriculum is work in progress. Work on areas such as Languages and Commerce/Economics is still to be finalised. And there are more than a few minefields in these subject areas. For examples, implementing a Language policy that is practical will be no small achievement.

The assessing of the final years of education through the HSC and VCE etc remains in State hands and the likelihood of any national examination is a distant one. My own view is that there is a strong argument for limiting the scope of the Australian curriculum; that is, having an Australian curriculum across the 'core' subject areas while not being prescriptive in areas such as the Arts and Languages, where different contexts and the value of diversity itself may outweigh the benefits of a common curriculum.

This leads to one recommendation of the Review that will attract much support from many involved in schools. Recommendation 16 invites education authorities to 'implement the content of the Australian Curriculum with some flexibility in the manner in which it is sequenced and delivered'.

One the challenges involved with implementing a national curriculum is that of respecting the local context of schools whether be State, location, student composition and so on.

My school, for example, is a distinctive school, Jesuit and Catholic, moulded by its particular history and geography. Catholic independent schools linked with particular spiritualities, State selective high schools, the local State and CEO systemic schools, the traditional private schools, Montessori and Steiner schools, independent Christian

schools, Muslim and Jewish schools, all have distinctive styles and strengths. They contribute to the richness of Australian society, as well as meeting the diverse needs and contexts of individual students. We don't desire a situation where this diversity is standardised into blandness and conformity

The Review recognises the priority of curricula that serves the needs of the specific and local needs of the school's population. This is a welcome emphasis, and one that centralised bureaucracies such as the NSW Board of Studies will have difficulty in fully accepting. Diversity does pose challenges, but it is, in my view, also an historical strength in Australian education.

It has allowed for more flexibility and experimentation in education. It may be more efficient to have a standardised approach but efficiency is not the prime aim of schooling. As long as strong standards of reporting and testing are maintained then surely there is surely room for a range of approaches, especially in the final years of schooling. It is worth noting that the much touted Finnish school system allows very considerable flexibility in curriculum.

Some observers have noted that the introduction of a national curriculum has not been a panacea for improving educational standards that many may hope for. It could be argued that France and England, for example, have not had their performances improved by such an introduction. Issues of school funding and of the training, support and remuneration of teachers are also key questions in addressing the future of Australia's schools.

The Federal Review addresses many of the concerns around of the Australian curriculum. On the whole their recommendations seem appropriate and constructive.

Chris Middleton SJ is the Rector at Xavier College, Kew, in Melbourne.

Same-sex marriage on trial

REVIEWS

Tim Kroenert

The Case Against 8 (PG). Directors: Ben Cotner, Rob Reiner, Ryan White. Starring: Ted Olson, David Boies, Jeffrey Zarrillo, Paul Katami, Kristin Perry, Sandra Stier. 113 minutes

Last year Frank Brennan, the human rights lawyer, Jesuit, and *Eureka Street* columnist, had a change of heart. He had long argued for civil unions as the best way to esteem same sex couples in Australian society, without extending to them the fuller symbolic and legal recognition of marriage. But following a civilised exchange with Senator Penny Wong that was cut from the broadcast of one SBS *Insight* program, he revealed a new stance.

Noting that Wong's homosexuality was 'as natural, complex and mystical' as his own heterosexuality, he concluded that 'it would be just and a service to the common good' for the State to recognise 'committed, faithful, long-term relationships between gay couples deserving dignity, being able to love and support each other in sickness and in health, until death they do part'.

To achieve this, he said, we can 'no longer draw a line between civil unions and same sex marriage', though he maintains a distinction between a civil marriage and a sacramental marriage.

Brennan was referring specifically to legislation in Australia, however his words resonate with the new American documentary *The Case Against 8*, which documents the fate of same-sex marriage laws in California.

Same-sex marriage had been briefly legal in the state from early 2008, only to be shut down by a popular vote in favour of Proposition 8, which defined marriage as being between a man and a woman. Opponents of Prop 8 argued that it was unconstitutional. Their opposition was eventually upheld, but only after five years of legal wrangling.

The human faces of this battle were ordinary citizens who felt their dignity and rights had been trampled. Mothers-of-four Kris and Sandra had wed before a contingent of family and friends, only to be later advised by post that their marriage was void. Paul and Jeffrey refused to embrace an alternative form of legal recognition of their relationship, believing that to do so would be to acquiesce to the perception that they are 'second-class citizens'.

It is impossible not to be caught up in the emotional journey these four plaintiffs undergo over the course of five years. Cameras were banned from the initial hearing in the District Court in 2010, but Kris, Sandra, Paul and Jeffrey read for the documentarians from the court transcripts. Jeffrey breaks down when he recalls Paul's testimony that 'he

loves me more than he loves himself': 'I realised that I felt the same way.'

The documentary is unashamedly emotive, and rightly so. But it appeals to the head, too. A great boon for the case against Prop 8 was its alliance of lawyers David Boies, a liberal, and Theodore Olson, a conservative. Boies and Olson had opposed each other in Bush v. Gore, the case that effectively decided the 2000 US Presidential Election. Their union against Prop 8 helps allay the perception that this was a partisan issue.

Olson argues that marriage is a fundamentally conservative institution that would be strengthened by extending it to same-sex couples. Boies, a deft operator, persuades several supporters of Prop 8 to abandon their position by arguing that the children of same-sex couples will benefit from the stability of marriage. Another supporter is disappeared from the list of defendants after Boies unearths veins of hate and prejudice beneath his rhetoric.

It's worth noting that one of the film's directors, Reiner, is a board member of the American Foundation for Equal Rights (AFER), the non-profit organisation that was established to support the plaintiffs in their lawsuit against Prop 8. In fact AFER effectively stage-managed this action, right down to enlisting Boies and Olson and vetting the plaintiffs. As such it is plain that the film aspires to advocacy rather than objectivity.

That said, the emotional impact of the stories of Kris and Sandra, Paul and Jeffrey is immense. Few could deny that these 'committed, faithful, long-term relationships' are 'natural, complex and mystical', and that they ought to be 'able to love and support each other in sickness and in health, until death they do part'. Why, then, deny them and others like them the respect and dignity that would come only from full inclusion into the institution of marriage?

Tim Kroenert is assistant editor of Eureka Street.

Fix poverty by getting to know a poor person

AUSTRALIA

Andrew Hamilton



Anti-Poverty Week suggests that poverty is a thing to be uprooted, extirpated, warred against and conquered.

The image is helpful in suggesting the care needed to identify why people are poor, and the determination and planning necessary to enable them to live with dignity. But it is less helpful if it encourages us to think of poverty primarily as a problem to be solved or an enemy to be destroyed.

We should imagine poverty primarily as people. The abstraction embraces all the people who cannot live a fully human life because they lack the conditions for flourishing. People who are poor variously lack nourishment, shelter, sanitation, medical care, security, education, access to work and the ability to participate in society. Their faces are human but the conditions under which they live are inhumane.

Poverty is not simply about people as individuals but about people in their relationships. People are sometimes born into poverty because of the inability of others to make and sustain good relationships. Living in poverty puts great strain on people's intimate relationships as well as on their relations to society and their environment. People living in rural poverty strip hillsides of vegetation in order to survive. Suburbs in which people live in poverty may be marked by broken windows and defaced public places.

Living in poverty also hinders people from making connections with society. Some can't afford to travel in order to find work. If they have no stable home and lack access to computers they will find it difficult to participate fully in education. And if they cannot make these connections to society they easily become isolated and despondent. This is the human face we see in media images of poverty.

To imagine poverty fully, though, we need to go beyond individuals in their personal relationships and see them in the network of relationships that compose a society. When these relationships are healthy we will see ourselves as interdependent with all others in society. So we recognise our responsibility to contribute to the good of the whole society

and particularly to people who are disadvantaged. People who are poor are the business of those who are better off. In complex societies governments have the responsibility to order society in a way that respects the dignity of poor people.

Ultimately people will be prepared to accept responsibility for people who are poor only if they know them as persons and not as media fodder. If we do not have some personal acquaintance with the lives of people who are disadvantaged we shall come to see them as an abstraction or a problem to be solved. The relationships that define us and are the stuff of society will disappear from view.

One of the factors in any society that prevents us from noticing the lives of people less fortunate than ourselves and from accepting responsibility for ensuring that their needs are met, is gross inequality. Wealth enables people to choose those they want to connect with and also gives them interests that they may lose in a more just society. It is not in their interest to attend to the conditions under which people who are poor live.

Because wealth and power in society are so intertwined, the conditions that create opportunities for the few to amass great wealth at the expense of others are tightly defended. The impoverishment of those who live in poverty will either be seen as an unfortunate condition for an economically sound society or will be seen as their own fault.

Anti-poverty Week is about people: so it is not negative. It is above all about recognising the humanity and celebrating the resilience of people who are disadvantaged. People who are poor have the same dreams, the same needs and the same desires to live as people who are not poor.

And the way in which people in the most difficult and deprived conditions make a life and give themselves generously to support their families and to build their lives is often both encouragement and reproach to those who know them. This is not to romanticise poverty; it is to recognise our common humanity and the nobility that can flower in the midst of injustice and poverty.

Anti-poverty week recalls us to good relationships. It reminds us of our responsibility to accompany people in poverty and to help them flourish. It reminds us of our responsibility to shape a society that enables the flourishing of all its members, and particularly those who are most disadvantaged. It is a time for celebrating the lives of the many people who go out to other people, are invited into their lives, and who help them realise their hopes. It is a time to let the voice of people whose humanity is unseen and disregarded be heard.

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Poverty silhouette image by Shutterstock.

Getting shirty

CARTOON

Fiona Katauskas



Fiona Katauskas' work has also appeared in ABC's *The Drum*, *New Matilda*, *The Sydney Morning Herald*, *The Age*, *The Australian*, *The Financial Review* and Scribe's Best Australian political cartoon anthologies.

Iraq intervention meets just war conditions

RELIGION

Chris Middleton



The Catholic Church has reflected long and hard on the use of violence, and the theory of just war has evolved as a way of laying out the conditions under which a way may be justified morally. It could be argued that no other system of analysis has come close in defining such an approach to war.

The just war theory posits a number of key conditions. A war must be defensive in nature and be undertaken by a legitimate authority. The damage sustained 'must be lasting, grave and certain' in nature so as to justify a military response. War must be the last resort in addressing such damage. There must be a serious prospect of success, and the principle of proportionality must be observed in the waging of war.

While the principles are relatively clear, applying them to particular contexts leaves room for different judgments and opinions. I would argue that the intervention in Iraq, and to a lesser extent, in Syria, meet the conditions of just war theory. The case against ISIS in terms of it being an aggressive force inflicting lasting, grave and certain damage is compelling.

Millions of Iraqis and Syrians have been displaced and there is widespread hunger. There has been a deliberate policy of ethnic and religious cleansing: ancient Christian communities have been expelled, and the Yazhidi minority, who pose no threat to any group by virtue of their small numbers and isolation, have been particularly targeted for extermination. There has also been systemic cultural cleansing of many historic sites such as the Green Church in Tikrit, the tomb of Jonah and Shia shrines and mosques. Women have been targeted, with rape used as weapon of terror and women, and girls, sold into sexual slavery and forced marriages. There has been forced genital circumcision of both males and females. Crucifixions and beheadings have been employed as a method of control, such as the beheading of the prominent human rights lawyer, Samira Salih al-Nuaim. Captured prisoners of war have been summarily executed. Millions of Shia, Christians, Kurds, and others, are in harm's way in what is potentially a

humanitarian disaster on a scale similar to that of Kampuchea's killing fields or the butchery of Rwanda. The humanitarian argument for military intervention is compelling. Moreover, the genuine danger to world peace is also a persuasive argument for intervention: a Sunni-Shia bloodbath could plunge the Middle East into war as Saudi Arabia and Iran are drawn in. An ISIS advance towards the borders of Israel would carry enormous risk. And just as ISIS has become a magnet for thousands of foreign fighters, so too, it is not unreasonable to see it becoming a base for attacks on civilian targets around the world. Indeed, ISIS' own rhetoric calls for waging such terrorism. These reasons perhaps also answer the question as why military intervention is justified in this case when there may be no intervention in other parts of the world in which there is violence and bloodshed.

The legitimate government of Iraq has asked for military support (the issue of the Syrian government under Assad, which has major questions of legitimacy, is a reason why intervention in Syria is less clear from the perspective of just war theory). The range of nations prepared to join the campaign also adds legitimacy to the case for intervention, as an international effort is not tied to the interest of any one nation.

There appears to be a determination on the part of the combatant nations to minimise the potential for civilian casualties, thus meeting the test of proportionality. The execution of four westerners by beheading, along with its general policy of terror and its violent ideology, would suggest that ISIS has no intention of negotiating, and indeed welcomes war, thus meeting the test of last resort. The possibility of success in military action against ISIS appears to be most problematic in terms of just war theory, at least in terms of neutralising ISIS. In averting the fall of the Kurds or the Shia, and of containing ISIS in the short term, and of saving hundreds of thousands of lives by doing so, the case is more easily made that military action might be worthwhile, especially as there seems to be no alternative.

The responsibility that comes with military intervention is immense. It is easy for fear, hatred and prejudice to rise to the surface. In this case of conflict with ISIS in Iraq it is vital that we understand that most of its victims are Muslim.

In an understandable concern for security here at home we must be vigilant in opposing any vilification or discrimination against our fellow citizens who are Muslim. Islam, itself, is very broad movement of over a billion believers and contains diversity just as Christianity does: there are fundamentalists, moderates, conservatives and liberals; there are also different sects and communities.

We need to remind ourselves that for a significant period in history the Islamic world was the home to the best in science and learning, which European society came to owe much to. Nor should we forget that much of the Islamic world is still emerging from the demoralising experience of Western colonial rule, explaining in part the frustration and anger that sometimes is associated with Islam.

Nor should we blind ourselves to the fact that profoundly negative and hostile forces can rise in the name of religion or nationalism or ideals such as liberty or equality. This past century has witnessed numerous examples of extreme ideologies coming to power with disastrous results for the world. To intervene in Iraq carries real risks; to turn aside, in my view, carries substantially greater risks.

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Where it all went wrong for Islam

INTERNATIONAL

Tim Mayfield



Actor Ben Affleck recently launched a very public take-down of conservative US pundits Bill Maher and Sam Harris for their perceived 'Islamaphobia' in a spray that went viral. His main point was that it is ridiculous to talk about the global Islamic community of 1.5 billion followers as united on anything except their shared faith and perhaps the most basic tenets of the religion.

He is right to make this point and to use it to reject the notion that a religion can be held solely responsible for tragic events such as those which continue to unfold in the Middle East.

However, it is intellectually dishonest to completely divorce the religion of Islam from the despicable acts that are being carried out in its name by groups such as Islamic State, Boko Haram and Al-Qaeda and its regional affiliates.

Indeed, it is possible to agree with Affleck and still ask the question: where did it all go so wrong for this proud monotheistic faith?

The reality, as with all the world's major religions, is that Islam exists within a broader context that will inevitably influence how it is interpreted and practiced by its adherents. In the case of the Middle East, we are talking about a particularly troubled region where Islamic doctrine has been twisted by a seemingly endless cycle of violence, government repression and political instability.

It is therefore unhelpful to characterise the global Muslim community (including those based in Australia) as somehow exceptional in terms of being uniquely prone to violence.

Nevertheless, religion is central to understanding the conflicts that are playing out in the Middle East.

The reality is that there is a battle for the heart and soul of Islam that has been playing out around the globe since the 60s and 70s. The roots of this struggle are complex but principally revolve around issues of geopolitics and intra-state mismanagement rather

than theology.

Until the 60s and 70s, much of the Islamic world (outside of the Gulf) had been following a largely predictable and well-worn post-colonial path in which fledgling governments, some of them democratically elected, many of them secular and liberal, sought to guide their embryonic nations toward independence and prosperity.

At this time, Islam was moderating at a rate of knots. This was certainly not the case in every corner of the Middle East and nor did it occur at the same pace across the Muslim world. Nevertheless, countries including Syria, Iraq and Lebanon used their post-colonial independence to busily incorporate key pillars of democratic society, such as the separation of powers, rule of law, and free and fair elections.

This fragile state of affairs was destroyed by a perfect storm of events over the coming decades. These events included the explosion of oil prices, Arab wars with Israel in 1967 and 1973, Western intervention in favour of more pliable (and generally authoritarian) regimes, the Iranian revolution in 1979, and the Soviet invasion of Afghanistan in the same year.

In particular the Gulf States, led by Saudi Arabia, took advantage of the vastly increased power and wealth at their disposal (as a result of the rise in oil prices) to finance the spread of the uncompromising and austere brand of Islam that is loosely characterised as Salafism (which encapsulates the strict adherence to Islam as it was practised at the time of the Prophet Mohammed).

At the same time, the governments of Iraq and Syria were taken over by the despots Saddam Hussein and Hafiz al-Assad and Lebanon descended into civil war in 1975. These events sowed the seeds of instability that have been subsequently exploited by groups including IS, Hamas and the Al-Nusra Front.

While the foregoing description is a necessary simplification, it encapsulates the origins of a struggle that has been playing out ever since: that between the severe Salafi brand of Islam that is embraced by jihadist groups and more moderate traditions such as Sufism that have been increasingly marginalised.

For a long time, religion has been practically the only significant institution outside of government in a region in which civil society has been brutally suppressed. It is therefore only natural that an ideology that rejects the failed colonial paradigm of nation-states and instead promotes the grand vision of a resurrected caliphate is compelling to many amongst the general populace.

Radical Islam is therefore a symptom rather than a cause of the forces that are presently threatening to tear the Middle East apart.

Tim Mayfield is a freelance writer with a Masters in Middle Eastern & Central Asian Studies from the ANU, who has previously worked as a Middle East analyst for the Department of Foreign Affairs and Trade.

Islamic prayer image by Shutterstock.

Shooting hoops for the health of it

CREATIVE

Ben O'Mara

At 6:30 am twice a week, I pull on my compression tights, lace up my black and bubble gum blue boots, throw on a crumpled, old t-shirt, and join the early risers to play basketball at a local sports and aquatic centre.

There is no crowd to cheer us on. The cold bites like a hungry, undead white walker from *Game of Thrones*, too. But for \$4.20, it is my cheap-as-chips way to re-set my mind.

My love of basketball has waxed and waned over the years. As a junior, I represented local clubs, and at 5'8" I was a short point guard. But I played with relish.

The highlight of my 'career' was sinking a tricky, no-look basket against former Collingwood ruckman Damian Monkhorst in a losing grand final for my team in an outer suburban men's competition.

I was only eighteen, but after that loss I'd had enough of getting myself pumped up for the aggressive competition that came with weekly games. I quit the team without fully understanding the way basketball made me or others feel beyond winning.

Sport, when it's accessible and inclusive, sustains us.

VicHealth research found that the social opportunities created through sport can be at least as important as its sense of competition. Philosopher Damon Young wrote in his book *How to Think about Exercise* that sport can encourage 'flow' states of mind that can make us feel free and timeless.

These things make sense to me now when I step onto the wooden floors of the basketball courts.

Today is like many others. To my right, a bunch of blokes in wheel chairs roll and bump across the painted lines of the key. Their well-muscled arms cannon the ball to the ring. On the court next to them, two young women practice shooting from the free throw line. They snap their wrists with precision and rarely miss.

I join a group of older guys to play four-on-four. It's a laid back game, but highly skilled. The ball flicks between flailing arms and legs as their wrinkled hands fire off deft passes. Our runners squeak and we grunt and guffaw when we miss shots.

The grass roots grit of all these players is heartening. It is an enjoyable contrast to watching the high rolling basketball superstars on our screens.

Of course, thinking too much is my nemesis on the court. I shoot, jittery, and the ball misses and makes an ugly thud against the ring. So I steady my hands and feet, and switch off my analytic mind. I focus on dribbling the ball, and the feeling of the dimpled leather in my hands. Its rise and fall is comforting. I square my feet and shoot again, smoothly. This time the ball swishes through the basket.

When I play this way, I lose all sense of time and worry.

My experiences are not unique. The CSIRO and the Australian Sports Commission identified six mega trends that will shape sport in Australia over the next 30 years. One of these is that 'health, community and overseas aid objectives' will drive participation in sport much more than competition. I agree, and I can see myself in their conclusions. But playing basketball before sunrise has also helped me realise that sport heals when I play it on my own terms. These terms shift and change over time. They are shaped - and not limited - by the competitive and commercial trends of 21st century life. This is where I negotiate what sport means to me, and make it part of my life. If only I'd known this all those years ago.

For now, I am grateful that I can take out the rock and mix it up in the wee hours in my daggy shorts and with my half arsed hook shots. This makes me feel relaxed and happy. It is what I take with me into the long day of work ahead.

Ben O'Mara is a health worker with a social science background.

Basketball player image by Shutterstock.

A conundrum for Pope Francis

RELIGION

Paul Collins



It was unusually hot in Rome for the first week of the Synod on the Family. But that didn't dampen the excitement surrounding Pope Francis of the unusually large crowds for October in the Piazza of St Peter's. He has really struck a chord with people and, significantly, with the secular media.

But that enthusiasm is certainly not reflected in a sizeable minority of the hierarchy attending the synod. As a result some seasoned Roman observers are pessimistic that anything at all significant will happen. They note that those who oppose any change in issues like communion for divorced remarried Catholics, or the contraception ruling, let alone the recognition of gay unions, are out in force making their views known. Their major thrust has been to shift the focus of the synod away from questioning previous church teaching and practice to an emphasis on the 'threats' and 'dangers' facing the family in the contemporary world. In other words the real problems originate in modern culture rather than from church teaching on morality and sexuality. Underlying this opposition is a covert hostility to the whole Pope Francis agenda. There are many clerics in Rome who have no desire to follow Francis anywhere near sheep, let alone smell them, or worse, smell like them!

But Francis is not without his supporters. Many bishops have emphasised that while doctrine will not change, pastoral approaches and applications will. As German theologian and friend of the pope, Cardinal Walter Kasper, has said: 'Nobody denies the indissolubility of marriage ... But discipline can be changed.' Cardinal Donald Wuerl of Washington took a similar approach arguing that the pastoral application of doctrines 'are contingent and can change.'

Archbishop Diarmuid Martin of Dublin applied the theological notion of the development of doctrine arguing that 'the synod has to find a new language to show that there can be development of doctrine' and he claims that 'there has been a willingness [in the synod] to listen to what emerged in the questionnaire that went out' late last year in preparation

for the synod.

Needless to say there has been reaction to this. Some have argued that Kasper particularly has been involved a 'con job' that confuses doctrine with practice and that ultimately aims at changing what they see as 'settled' doctrine like the indissolubility of marriage or the condemnation of contraception. The leading light in this group is Cardinal Raymond Burke, head of the Apostolic Signatura, the church's appeals court. He says that the Kasper-Wuerl-Martin approach is 'a very deceptive line of argument'.

This is the same Burke who responded to Australian couple Ron and Mavis Pirola who had argued in a well-received and widely reported [speech](#) to the synod that Catholic parents with a gay son 'should welcome him and his partner to their home knowing that their grandchildren would see them welcome the son and his partner into the family.'

Burke responded: 'If homosexual relations are intrinsically disordered, which indeed they are, then what would it mean to grandchildren to have present at a family gathering a family member who is living [in] a disordered relationship with another person?' Burke added, 'we don't want our children' to get the impression that sexual relationships outside God's plan are alright, 'by seeming to condone gravely sinful acts on the part of a family member.'

Here it is worth noting that lay 'observers' like the Pirolas are outnumbered almost six to one by celibates at this session of the synod.

Since publication of the speeches is unreliable it is hard to get a sense of the quality of the debate. But if the Vatican Radio [interview](#) with Melbourne Archbishop Denis Hart is anything to go by, then the bishops are taking a blandly pastoral but essentially pedestrian approach. Hart says 'the bishops want to engage with people and see the needs of families ... The bishops have been emphasising that we are pastors. When our people suffer we feel for them, when our people are bereaved we cry with them, when our people are burdened with sickness we struggle with them.'

This indicates the difficulty Pope Francis faces when he asks the bishops to act collegially with him, but collegiality presupposes a genuine sense of responsibility. The simple fact is that many bishops just don't have the ability to assume that level of leadership. For the last forty-five years the papacy has essentially chosen 'yes men' as bishops. We are now reaping the consequences of this with a cadre of bishops more used to obeying than taking the kind of initiative that collegiality demands.

This must be a real conundrum for Pope Francis.



Paul Collins is a writer, broadcaster and historian of the Catholic Church who also contributes to the website of Catholics for Ministry.

Image featuring Archbishop Hart: Vatican Radio

The other hero of Anzac

CREATIVE

Robyn Rowland



Mopping up *Thus the science of healing stood baffled before the science of destroying.*
- Ellen Newbold La Motte (1873-1961), nurse WWI1 There were to be few wounded. Shipped up the Dardanelles to Constantinople after victory - which would come soon. From the hospital ship *Gascon*, excited in the early dark at 3 am, Australian nurses watched the narrow beach of *Gaba Tepe*. Pitch-black silence - even the anchor had not been dropped - the ship barely moved as barges headed for the narrow beach. Holding field-glasses, seven women watched young men, tense, crouch, ready for action. Then as light unveiled the land, towering cliffs above for the first time. Air exploded in a roar thrust from an open-throated sky, rifles spitting a rage of bullets. Sun rose blood-orange behind blue skies deadening with haze. Shouting was lost in chaos. *Soldiers, stores, mules and wounded men on stretchers struggled to find vacant space.*² Muriel Wakeford was stunned to see the ocean suddenly scarlet, a shoal of new-mown corpses that lay face-down in the sea. She saw what few steps most men managed before a grey hail began dropping them like insects sprayed, but this was metal that raked the sea violently rocking the ship. After the first repulse barges were ferrying wounded alongside, fallen uniforms packed tight as tinned fish, the standing, a melted body of khaki and blood. In ravines and down the spurs, a terrible lonely moaning, cries for help from those shattered human remnants stretchers could not reach. But there were to be few wounded! Taken to Constantinople! So only one hospital ship to treat four hundred sat ready. Now the ship's doctor set about amputations, extracting eyes shrapnel had made useless under a sky darkening with green smoke. With five hundred and sixty aboard he insisted they sail for Egypt. Month on month, ships would ferry cargoes of the mutilated. Some went to Imbros, Malta, England. In Cairo so many arrived, the amusement-park ticket-office transformed to an operating theatre, its skating rink, scenic railway space and, without a flutter of irony, its skeleton house, became wards. Odd that nurses were

led onto drought-dusted Lemnos by a piper. Matron Grace Wilson and ninety-six women in long serge dresses with starched white cuffs, disembarked to nothing. No housing, no hospital. Equipment had failed to arrive, There was no stored water on an island known to be dry. Wounded lay in the dirt bleeding *amid stones and thistles*. Her nurses tore their clothes to bits for bandages but these barely touched wounds so massive all training seemed petty, too nice for this reality, this new mechanics of war where shrapnel sliced flesh to shreds. The women gave up their soap, cut their hair short hacking out burrs, wrapped themselves tight at night against hordes of centipedes. They erected tents over shattered bodies watched death seep in through infected bandages, gangrene feet. Grace *could only wish all I knew [here] were killed outright.*² They never stopped working, slept rarely. Water stayed scarce. In summer they bathed in full-length swimsuits in the sea. Salt-skin browned like dried fish. Later, winter winds blew their canvas huts away nightly. Feet frosted hard, cold took root in their bones. Water always absent, thirst was never quenched. And their hunger for strong young men, backs erect, limbs swinging with clumped muscle instead of amputees, sacrifice for some promised glory, ate into memory. *They were called the '&die-hard Australians&', and I tell you, they do die hard, too,* wrote Muriel.³ To Turkey their future had been clear, not in any doubt. Their defeat of the greatest navy in the world on March 18 would return an enemy in fury from pride alone. Çanakkale hospital, local infirmaries, were frantically converted to twenty-five hospitals with eleven thousand beds. From Gelibolu, *Gulnihal*, a passenger ship British-built in friendlier days, carried wounded Turks across the strait, two to three thousand a day, and when hospitals were swollen, inland to Anatolia. Red Crescent had three converted passenger-to-hospital ships, mirror image of the steaming coffin ships of their enemy. Balkan War I had depleted their armies of men and munitions but it began an opening for women, nobility stepping out first. When Dr. Besim Ömer Akalin visited New York in 1912 he saw nursing flowering, imagined green shoots, and returning, insisted Red Crescent start training volunteer women. Force-fed courage by sacrifice of brothers, husbands, fathers, sons, they pushed themselves out beyond the Great Sewing Campaign that clothed their men in rough uniform before they marched. It was time for the unveiling of women, for belief in their own strength, a fierce compassion that comes out of being sucked into the mire of loss. Photos show them dressed in white, long headscarves to long skirts, names unrecorded. Inspired by Florence Nightingale's work in Istanbul when Britain was Turkey's ally in the Balkan war, they assumed her ideas on hygiene, carried a Turkish lamp through wards treating men much as The Lady herself had done. Hospital death-rates were low. Muslim, non-Muslim doctors, worked with nurse volunteers. Public buildings, Gülthane and Istanbul medical schools, became wards. A great vacancy had inhabited them, their students sent to the front, grade by grade mowed down. Classrooms re-filled quickly with boys who had trudged away, now torn, shattered, limbless. Militaries call it mopping up - killing the last vestiges of an army. Women mean, cleaning up, repairing, making spotless. Florence taught what they all learned, west and east - compassion is the salve beneath the gauze that heals. Yet for some pain, *morphia, good as it is, is not as good as death.*⁴ They stitched, cleaned gastric away, gagged on gangrene stench, soiled their own skin with blood and spit, shit and foul language. They held eyes that dangled, shot out; pressed their elbows into holes in backs blown away by mortars; stuffed their fists into spurting arteries. They saw through to the bone in every way. They learned a deeper pain in nursing, not for health, but to refit an armed force with patched-up husbands and sons, knowing that ripped apart in body and mind, as soon as flesh was repaired, they'd shrug up their rifles and packs, strap their faces into the resignation of obedience, and go back to be shattered again. ¹Ellen Newbold La Motte (1873-1961) in *The Backwash of War. The Human Wreckage of the Battlefield as Witnessed by an American Hospital Nurse.* American nurse, Author, Journalist, French field hospital WWI, Publishers: G. P. Putnam's Sons, New York and London, 1916. Suppressed and republished 1934, p. 55 ²Sister Muriel Wakeford in 'Tales of a World War I heroine', *Illawarra Mercury*, Wednesday

November 20, 2013 by Jodie Duffy, April 21, 2013, 3:58 p.m. 3Matron Grace Wilson in The nurses' experience of Gallipoli from their letters,

4Muriel Wakefield *op.cit*

5Ellen La Motte, *op. cit*



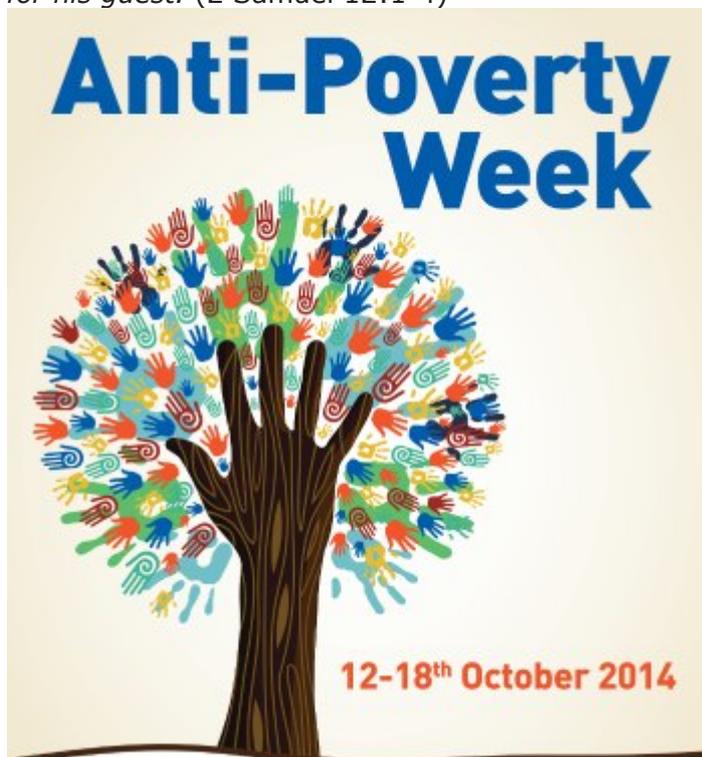
Dr Robyn Rowland AO is a third generation Irish-Australian who has been reading and teaching in Ireland for 30 years. This poem is from her forthcoming bi-lingual book of poetry, Intimate War.

Young people can't live on fresh air and sunshine

AUSTRALIA

John Falzon

In the same town were two men, one rich, the other poor. The rich man had flocks and herds in great abundance; the poor man had nothing but a ewe lamb, only a single little one which he had bought. He fostered it and it grew up with him and his children, eating his bread, drinking from his cup, sleeping in his arms…. When a traveller came to stay, the rich man would not take anything from his own flock or herd to provide for the wayfarer who had come to him. Instead, he stole the poor man's lamb and prepared that for his guest. (2 Samuel 12:1-4)



This is a very ancient story. But isn't it exactly what we're up against in our struggle to reduce poverty and inequality in the 21st century? We are still coming to grips with the Federal Budget, with its measures that would rip the guts out of what remains of a fair and egalitarian Australia.

Like forcing young people to live on fresh air and sunshine for six months of every year, forcing them to rely on charity or to survive through crime. As if this was ever going to address the underlying structural causes of youth unemployment!

It isn't charity that young people should have to depend on. It's justice they should be able to count on. And you don't reduce youth unemployment by increasing youth incarceration. The rejection of these measures reflects the will of the vast majority of Australians.

As people of good will all over Australia mark Anti-Poverty Week 2014, I want to propose that we focus on an alternative battle to the one being waged by the government on behalf of the powerful against the disempowered.

We have only one enemy. It is called inequality. It's the meanness of spirit entailed in taking the little that people who are living poverty have in order, supposedly, to reduce the deficit. It's taking the lamb instead of drawing on 'the flocks and herds in abundance'.

You don't build a strong economy by increasing the level of inequality. You don't create a strong country on the backs of the already poor. There's nothing human about humiliating people because they are outside the labour market or on its low-paid fringes. There's nothing smart about making it unaffordable for people to see a doctor or for their kids to go to university.

We are not in the throes of a fiscal crisis but if we embark on this treacherous path of US-style austerity, we will be staring down the barrel of a social crisis. We will be facing a social crisis if the people who bear the burden of inequality, especially the people who are forced into poverty and even homelessness, are made to pay so that the generous tax concessions enjoyed by the wealthy are protected and preserved. We will be facing a social crisis if, as a society, we are silent in the face of these attempts to grind down people's lives, humiliating them and hurting them instead of helping them.

The Prime Minister promised that his government would stand by the vulnerable. The response to his first Budget by ordinary Australians proclaims a very simple and very beautiful message: *It is we, the people, who are on the side of the vulnerable. And we will not be silenced.*

We all have personal vulnerabilities. To be human is to be vulnerable. Many of us are also economically vulnerable, and some of us in the current political and economic situation are very vulnerable; vulnerable to the threat of unemployment, or to losing our benefits, vulnerable to the threat of fewer casual shifts or the loss of penalty rates, vulnerable to losing the place we call home, no matter how humble it may be.

These economic vulnerabilities become personal vulnerabilities. Because it's hard to feel like you have dignity when you can't afford to eat or when you have no place to sleep. As the Feminist Movement taught us, the personal is political. So our task is to transform our personal stories of injustice into a powerful, collective struggle for a new society; a society in which people are not blamed because economic structures lock them out or, in some cases, lock them up; one in which people are not told that they would not be poor if only they chose to be a little more productive.

During [Anti-Poverty Week](#) we're asked to take the side of the people who are made to feel like they are nothing. We join those of us who believe in working towards the kind of society where vulnerability is respectfully shared and supported rather than brutally exploited. We believe that humanity will win against humiliation. Because our solidarity is stronger than our sadness and even though our struggle is enormous, so too is our hope.

Dr John Falzon is Chief Executive of the St Vincent de Paul Society National Council and is author of The Language of the Unheard.

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Who will feel better after Medibank privatisation?

ECONOMICS

David James



The Federal Finance Minister, Mathias Cormann, when mounting his case for selling off Medibank Private, announced that 'the scoping study found no evidence that premiums would increase as a result of the sale.' One wonders how the study could have found any evidence. The sale has not happened yet.

Not content with one statement of the obvious, Cormann continued with a further exploration of the self evident. 'As it does now, Medibank Private will need to continue to compete against other funds for policyholders and will need to continue to comply with relevant regulatory requirements around changes in premiums.'

Well, yes, no argument there. There is nothing so effective as the application of circular logic when demonising government, it seems.

It is worth briefly examining the history of the word privatisation. The term is often credited, wrongly, to the Austrian management thinker Peter Drucker. In his 1969 book *The Age of Discontinuity* he made a point about management in government that has come to be considered a self-evident truism. 'Government is a poor manager …. It has no choice but to be 'bureaucratic'. The only solution, he concluded, was to use non-governmental organisations for the actual doing of things, a process he dubbed 're-privatisation', not privatisation (some academics believe the first moderns to use the term were actually the Nazis).

Drucker's idea, that government is unable 'do' anything well, has since taken complete hold. A neat dichotomy has been created in which there is seen to be a single choice between government, which is inefficient and lacks proper incentives, and business, which is efficient and has good incentives (greed and self interest). It is a neat duality that ensures that other options are never considered, such as effective ways to make government efficient, for example.

The sale of Medibank Private is thus presented as a self-evident good, a way to make the fund more efficient and effectively run. If that turns out to be the case, it will become a

very dominant player indeed. Medibank Private has the largest market share of the 34 registered health insurers, at 27 per cent (just ahead of BUPA). Given that it is supposedly run by government managers, who are, by definition, low quality and overly bureaucratic, this can only be seen as surprising. Even more surprising, Medibank Private's management expenses are relatively stable and close to the industry average. As a report by the Parliamentary Library [notes](#) drily, 'this raises questions about the extent to which additional efficiencies could be achieved by a sale.'

Medibank Private has been behaving like a business for some years. Initially, surplus revenues were used for the benefit of policy holders. But when the entity was changed to for-profit status in 2009, surplus revenues were paid back to government, rather than being used for the benefit of customers. In 2012-2013 \$450 million was paid to government. Other money was used for acquisitions.

The current price for Medibank Private is expected to be between \$2.5 billion and \$4 billion. So is it a good deal for the Australian public, who are the *de facto* owners of the fund? Not especially. One way to evaluate public companies is to look at the earnings multiple, which is the value of the company divided by the earnings of the company. Taking that \$450 million annual surplus figure, you get somewhere between five times earnings and nine times earnings. Put another way, it will take between five and nine years to pay back the amount raised from profits.

That is not an especially good price for an entity that already has a dominant market share and is very likely to be around for decades. The average earnings multiple on the Australian Stock Exchange is in the double figures. Australian tax payers are getting only a barely adequate return for what they have bank rolled.

There are a few likely outcomes. One, an absolute certainty, is that the financiers who participate in the capital raising will get some serious fee income. Another strong likelihood is that it will lead to reduced diversity in the health market. The usual pattern in Australia, in which most markets are dominated by oligopolies, will probably occur in the health insurance market.

By being a different kind of player - for-profit, but government owned - Medibank Private functioned as a brake on the growth-through-acquisition motive that is rampant in business. The fund did do some acquisition of its own, but there is little doubt that business players tend to be far more aggressive in their pursuit of scale. It is a great way to keep shareholders happy, and there is the odd ego effect as well.

Such acquisition is, at least in part, usually achieved using debt. The cost of servicing that debt is routinely passed on to customers. Oligopolies also have much more pricing power. The prospects for insurance premiums growth being kept under control are thus not good. There is also a greater risk of disruption in the market. Businesses do not last as long as government enterprises. Their managers may be more efficient, but they are also more reckless.

Happily, if premiums do rise sharply because of these influences, or there is disruption, there will be no scoping study by government. The evidence may by that time be there, but nobody will be looking.

David James is a business journalist with a PhD in English literature. He edits Personal Super Investor.