



Advancing Indigenous self-determination and health equity: Lessons from a failed Australian public policy

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A B S T R A C T

The 2007 Northern Territory Emergency Response (NTER) targeted Aboriginal communities in the Northern Territory in Australia. The NTER imposed draconian measures unfavourable to health, contributing to health inequities. There is little research investigating why the NTER was framed so negatively, and how this framing passed into legislation so unassailably. We used institutional theory to understand what factors contributed to the NTER agenda framing, what institutional factors enabled its dominance over pro-equity frames, and what lessons can be learned for future efforts to improve public policies for health equity. We interviewed 21 key policy actors, including actors with a role in the NTER, government opposition, Aboriginal civil society, non-Indigenous stakeholders, and actors from the Little Children Are Sacred report and Northern Territory government, and the Coalition of Aboriginal Organisations that provided alternative pro-equity policy framings that were not taken up. We found Federal government framing was driven by a deficit discourse of Aboriginal and Torres Strait Islander peoples in the media, and the Federal government's interest in winning the upcoming election, trialling welfare reform, and gaining more control over Northern Territory Indigenous Affairs. The framing passed almost unchanged into legislation because of the government's closed processes that excluded Aboriginal perspectives, the media's failure to report dissenting Aboriginal voices, and the power the Federal government was able to wield over the Northern Territory. The most critical action needed for more pro-equity Indigenous Affairs policy is resourced structures to provide more structural power for Aboriginal and Torres Strait Islander people to influence policy.

1. Introduction

In Australia, as in most colonised countries, the most glaring health inequities are between Indigenous and non-Indigenous peoples (Anderson et al., 2016). Here we use Braveman and Gruskin's (2003) definition of health inequities: systematic inequalities in health caused by unfair distribution of resources or other unjust processes, including colonisation, racism, and discrimination. We examine how public policy can negatively impact health equity for Indigenous peoples. Addressing public policies outside of the health sector is important because drivers of health equity are both within and outside the health system and are shaped to a large degree by the social determinants of health that span multiple government policy domains (Baum & Friel, 2017; Commission on Social Determinants of Health, 2008).

The policy agenda setting period is critical in establishing the framing of any policy problem, and potential solutions (Bacchi, 2009; Hall, 1997; Townsend et al., 2018). Framings can support or constrain scope for action on health equity, and so the agenda setting period is a crucial

window for health equity advocates to influence the discourse (Townsend, Friel, Freeman, et al., 2020). Relatively little empirical analysis exists on the agenda-setting processes, framing and power dynamics that enable or constrain attention to health equity, including for Indigenous peoples, in public policy.

The paper reports on Australia's Federal government-led Northern Territory Emergency Response (NTER) as a policy case study for investigating the factors that can enable or constrain prioritisation of Indigenous health equity in public policymaking. It discusses results from key informant interviews with politicians, government officials, Aboriginal peak bodies, and experts involved in the NTER in Australia.

1.1. Australian politics and the NTER

Australia has a liberal-democratic federal system of government consisting of the Federal (national) government, eight state/territory governments and local government. Two major political parties dominate Australian politics: the Liberal Party with libertarian-conservative

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values that usually governs in a coalition with the conservative National Party, and the more social democratic Australian Labor Party (Parkin et al., 2006).

Unlike other colonial countries such as New Zealand and Canada, Australia has no Treaty with Indigenous peoples nor a national assembly body for a voice in Parliament. Australia has a history of genocide against Aboriginal and Torres Strait Islander peoples since 1788 and a recent history of assimilation policies through the forced removal of children, which formally ended in 1969, after an estimated 10–30% of Aboriginal and Torres Strait Islander children were removed (Commonwealth of Australia, 1997). However, Aboriginal and Torres Strait Islander children continue to be removed from their families at a greater rate than non-Indigenous children through the child protection system (Australian Institute of Health and Welfare, 2021), and that rate has been increasing (Newton, 2020).

In 2006, a series of reports on Australian television provided an account of child sexual abuse in Northern Territory Aboriginal communities. The reports framed these communities as dysfunctional and child sexual abuse as a rampant problem. Despite serious concerns raised about the reporting (Graham, 2017), including extensive factual inaccuracies, the reporters never visiting the community in question, and the key whistleblower misrepresenting themselves and actually being a senior public servant acting as an adviser to the Indigenous Affairs Minister, it was the trigger for the Labor Northern Territory government to instigate an inquiry.

The Inquiry was co-chaired by Rex Wild QC and Pat Anderson AO, a high profile, respected Aboriginal female elder, and produced the ‘Ampe Akelyernemane Meke Mekarle: Little Children Are Sacred’ report (Northern Territory Board of Inquiry into the Protection of Aboriginal Children from Sexual Abuse et al., 2007). The report advocated a social determinants of health equity approach to the issue, and concluded with 97 recommendations that spanned engagement with Aboriginal people and leaders, investment in services, changes to the justice system, culturally respectful education, and community-led responses.

The Federal government condemned the report as an inadequate response, and embarked on implementing the NTER. The NTER policy was drastically different to the recommendations contained in the Little Children Are Sacred report, and involved a military presence in the communities, increased policing, the implementation of conditional welfare, increased government control over townships, and the banning of alcohol and pornography in targeted communities (Gray, 2015;

O’Mara, 2010). The implementation of the NTER policy required new legislation and the suspension of the Racial Discrimination Act.

A coalition of Aboriginal organisations in the Northern Territory formed to oppose the NTER while the legislation was being formulated. This coalition published an open letter critical of the NTER on 26 June 2007, followed by an alternative ‘Emergency response and development plan’ (hereafter ‘Alternative Plan’) which instead suggested a social determinants of health equity response through community control and a focus on education, housing and support. A timeline of the key events in the lead up to the NTER is shown in Fig. 1.

1.2. Framing analysis

The study is part of a larger Centre for Research Excellence on the Social Determinants of Health Equity established to investigate how to make public policy more supportive of health equity in the agenda setting, formulation, implementation, and evaluation phases (Baum & Friel, 2017). This paper seeks to understand how the Federal government’s framing of the NTER successfully dominated the agenda setting period, and went on to be legislated.

We previously conducted a framing analysis of policy documents and speech acts: the Little Children Are Sacred report, the speeches of key Federal Government NTER actors (then Prime Minister John Howard, and Minister for Indigenous Affairs Mal Brough), and the alternative plan produced by the Aboriginal civil society coalition (Freeman et al., in press). This showed that the dominant framing of the NTER framed Aboriginal men as perpetrators, with law and order offered as a solution rather than taking a social determinants of health approach. By contrast, the two other main framing positions identified during that period (i.e. the Little Children Are Sacred report and the Alternative Plan) provided a social determinants of health equity frame, focusing on services, and community power and control. Our conclusion was that the Federal government’s NTER framing was negative for health equity, while the Little Children Are Sacred and Alternative Plan framings would have been positive for health equity (Freeman et al., in press). Nevertheless, the Federal government’s framing prevailed, and contributed to an ongoing legacy of distress, distrust, stigmatisation, and loss of power for Aboriginal people in the Northern Territory, as well as an overall very negative impact on health (Australian Indigenous Doctors’ Association &

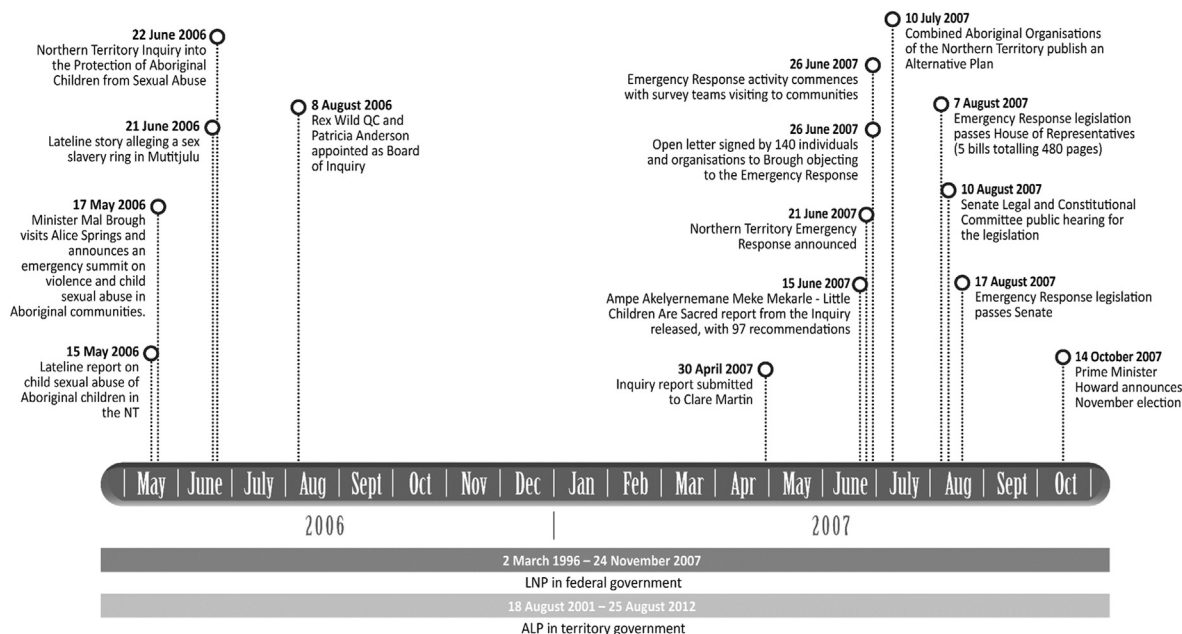


Fig. 1. Timeline of events leading up to the Northern Territory Emergency Response. NT = Northern Territory. LNP = Liberal National Party. ALP = Australian Labor Party.

Centre for Health Equity Training, 2010; Gray, 2015; National Aboriginal Community Controlled Health Organisation, 2017). The negative impacts of the NTER for Aboriginal people in the Northern Territory highlighted by these evaluations include the social and psychological impacts of racial discrimination and stigma, weakened community control, decreased capacity for health due to the cashless welfare cards, and increased incarceration. In addition, the evaluations have found that the policy did not succeed in its stated goals. Thus, we deem the NTER to be a failed public policy, and in this paper seek to learn lessons to avoid such damaging Aboriginal affairs policies in the future.

We sought to understand the agenda-setting processes which led to the Federal government's framing of the NTER, and the dominance of this framing. We examined how power operated to enable or constrain a health equity approach. We drew on existing literature on agenda-setting in the social determinants of health. The analysis focuses on a number of knowledge gaps identified in the agenda setting literature: the under-researched role of civil society, how power operates in different ways to enable and constrain health equity policy, and how policy agenda setting is affected by the multi-level government systems present in federated countries like Australia (Baker et al., 2018).

We sought to contribute to this knowledge gap using data from qualitative interviews that examined how civil society actors, the Northern Territory government, the Federal government, and other stakeholders sought to influence the agenda of the NTER. The following research questions were explored:

1. What ideas and interests during the agenda setting period contributed to the Federal government's framing of the NTER?
2. What institutional factors enabled the Federal Government's framing to dominate, and blocked more pro-equity agendas?
3. What lessons can be learned from the NTER agenda setting period for future efforts globally to improve public policies for health equity?

2. Methods

The NTER was selected as a policy case that undermined health equity by having a detrimental impact on Indigenous health (i.e. a negative policy case study), as outlined in the evaluations conducted on the policy (Australian Indigenous Doctors' Association & Centre for Health Equity Training, 2010; Gray, 2015; National Aboriginal Community Controlled Health Organisation, 2017). We conducted qualitative semi-structured interviews to understand the factors that informed the NTER framing and led to the NTER framing being carried through to policy formulation and implementation. We sought to interview spokespersons from the three main actor groups: 1) the Little Children Are Sacred report authors, 2) Federal government key actors, and 3) Spokespeople for the Coalition of Aboriginal Organisations in the Northern Territory that were involved during the policy agenda setting period (from the release of the Little Children Are Sacred report on 15 June 2007, to the NTER legislation passing through the Senate on 17 August 2007 (Freeman et al., in press), as well as key informants from outside these three main groups.

Theoretical approach: We applied institutional theory to understand how ideas, actors, and institutional forces shaped the agenda setting for the NTER (Scott, 2013; Scott et al., 2000). Institutional theory is a social theory that articulates how institutional fields are shaped by ideas, by regulative, normative, and cultural-cognitive institutional forces, and by actors that operate in the field, and is useful in understanding how these factors interact to produce the current status quo in a field (Scott, 2013; Scott et al., 2000). Institutional theory allowed us to examine who was involved in shaping the agenda, what ideas influenced the policy, and what institutional forces governed the shaping of the agenda. We interviewed government and civil society actors. We classified the Aboriginal community-controlled sector as civil society because this sector has acted to promote self-determination, community control, and engage in political advocacy for Aboriginal and Torres Strait Islander people's health (Davis, 2012; Fredericks et al., 2011; Freeman et al., 2016).

Interviews: We identified key informants from our previous documentary framing analysis, and available academic and grey literature on the NTER, and sought out publicly available contact details. We used snowball sampling when interviewees suggested other actors we ought to invite. We invited 49 people to be interviewed from all major Federal and Northern Territory political parties, Federal and state bureaucrats, Aboriginal civil society actors, and other relevant stakeholders, and sent follow up emails if there was no initial response. After three attempts they were marked as non-responses. Of the 49 invited, 21 agreed to participate in an interview (43%), a response rate we anticipated given the high status positions most invitees held, and the time that had passed since the NTER. Interviews were conducted from October 2018 to June 2019, and were a mix of face to face interviews where feasible, and telephone interviews. The interviews were semi-structured, with a guide designed by the research team for the specific research questions, informed by theory and findings of the framing analysis. The interviewees were non-Indigenous researchers. Interviewees provided informed consent. Ethics approval was received from Flinders University and two Northern Territory human research ethics committees.

Of the 21 interviewees (see Table 1), 8 were Aboriginal and/or Torres Strait Islander people, and 13 were non-Indigenous. We were not successful in interviewing the key architects (politicians or public servants) of the NTER. Instead, we included public speeches by Indigenous Affairs Minister Mal Brough and Prime Minister John Howard during the agenda setting period in the analysis.

Analysis: Interviews were audio recorded, transcribed, and imported into QSR NVivo 12. We undertook a team approach to thematic analysis, using institutional theory concepts (ideas, actors, institutional forces), as well as the themes we identified in the framing analysis (Freeman et al., in press) including racism, deficit discourse, white sovereignty, and self-determination. Non-Indigenous researchers TF and BT coded three transcripts each and discussed the coding to formulate a coding set. To ensure Aboriginal oversight of the analysis, codes and emerging findings were reviewed in a team analysis workshop with Aboriginal team members with knowledge of the NTER. We explored alternative explanations, and monitored rigour (Morse et al., 2002). New codes were added, and the coding framework was refined. Aboriginal voices were prioritised in the analysis and presentation of these results through privileging their perspectives within themes and their voices when reporting findings and selecting quotes (Durie, 2004).

3. Results

Interviewees described their perceptions of the key actors that had influenced the NTER agenda setting, what ideas contributed to the agenda setting framings of the Little Children Are Sacred report, the NTER, and the Alternative Plan, and what institutional forces contributed to the NTER policy passing successfully into legislation. An overview of what role key actors played in the agenda setting stage is summarised in Table 2, followed by detailed examination of our three research questions.

What ideas and interests contributed to the Federal government's framing of the NTER?

We identified five key ideas and interests that contributed to the negative framing of the NTER policy: deficit framings in mainstream media reporting of child sexual abuse; the political aspirations of

Table 1
Participants in the research interviews for the NTER agenda setting study.

Interviewee Category	Number
Coalition of Aboriginal Organisations of the NT	2
Little Children Are Sacred/NT Government	4
NTER Actors	2
Aboriginal civil society actors	5
Government opposition actors	3
Non-Indigenous stakeholders (e.g., medical, academic, media, policy think tank)	5

Table 2
Key actors in the NTER agenda setting period.

Federal Coalition Government Politicians	Key Federal politicians who drove the NTER were the Indigenous Affairs Minister Mal Brough, and the Prime Minister John Howard. Health Minister Tony Abbott was perceived by several informants to be less central. John Howard, while he featured a lot in media, featured less in the interview narratives – it was clear to interviewees that Brough was the driving force, which Howard authorised. Brough was described as having “a military approach” to the issue (NTER actor, non-Indigenous).
Federal Bureaucrats	Two male, non-Indigenous Federal bureaucrats were named by interviewees as the central bureaucrats involved in drafting the NTER, and were seen as complicit in the racist and inequitable approach the NTER undertook. One health bureaucrat reported trying to fight back against the NTER, but noted it was being driven out of another department: “we were trying to keep PM&C [Prime Minister and Cabinet] and Finance onside and that was really hard; at the same time keeping face with Aboriginal communities who we’ve worked with for a long time to have a respectful relationship.” (NTER actor, non-Indigenous)
Textor Crosby Co.	Textor Crosby was a political campaigning advising company used by conservative NT and Federal governments, and was seen as specialising in divisive race-based campaigns. Some felt of the NTER that Mark Textor’s “fingerprints are all over this” (Government Opposition actor, non-Indigenous). However, research by David Marshall suggests Textor didn’t think much of the NTER as an election strategy – that “it wasn’t necessarily a vote switcher or winner” (Marshall, 2015, p. 209).
Federal Labor	Interviewees perceived that Labor supported the NTER because they did not want to be seen to oppose a child sexual abuse measure. Several interviewees noted that Labor weren’t that ideologically different on this topic – “they had a view as well that if you can control people and I suppose manipulate their environment, then they will respond to that” (Govt opposition actor, non-Indigenous). This is shown when Labor gained power in 2007, that they continued the NTER in an adapted form (Bielefeld, 2014).
Federal Greens	Several interviewees felt the Federal Greens party was the only active opposition in Federal parliament. Greens Senator Rachel Siewert helped organise the Alternative Plan actors and backed the Little Children Are Sacred actors: “I have to give absolute credit to the Greens, in particular Rachel Siewert. She has been absolutely rock solid on this from day one. And she is the only one I can think of who persistently and continues to ask questions in Parliament around a number of these sort of ongoing issues” (Coalition of Aboriginal Organisations of the NT actor, Aboriginal).
Northern Territory Labor Government	Many interviewees painted the NT Labor Government as “politically inept” (Coalition of Aboriginal Organisations of the NT, Aboriginal) in their handling of the Little Children Are Sacred reported. Other actors associated with the government felt this was an unfair political fiction used to justify the Federal intervention.
Media	There was consensus among interviewees that the media on the NTER was racist and irresponsible, especially the original Lateline media reports, of which one interviewee said “The validity of all this stuff was just disgraceful” (NTER actor, non-Indigenous).
Aboriginal community	The Aboriginal community was purposefully almost completely excluded from all policy processes because their Aboriginality was positioned as part of the problem: “Any voice or capacity for us as Aboriginal people to have any say on this stuff was completely not even on the radar, disregarded” (Coalition of Aboriginal Organisations of the NT actor, Aboriginal). Instead, the community mobilised through the Combined Aboriginal Organisations of the NT.
Aboriginal organisations	Both health and non-health Aboriginal organisations mobilised through the Combined Aboriginal Organisations of the NT coalition to advocate against the NTER and to develop the Alternate Plan: “they were critical really, very critical, because they would back up what they saw really happening on the ground and the impact and how misguided some of this was. They were crucial in I think trying to get governments or politicians to see this, to understand that ... I can’t imagine the scenario without them, without their loud voice” (Govt opposition actor, non-Indigenous).
Non-Indigenous community	Many interviewees felt that despite the NTER being used as an election tactic, that “the public doesn’t give a shit” (non-Indigenous stakeholder), “my feeling is that I think most Australians are probably sick to death of hearing about Aboriginal affairs” (Coalition of Aboriginal Organisations of the NT actor, Aboriginal). This apathy allowed the NTER to proceed with minimal protest.
Medical groups	Peak medical groups, including the Australian Indigenous Doctors Association, and the Australian Medical Association lobbied against the mandatory child sexual abuse checks, and these were successfully overturned.
Non-Indigenous NGOs	Non-Indigenous non-government organisations (NGOs) were seen as not advocating against the NTER because of a desire to receive some of the funding being distributed by the policy: “I think the NGOs had a big part to play. The not-for-profit organisations, the big, the mainstream ones. Unfortunately I think many of them put their hand out to deliver services, to receive resources to deliver services” (Aboriginal civil society actor).
Other	Prominent Aboriginal commentator Noel Pearson’s views and support for NTER was seen as helping the Federal Government’s cause. Helen Hughes, a member of the conservative think tank the Centre for Independent Studies wrote the ‘Lands of Shame’ report which framed Aboriginal men as perpetrators and advocated a heavy police and law and order response. Some felt the ideas in the report influenced the design of the NTER.

government actors; the government’s interests in wider welfare reform; a desire for greater Federal control of Indigenous affairs in the Northern Territory, and policy makers’ ignorance of life in remote communities. We explain these in turn.

1. Deficit framing in media reporting

There was consensus amongst interviewees that the Lateline television program reporting on child sexual abuse was the catalyst for the NTER and contributed to the negative framing of Aboriginal people. The content of the Lateline reporting was seen to promote a strong, emotive deficit discourse about the dysfunction of Aboriginal communities in the Northern Territory:

“There was a public perception born of those allegations that something was seriously wrong in the Northern Territory ... Again, without evidence” (NTER actor, non-Indigenous).

The deficit discourse was then taken up by print media:

“They stereotyped Aboriginal people as all being the same, if you like, all having these social dysfunctions, not being able to handle alcohol, not having jobs ... the narrative that was in ‘The Australian’ [conservative newspaper] for a while was very negative.” (stakeholder, non-Indigenous).

This was seen as having a strong impact on the health and wellbeing of Aboriginal men in particular:

“Aboriginal men in the Northern Territory, because this all stemmed from, or was seen as a result [of the Lateline] report at the time, were copping abuse in the street, publicly. And this was making them upset. I spoke to a number of men, and they felt like they couldn’t go into a supermarket or a shopping centre anymore because people just started at them.” (Aboriginal civil society actor).

The media coverage reinforced the interests of the conservative Federal government at the expense of Aboriginal and Torres Strait Islander peoples:

“As soon as you mention abuse of children and sexual abuse and these male perpetrators who were portrayed as being all Aboriginal men they [the Federal government] knew they had the public in the palm of their hand and the media.” (Aboriginal civil society actor).

2. Political aspirations of government actors

The imminent Federal election came up in most interviews as a motivating factor for Indigenous Affairs Minister (Brough) and the Prime Minister (Howard):

"It was all about the election ... and I think Alexander Downer [then Minister for Foreign Affairs] reported that. He's in the mainstream media saying that" (Little Children Are Sacred / NT Government actor, non-Indigenous).

The reference is to Downer's post election media comment that: "the actual initiative was very popular with the public but it didn't shift the opinion polls" (Ferro, 2008, para 6).

Indigenous Affairs Minister Brough's personal political ambition was claimed by some interviewees to drive the NTER:

"Brough was ambitious and he wanted to be Prime Minister. And I think that's where he got [Health Minister] Abbott offside" (Little Children Are Sacred / NT Government actor, non-Indigenous).

This rivalry between Abbott, the Health Minister, and Brough was also noted as reducing collaboration with the Department of Health on the NTER, which may have further weakened consideration of the health impacts of the intervention:

"Tony Abbott was on the outer and him and Mal Brough didn't get along and so [Abbott] was trying to pick up some traction from a health perspective" (Aboriginal civil society actor).

Thus, the core interests that the NTER was designed to advance were those of the incumbent Federal government seeking re-election, and the personal interests of Brough, based on the idea that the intervention would resonate with non-Indigenous Australians:

"I don't think it was ever really done with any genuine intent to actually do this stuff well. It was a media stunt, media and political stunt." (Aboriginal civil society actor).

3. A welfare reform experiment

The NTER introduced a cashless welfare card known as the Basics Card, allowing government control over where and on what welfare recipients could spend their payments. This compulsory income management strategy has been heavily critiqued (Dee, 2013; Gray, 2015; Mendes, 2013), but has been an attractive welfare reform option to conservative governments, as it aligns with neoliberal ideas of individual blame for joblessness, and need for a punitive welfare system to encourage people back into jobs (Dee, 2013; Mendes, 2013). The Basics Card was the first use of a cashless welfare card in Australia, and several interviewees believed the NTER was used a chance to trial it:

"It was definitely welfare reform. It was definitely the beginning of them wanting to roll out income management over a wide section of not just Aboriginal people but broader Australia." (Government Opposition actor, non-Indigenous).

Supporting this interpretation, since the NTER, similar compulsory income management strategies have been implemented in other jurisdictions, and expanded to include non-Indigenous welfare recipients (Mendes, 2013).

4. Greater Federal control of Northern Territory Indigenous affairs

Several interviewees commented that many of the NTER strategies had been developed previously, rather than designed in the short space of time between the release of the Little Children Are Sacred report and the draft legislation for the NTER: *"They were just waiting for a trigger ... the gun was already loaded"* (Other stakeholder, non-Indigenous).

The legislation was seen as a grab bag of everything the Federal government wanted to "fix" about how Aboriginal affairs were conducted in the NT:

"There's a whole lot of things that the Federal government hated about Aboriginal policy and affairs in the Northern Territory and they just wanted to get it all in one fell swoop. And so they threw everything that they didn't like or were offended by, like closed communities or having to get permits and stuff like that." (Aboriginal civil society actor, Aboriginal).

The changes were based on government interest in having more control over land, and on assimilationist ideas:

"That agenda around smashing land rights as it stood was bubbling along for a long time and they failed getting any of the really sort of new recommendations through. It was quite an embarrassing policy formation loss for the second Howard Government ... there was escalating conservative resentment about the fact that they weren't able to penetrate remote Indigenous Australia. There were too many protective layers there, land councils and community based organisations ... that were just preventing the Canberra political and bureaucratic classes just having open slather in remote Australia." (Other stakeholder, non-Indigenous)

5. Politicians and bureaucrats ignoring information about life in a remote community

A few interviewees noted how ignorant most Federal politicians and bureaucrats were of the realities facing remote communities, including access to food, food security, or how much housing cost to build. As one politician reflected:

"I spent most of my time trying to educate people about what life was like in not only rural and regional Australia, but remote Australia. They would have no concept, for example, that four oranges at Ngukurr might cost you \$8.60." (Government Opposition actor, non-Indigenous)

This ignoring of contextual information about a place was seen as allowing poor policy ideas to inform the NTER, leading to inequitable outcomes, because they were not designed to take rural, regional, and remote needs and realities into account.

3.1. What institutional factors enabled the Federal Government's framing to dominate, and blocked more pro-equity agendas?

We identified three factors that supported the dominance of the framing of the NTER during the agenda setting period and its passage into legislation, and which prevented counter framings by more pro-equity agendas: 1) the insularity of the policy development in government; 2) media complicity; and 3) the power asymmetry between the Northern Territory and Federal Governments.

1. Insularity of the Federal government policy process

The Federal government's development of the NTER was seen as a closed process that was effective in excluding Aboriginal voices:

"You couldn't get to speak to anybody. Not even the bureaucracy. Simply nobody was interested. There was clearly this plan that had been developed, it was in place, and they were going ahead full steam." (Coalition of Aboriginal Organisations of the NT actor, Aboriginal).

The Indigenous Affairs Minister Brough was particularly seen by many interviewees as uninterested in consultation or anyone else's views: *"He just said he wasn't interested. He completely ignored us. So there was nothing consultative at all about Mal Brough."* (Little Children Are Sacred/ NT Government actor, non-Indigenous).

This insularity is demonstrated by the exclusion of the Little Children Are Sacred report authors from the public Senate session to discuss the NTER legislation. Only one interviewee met with Brough in the agenda

setting period, and reported “he was basically trying to get us onside and agree with all of the stupid things he wanted to do” (Aboriginal civil society actor, Aboriginal).

While this is typical of Aboriginal affairs in Australia (Davis, 2016), the NTER was seen as an extreme example of this, and this was widely attributed to the personality of the Indigenous Affairs Minister:

“It was very much based on military approach and authoritarian approach, and probably reflected his own background as a captain in the Army.” (NTER actor, non-Indigenous).

The insularity was seen by many interviewees to be underpinned by the Government’s racist and paternalist idea of white superiority – that the white government had the answers to Aboriginal and Torres Strait Islander ‘dysfunction’:

“I think the response of government was a typical ... tradition of white power or privilege which they asserted what they thought was going to be the only way to deal with this” (Aboriginal civil society actor, Aboriginal).

2. Media complicity

As described in the previous section on media, media reporting was shaped by deficit-based ideas of Aboriginal and Torres Strait Islander peoples. This meant that subsequent to the announcement of the NTER, the media did not critique the racist ideas underpinning the NTER, serving the interests of the conservative government:

“They [the media] were doing dog whistling. Here’s Howard fixing, and again, in inverted commas the black problem” (Government opposition, non-Indigenous).

When Aboriginal civil society developed the Alternative Plan and tried to protest the NTER, they reported disinterest from mainstream media. Media coverage of the Alternative Plan was almost non-existent. In our previous research (Freeman et al., in press), we found only 4 mainstream media articles during the agenda setting period that mentioned the Alternative Plan or quoted the Aboriginal civil society coalition (compared to 24 articles quoting Brough or Howard). One Coalition member reported:

“not even the journos were particularly interested in an alternative view, which I found quite shocking ... we tried and we walked the halls of Parliament House and the media, you know the press gallery and so on. And it was almost like, oh no, you lot are irrelevant because you’re part of the problem, you covered this up, that you’re complicit in these things ... you’re part of the problem. We don’t want to know. You’ve got nothing to say, you’re irrelevant.” (Coalition of Aboriginal Organisations of the NT actor, Aboriginal)

This showed the colonial institutional power of the media to exclude voices and direct the narrative around the NTER policy.

3. Power asymmetry between the NT and Federal Governments

The Little Children Are Sacred report produced from the NT government inquiry was regarded positively by interviewees: *“I think the process with that when that report was compiled and then presented - I think was brilliant.”* (Aboriginal civil society actor). The only criticism that was raised by three interviewees was that the report may have been too ambitious or complex:

“It was this enormous kind of reform agenda... I think it would have been helpful had there been say three or four really high-level things that were based on the evidence that demonstrated the effectiveness of those responses.” (Coalition of Aboriginal Organisations of the NT actor, Aboriginal).

However, upon the report’s production, the NT government did not visibly engage with it. It was reported that no politicians came to the release of the government-commissioned report, and the public release of the report was delayed by six weeks. Some interviewees saw this delay as not politically savvy:

“What happened in that space, that allowed others who had other agendas ... to do, and say, and act as they wished, and to use the report in a way that they wished. And that led to the intervention.” (Little Children Are Sacred / NT Government actor, Aboriginal).

Another interviewee felt this criticism of the six week delay was unfair:

“That’s ridiculous. Tell me how many other government reports get sat on for months, yeah. This was a political agenda. Six weeks to respond to a report of such complexity, yeah. I mean that’s a facetious kind of argument.” (Coalition of Aboriginal Organisations of the NT actor, Aboriginal).

While this delay may have contributed to the failure of the report to gain traction and broader engagement, we found the main factor was the institutional power asymmetry between the Federal coalition government and the Labor NT government. Firstly, the Federal government immediately and successfully counter-framed the issue, criticising the NT government’s “pitifully inadequate” (Brough, in Australian Associated Press, 2007; para 15) response, and arguing for a tougher law and order approach. The Federal government’s control over the narrative was supported by emotive framing around child sexual abuse, effectively shutting down space to argue for the Little Children Are Sacred report’s consultative approach.

The NT government was “blindsided” (Coalition of Aboriginal Organisations of the NT actor, Aboriginal) by the announcement of the federally driven NTER. One interviewee recounted:

“On the day that Howard announced the NT Emergency Response we had some very, very senior people in a plane travelling to Canberra to hopefully get the Federal government to sign an MOU that we’d been developing with them over eight months about how to respond to all those matters. And while they were in the plane the Federal Government announced the intervention ... In post years I spoke to Clare [Martin - then NT Chief Minister] about this and she said Howard told her it was just purely political, it was just an opportunity. It was nothing deeper than that. They could do it so they did it.” (Little Children Are Sacred / NT government actor, non-Indigenous)

This blindsiding was made possible by the institutional power differences in Australia between the Federal government and the NT. Under Australia’s Constitution, the Federal Government has powers to intervene in the Territories which enabled the Federal Government to introduce the NTER. These same powers are not available to intervene in the States of Australia (Stringer, 2007).

3.2. Lessons for future public policies

We sought to understand what could be done differently in the future to support pro-equity policy agendas in Indigenous affairs. We identified the following lessons: 1) the need for formal consultative structures including treaties, 2) the importance of Aboriginal and Torres Strait Islander representation in parliament, 3) collective civil society action, 4) the need to prioritise a social determinants of health approach, and 5) pro-equity advocacy from multiple actors.

1. Formal consultative structures including treaties

Most interviewees urged the need for more consultative approaches that focused on partnership and Aboriginal and Torres Strait Islander self-determination. It was deemed that this needed formal structures and resources to support it:

“Aboriginal and Torres Strait Islander people have to be properly resourced to participate in those processes so they can go to these meetings with prepared policy arguments to put forward. And that’s where government’s never funded the, what I call the processes of self-determination.” (Coalition of Aboriginal Organisations of the NT actor, Aboriginal).

This included a range of Aboriginal and non-Indigenous interviewees calling for a treaty:

“Who has the power, who are the decision makers, who has the resources? And who has the legal capacity to do stuff? Aboriginal people have none of that and this is probably one of the best arguments about having treaties or regional agreements so that we can exercise some control over our own affairs” (Coalition of Aboriginal Organisations of the NT actor, Aboriginal).

Some interviewees suggested institutionalised structures to replace the Aboriginal and Torres Strait Islander Commission, a government body that involved Aboriginal and Torres Strait Islander people in governmental processes that affected them, and which was abolished by the Howard Federal Government in 2005. Some interviewees felt the abolishment of the Commission paved the way for paternalistic, non-consultative policies such as the NTER.

2. Aboriginal and Torres Strait Islander representation in parliament

Since the NTER, there has been greater representation of Aboriginal and Torres Strait Islander politicians in parliament, which some interviewees cited as important to pro-equity policies:

“There is no way that [the NTER] would happen now with [Aboriginal politicians] Patrick Dodson and Linda Burney there” (Government opposition actor, non-Indigenous).

3. Collective civil society action.

The importance of collective civil society action was highlighted in promoting a pro-equity agenda. Out of the Aboriginal civil society coalition during the NTER advocacy emerged APONT (Aboriginal Peak Organisations Northern Territory), which was felt to be an important force:

“We’ve been very, very effective in our advocacy role ... establishing APONT became a very effective strategy to deal with Government.” (Aboriginal civil society actor, Aboriginal)

4. Social determinants of health approach

The need for policy agenda setting frames to take a social determinants of health approach and be evidence-based was stressed:

“you go back to an evidenced-based approach for the work that needs to be done, and you need to put the issue of the safety and protection of children within a context of the safety and protection within a community, the infrastructure that you build within communities, the laws and the resources that you put within that community.” (NTER actor, non-Indigenous).

However, this was the approach taken in the Little Children Are Sacred report, which was not successful in shaping the policy response.

5. Pro-equity advocacy from multiple actors

The only element of the proposed NTER that was successfully changed prior to its passage into legislation was the change from proposed mandatory child sexual abuse checks to the rolling out of voluntary

child general health checks.

Interviewees diverged in who they attributed this positive change to. Some ascribed it to advocacy from non-Indigenous medical associations and/or Aboriginal civil society organisations, while some attributed it to intervention from a health bureaucrat and/or the Health Minister. From the point of view of seeking lessons for future policy, this suggests that resistance to the compulsory sexual health checks came from multiple powerful quarters both Aboriginal and non-Indigenous: (“They were getting caned over that”, Government Opposition actor, non-Indigenous) and that was successful in getting the original proposal overturned, even within such an otherwise uncompromising and insular institutional process.

4. Discussion

Our analysis demonstrates how powerful actors, ideas and institutions worked to constrain a pro-equity agenda for Aboriginal and Torres Strait Islander people, resulting in a policy that was negative for health equity. Asymmetries in power between Aboriginal and Torres Strait Islander people and the Federal Government, and between the NT and Federal Government served as structural barriers that reinforced insular, exclusionary, and colonial institutional policy processes. These were supported by ideas based on a racist paternalist deficit framing of Aboriginal people which dominated the discourse in media and government.

The findings highlight the importance of power in understanding the policy making processes and politics shaping the social determinants of health equity (Friel et al., 2021; Harris et al., 2020). The NTER case is an example of how the structural power of government, in this case the Federal Government over the NT and over Aboriginal and Torres Strait Islander peoples, was a significant barrier. This power imbalance enabled the Federal Government to exercise institutional power through an insular policy process which excluded Aboriginal and equity voices. Discursive power was exercised through deficit framing in media and Government. Aboriginal organisations and health actors who were seeking to advance an alternative equity agenda were ultimately unable to challenge this power dynamic, although they tried through counter framings and coalition building.

That a nominally ‘Indigenous affairs’ policy wholly served the interests of the Federal Government, and not the best interests of the Aboriginal and Torres Strait Islander peoples it acted upon, reaffirms Moreton-Robinson’s (2015) articulation of ‘white possessive logics’ at the core of Australia’s approach to Aboriginal and Torres Strait Islander affairs. Not one interviewee felt the policy was genuinely designed to be in the interest of Aboriginal and Torres Strait Islander children. The findings support Moreton-Robinson’s arguments that the discourse of pathology is wielded as a weapon in a race war, and that the myth of superior white sovereignty is constantly reproduced in policy making. These white possessive logics are institutionalised within Australia’s main powerful institutions and regulatory forces, including the government and media.

The findings confirm previous analyses of the NTER that have shown the key role of media as an interest group that can contribute to shaping the policy agenda (McCallum, 2013; Mesikammen, 2016; Proudfoot & Habibis, 2015). McCallum (2013) noted how media emphasised frames of individual blame and a deficit discourse of Aboriginal communities. Our analysis also supports Proudfoot and Habibis’s (2015) and Mesikammen’s (2016) findings on the absence of media coverage of Aboriginal resistance. There are clear signs that media reform is required to counter such coverage practices. Changes in the media landscape since the NTER, towards more available digital sources, and the establishment of Indigenous run media such as Indigenous X in Australia, may provide opportunities for disruption to this power to control coverage and framing (Sweet et al., 2014) and may improve political will for more genuine and consultative policy (Baum et al., 2020).

Few studies on agenda-setting and the social determinants of health have emphasised the role of diverse policy networks (exceptions include

Baum et al., 2013; Browne et al., 2017; Townsend, Friel, Schram, et al., 2020). Our analysis points to the formation and strengthening of coalitions of Aboriginal community controlled organisations during the NTER process, resulting in the Alternative Plan. Because of the strong history of civil society and social movements in the Aboriginal and Torres Strait Islander community controlled sector, including Aboriginal health services (Bartlett & Boffa, 2005), they were able to mobilise quickly to make a united response. While not successful in overturning the policy approach, they did play a role in shifting one of the proposals (mandatory sexual abuse checks), and their formation has played an important role in more recent policy. We found some tensions between Aboriginal and non-Indigenous civil society groups. Some non-Indigenous NGOs were reportedly silent on the negative implications for the NTER as they sought to access Government funding, while some conservative think tank NGOs actively promoted the NTER. This finding shows that civil society cannot be grouped together as a homogenous positive force for health equity, as is a tendency in the literature (Baker et al., 2018), and may in fact support or oppose action on health equity.

These interest, ideational and institutional barriers are mapped in Fig. 2. Fig. 2 shows the mutually reinforcing elements of dominant colonial ideas, powerful non-Indigenous government and media actors, and exclusionary institutional forces that blocked Aboriginal participation in the policy making, silenced their dissenting voices, and negated self-determination approaches to policy that would be more supportive of health equity.

The findings emphasise that structural reform is needed when Indigenous peoples' health is undermined by colonial power structures. Possible reforms suggested by interviewees include a formal Treaty with Aboriginal and Torres Strait Islander people, which has been enacted in New Zealand and Canada (Freemantle et al., 2007), and the formalisation of an Aboriginal and Torres Strait Islander voice in Parliament. There are processes underway in some states towards a formal Treaty with Aboriginal people, and the 2017 Uluru Statement from the Heart provides a national document, produced from a national meeting of Aboriginal and Torres Strait Islander peoples, which emphasises a voice to Parliament, legislative changes, and truth-telling processes on Australia's history of colonisation (Uluru Statement from the Heart, 2017). The establishment of the first formal shared decision making partnership

on Closing the Gap in socioeconomic and health outcomes between Aboriginal and Torres Strait Islander and non-Indigenous Australians, signed by the Council of Australian Governments (national, state and territory) and peak Aboriginal organisations in March 2019 (The Coalition of Peaks, 2019) is also a significant step forward. Steps such as these speak to the lessons for reform from the failed NTER policy and mechanisms to prevent a repeat of such a racist and damaging policy in Australia. However, the Uluru Statement from the Heart was rejected and misrepresented in the media by the government at the time (Anandakugan, 2020), suggesting that similar power differentials and white sovereign discourses still persist, and that change will not be easily won.

4.1. Limitations

The main limitation of our study was that we failed in interviewing the key architects of the NTER, which is a critical piece of the puzzle. This is not an uncommon outcome for policy research (e.g. Fisher et al., 2020), and it is a growing concern that researchers cannot always gain access to elites where much of the power that shapes policy decisions resides. To mitigate this, we were able to draw on our previous analysis of the speeches of key NTER actors (Freeman et al.), although we acknowledge these speeches do not shed light on internal discussions and perspectives. We did interview other bureaucrats working in the government, however. Extremely few Aboriginal actors declined to participate, the non-responses or declines were overwhelmingly non-Indigenous actors.

5. Conclusion

We found that the Federal government's framing of the NTER policy was driven by a deficit discourse of Aboriginal people in the media, and the Federal government's interest in winning the upcoming election, desire to trial welfare reform, and to gain more control over Indigenous Affairs in the NT. The framing passed almost unchanged into legislation because of the government's closed processes that excluded Aboriginal perspectives, the media's failure to report dissenting Aboriginal voices, and the power the Federal government was able to wield over the NT. The most critical action needed to allow more space for more pro-equity Indigenous Affairs policy is resourced structures to provide Aboriginal

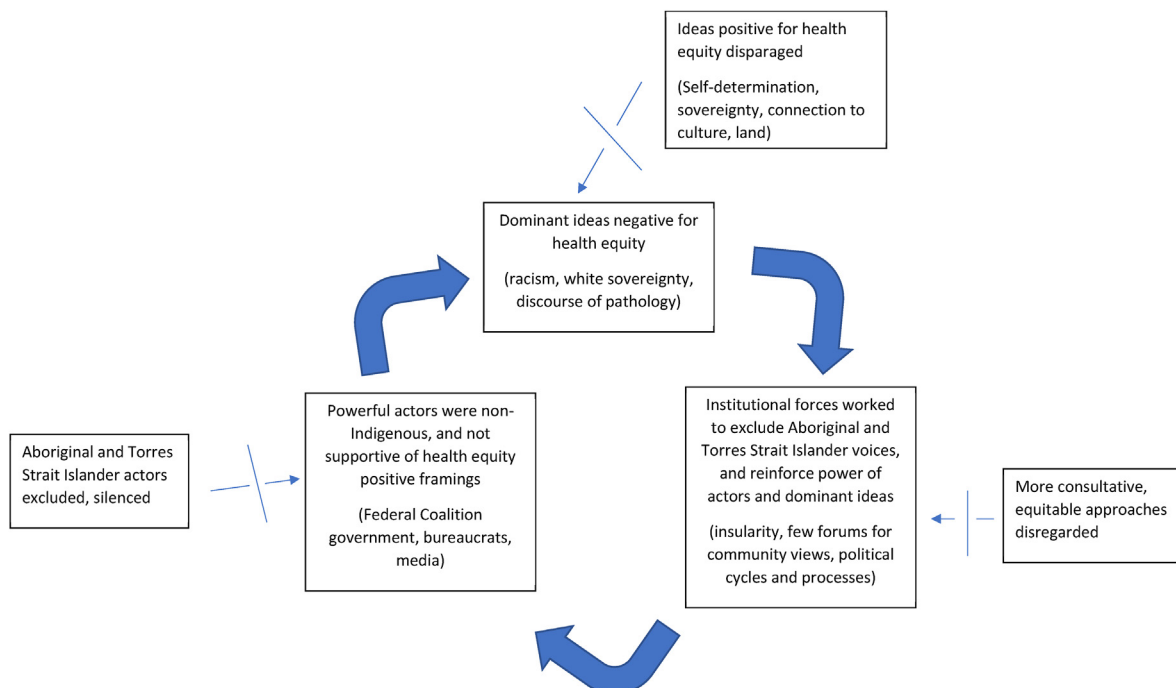


Fig. 2. Interest, Ideational and Institutional barriers to health equity in the Northern Territory Emergency Response agenda-setting process.

and Torres Strait Islander people much more structural power to influence policy that affects them. This may be a combination of instruments such as a Treaty, a Voice to Parliament, and an organisation that takes up and advances the power of the now dissolved Aboriginal and Torres Strait Islander Commission. Without such structures, the dominant institutional power of colonial governments over Indigenous peoples is likely to continue to be reproduced in ways that undermine health equity.

Ethical statement

Interviewees provided informed consent. Ethics approval was received from Flinders University and two Northern Territory human research ethics committees.

Data statement

Data are not available for access, as the research interviews were confidential.

CRedit authorship contribution statement

Toby Freeman: Conceptualization, Methodology, Formal analysis, Investigation, Writing – original draft. **Belinda Townsend:** Conceptualization, Methodology, Formal analysis, Investigation, Writing – original draft. **Tamara Mackean:** Conceptualization, Methodology, Formal analysis, Writing – review & editing, Funding acquisition. **Connie Musolino:** Conceptualization, Methodology, Formal analysis, Investigation, Writing – review & editing. **Sharon Friel:** Conceptualization, Methodology, Formal analysis, Writing – review & editing, Supervision, Project administration, Funding acquisition. **Fran Baum:** Conceptualization, Methodology, Formal analysis, Writing – review & editing, Supervision, Project administration, Funding acquisition.

Declaration of competing interest

The authors declare that they have no known competing financial interests or personal relationships that could have appeared to influence the work reported in this paper.

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Appendix A. Supplementary data

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