

## Australian government's deal on mandatory sentencing

# Hypocrisy across the board

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A superficial observer of the ruckus over mandatory sentencing laws in and around the Australian parliament last week might have concluded that it had something to do with righting injustices against Aboriginal youth in the Northern Territory.

After all, several Liberal MPs had sprung to their feet in a party room meeting to criticise the refusal of their leader, Prime Minister John Howard, to override the Territory's laws. Principal rebel, Victorian MP Petro Georgiou, announced he would vote with the Opposition because he simply could not condone children in the Northern Territory being jailed for the type of misdemeanours children carry out everywhere.

On the floor of parliament, NSW Liberal MP Danna Vale declared, blinking away the tears, that she didn't think anything had ever distressed her more. The fight for Aboriginal children "will be the focus of my life," she vowed.

Labor Party leader Kim Beazley found it equally difficult to contain his emotions, blasting the prime minister for his lack of leadership, principles and moral values. Democrats leader Meg Lees repeated that nothing but the federal government legislating to override the Territory's laws would do.

As for the Aboriginal leaders, they couldn't have been more outraged. The mandatory sentencing laws were racist and discriminatory. They had led directly to the suicide of a 15-year old Aboriginal boy, Johnno, in a Northern Territory jail two months ago. The Prime Minister's position was shameful.

With storm clouds rapidly gathering over his leadership, Howard decided to cut his losses. He agreed to meet with Northern Territory Chief Minister Denis Burke, who has repeatedly reaffirmed his commitment to the sentencing laws, and try to convince the latter to change them, insofar as they related to children. Late

on Sunday night, the two men met, eventually thrashing out a deal.

The next day, Howard addressed the parliament, boasting about the "success" of the talks.

From the reaction of Howard's parliamentary critics, our observer could have been excused for surmising that a radical shift in Territory policy had been effected.

The Liberal party "moderates" applauded the deal as a "practical achievement alleviating the mandatory sentencing regime in the Northern Territory."

Georgiou was convinced that "these changes will achieve better outcomes for children in the Northern Territory."

Democrats leader Meg Lees, "welcomed" the new arrangement, as did Beazley, who attributed the result to pressure from the Labor Party Opposition in parliament: "We are quite proud of the fact that we have dragged the territory Government kicking, screaming, shrieking and gesticulating, into some reasonable police regime."

Aboriginal and Torres Strait Islander Commission chief Geoff Clark found it to be "a step in the right direction", but was saddened that it had only come after backbenchers had forced the issue.

The next evening, 18 ATSIC commissioners arrived in style at the Prime Minister's residence, invited by Howard—for the first time—to dine with him and his Minister for Aboriginal Affairs. Emerging after a hearty meal the commissioners had all sorts of positive things to say about the government. They "welcomed" the deal on mandatory sentencing (at least as a "beginning"), praised Howard for the dinner, which was a "badly-needed circuit breaker", and hoped for "a bipartisan approach to indigenous affairs" in the future.

Under conditions of a mounting political uproar nationally, and pointed criticisms from a United

Nations committee on racial discrimination, all of this amounted to a remarkable closing of political ranks.

Yet any reading of the terms of Howard's deal with Burke reveals that the Northern Territory's mandatory sentencing laws remain entirely intact!

While the age of juveniles in the criminal justice system will be raised from 17 to 18, the only other change will see significant new powers put into the hands of the police. Police officers will have the "discretion" to place youth picked up for "minor" offences into diversionary programs, rather than take them to court.

All this will mean is that young people will be pressured into admitting guilt. If they don't, the "diversionary program" option will automatically lapse, and they'll be hauled into court. And it will be entirely up to the cops to determine what is a "minor" offence and what is not.

A child as young as 15 will still face a mandatory prison term if they are convicted in court for a second offence. Young people aged 18 or more will be mandatorily sentenced to two weeks for a first offence, rising to a year for a third.

NT Law Society President, Jon Tippet, commented that powers that should have been transferred to the judiciary were instead being given to police.

"We are ... faced with a ridiculous situation where children are being required to enter programs before their guilt or otherwise has been determined.

"What happens to the presumption of innocence and how many young people fearful of the police will undertake diversionary programs when they didn't commit a crime?"

In one of the more astute comments, the *Australian's* Paul Toohey asked whether 15-year old Johnno, the young Aboriginal boy who committed suicide in jail after being convicted for stealing felt pens, would be alive now.

"It is hard to say. The laws relating to juveniles in the NT have just gone from bad to weird. Johnno was 15 and on his second offence, so it would have made no difference to him..."

Instead of handing discretion back to the courts, Toohey argued, Howard and Burke had given it directly to the police.

Chief Minister Burke couldn't conceal his delight on his return to the Northern Territory. Triumphantly

proclaiming a "victory", he remarked that some sections of the judiciary "will not be happy. My answer is, 'too bad'. I believe it's about time police got a bit more power back."

The last thing any of the bourgeois parties—Labor, Liberal, Democrats, or the Aboriginal bureaucracies—have been concerned with is the plight of working class kids, Aboriginal or otherwise, at the hands of an increasingly repressive judicial system.

They want a cosmetic face-saver to salvage Australia's increasingly sullied reputation on the international arena, particularly within the Asia-Pacific region.

For the moment, their support has allowed Howard to patch up yet another contentious issue.

In the process, they have revealed the extent to which the entire spectrum of official politics is shifting further and further to the right.



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