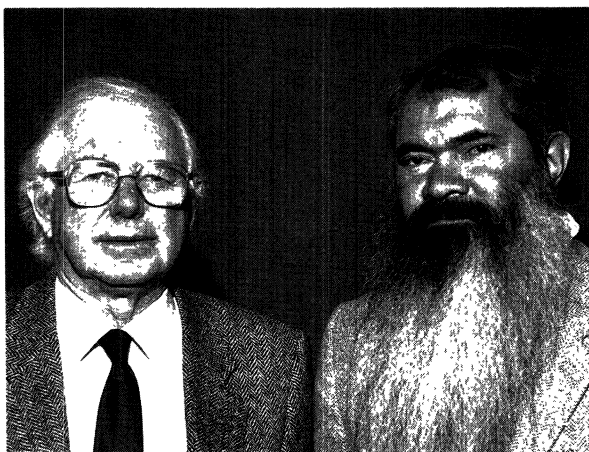


# Debunking 'economic irrationalism'

## AN INTERVIEW WITH ELLIOTT JOHNSTON QC

*Danielle Misell*

### *How should we respond to the Conservative Agenda?*



*Elliott Johnston with Pat Dodson*

After six decades Elliott Johnston continues to play an important and (sometimes controversial) role in the public life of Australia. In the 1950s he was an organiser for the Communist Party of Australia and was a Communist candidate in many elections. In 1970 he was made a QC. In 1983 he became a South Australian Supreme Court judge. He was the first chairperson of the Aboriginal Legal Rights Movement and in 1989 he became the National Commissioner of the Royal Commission into Aboriginal Deaths In Custody. In 1992 he accepted an Associate Professor's position in the newly formed School of Law at Flinders University. Although now retired, Elliott Johnston finds time to co-edit *Australian Options* a forum for Left discussions of contemporary issues. Elliott also finds time to play a mean game of croquet. Despite these and many other achievements, he insists that he is an ordinary man who has spent his career fighting for the rights of ordinary people.

**DM: What do you think are the most significant changes over the past 18 months as a result of the Conservative Agenda?**

**EJ:** My first observation about this question is that the Conservative Agenda has held sway for much longer than 18 months — under both the ALP and the Coalition. It has been sharpened in certain respects since the election of the Howard Government, but in many crucially important respects there has been no substantial change at all. That is the position as far as unemployment is concerned. How those actually unemployed are treated has been subject to some changes but the fact of unemployment remains as it was. The policies are exactly the same in that the Liberals, like Labor, will leave it to private enterprise to create the demand for jobs. We are still waiting.

**DM: The Conservative Agenda is based on Economic Rationalism. Are you saying that this theory does not work?**

**EJ:** Yes but I add this — economic rationalism is in my opinion a very bad phrase for the Left to use. Rather the Left should refer to it as *pure economic irrationalism*. Every question is being put and answered in pure economic terms, without regard to longer term consequences. Housing, health care, universities, students, child care, care for the disabled etc. are under attack. But unemployment is the greatest issue. We need larger investment in community services and infrastructure (the sector that provides high employment), a regional and industrial policy aimed at decreasing imports, and tax increases, particularly on the fabulously rich, to make this possible.

**DM: There are a number of issues currently on the Conservative Agenda. Could we discuss some of these issues, for example, the current debates on the Wik decision and Howard's 10-point plan as a response to that decision?**

**EJ:** The Conservative Agenda is one which affects all ordinary people, both Aboriginal and non-Aboriginal. It is detrimental to both.

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As far as Aboriginal people are concerned it has taken two main forms to date. First, the last budget drastically cut the ATSIC budget which had the effect of causing a large number of Aboriginal organisations to be entirely eliminated, along with the services they provided; others have had to cut back on services. The size of the ATSIC budget is quite misleading in fact.

Non-Aboriginal people receive many benefits under all sorts of social policies. The cost of these benefits is charged against the budgets for various departments associated with the particular service. In the case of Aboriginal people, the budgetary allowance is heaped together under the one head. Most of the services are provided by way of ATSIC. The ATSIC budget represents a total allowance which in respect of non-Aboriginal people is spread over dozens of different budget lines. The most outstanding example of course is the ATSIC budget for the CDEP scheme. The cost of the scheme in the ATSIC budget is around 30% of the entire ATSIC budget.

**DM: What is the CDEP scheme?**

**EJ:** This is the Community Development Employment Program. Looked at from one point of view, Aboriginal members work for the dole in the sense that the amount of money they get at the end of each week is the amount of money they would have received as their dole benefit. The CDEP costs are made up overwhelmingly of money that would be paid through the Department of Social Security (DSS) to anyone else in the community. The money is for Aboriginal unemployed and goes into the ATSIC Budget. It is then said to be money thrown at Aboriginal people, whereas it is just the normal provision for all unemployed people plus a comparatively small allowance for the administration of the scheme.

CDEP is a great scheme invented by Aboriginal people. It is voluntary. Originally it applied only in remote communities. As the benefits were seen, it was taken up in communities other than remote communities, for example, in Port Lincoln and Ceduna, along the river and up north of South Australia. In reality, of course it is quite untrue to say that the workers receive only the dole because the schemes are all community schemes and the people who work in the schemes receive the benefit which comes to them as members of the community for all the work that is done. So in various places they build houses, in Ceduna they have Emu farming and Oyster farming as well as building houses and repairing houses. They look after the properties of ageing people and provide all sorts of services to the whole community. So what the CDEP members receive is that which they would receive by way of the dole as people who are unemployed plus a share in the community advantage. They of course share in the proceeds of that. The point I am making is that 30% of the entire ATSIC budget is for the CDEP. For anybody else in the community it would just be an outlay through the DSS.

**DM: How do you place the response to Wik in the context of the Conservative Agenda**

**EJ:** Following *Mabo*, the High Court has held that the granting of pastoral leases does not necessarily lead to the extinguishment of native title. In the case of the Wik community it did not extinguish native title. It is a very reasonable proposition that pastoralists need to know where they stand, Aboriginal people need to know where they stand, and mining interests (which frequently mine on land under pastoral

lease) want to know where they stand. There is nothing unreasonable about all or any of these parties wanting to know where they stand. What is unreasonable is the Government attempting to solve the problem by way of elimination of some of the rights of one particular section and enhancement of the rights of another section. I think there should be legislation which defines the rights of all three groups.

**DM: Does Howard's 10-point plan do this?**

**EJ:** No. It proposes to extend pastoral rights to cover farming and will encourage the States to expand the rights of the pastoral lease holders at the expense of Aboriginal people and in many or most cases in a way which completely eliminates those rights. Mr Howard recognises this; he says the Federal Government will meet 75% of the cost of the elimination of native title rights. Around Cape York, Aboriginal and non-Aboriginal people gave a brilliant lead to the community by sitting down and negotiating a 'live and let live' agreement. That is the answer to the *Wik* decision.

**DM: Has the Conservative Agenda shifted concerns about Aboriginal issues from one of recognition of rights such as native title and reconciliation to the extinguishment of rights and the abandonment of reconciliation?**

**EJ:** Native title is still being determined by the processes set up by the *Native Title Act*. Where Aboriginal people are able to establish native title (as in *Mabo*) they still have an entitlement to native title. The effect of the 10-point plan is to provide a means by which Aboriginal people will lose those rights by virtue of an increase in the rights of those who hold the leases. *Wik* decided that where there is a conflict between native title rights and the rights of a pastoralist the lease holder's rights prevail.

**DM: Would you comment on the Prime Minister's refusal to apologise fully for the acts of past generations towards the 'stolen generations' as recently documented in the Human Rights and Equal Opportunity Commission Report 'Bringing them Home'? Is it essential that a public apology be made as a part of the reconciliation process?**

**EJ:** I think Mr Howard made a very serious error when he said he was prepared to and did apologise in a personal capacity but said that it was not appropriate for the Parliament or the Government representing the Australian people to make an apology. First of all the circumstances are such that (as Mr Howard himself said) an apology for what was done is entirely appropriate. There is absolutely no threat to any interests of the Australian people in having the Parliament or the Government on behalf of the whole people make an apology. What was done was done, substantially at least, in accordance with the then law. What we are apologising for is the state of the law. There may have been very particular incidents where children were taken other than in accordance with law. In those cases there may be rights to claim but the right will have nothing to do with an apology or no apology.

I add that an apology does not imply that the present generation is guilty of these gross acts. Of course they are not (and many migrants were not even in the country). We apologise for the past. Should the Japanese Government apologise for war atrocities? Is it relevant that the atrocities were committed by another generation?

Things are done badly at various points in history to all sorts of groups of people. In this particular case the treatment

of the Aboriginal people was disgraceful and over a very long period of time — the best part of 200 years. Of course it might be said that we owe an apology over a far wider area of activity than in respect of the stolen children. However, the stealing of children, taking them away from their parents is, in retrospect, an act so gross that a government that is prepared to apologise for it is saying 'well we did many other things wrong but this has transcended the others in the indignity of what occurred'.

**DM: Would you like to comment on the current debate about the abandonment of political correctness, for example, advocates of anti-political correctness letting it 'all hang out' and saying what they think ordinary Australians think. Do you think that this is damaging to the achievements of the past?**

**EJ:** I do not want to speak about political correctness. In the community it is very obvious at the present time that anybody who talks against the selling off of public assets, or speaks against outsourcing and that sort of thing is speaking against the accepted wisdom, against the political correctness on the side of the Right. I think we on the Left want to concern ourselves with more important questions than that. The technical and social changes over the recent past period are extremely vast. These changes are throwing up new problems, as indeed are the pressing environmental questions. We have to think carefully about how to deal with those problems and it is no good those on the Left just repeating old dogmas. It is absolutely useless. We have to work through the problems. We have to study the problems and understand them, work through them and find solutions.

For example, we can criticise what the Conservatives say about tax but that does not mean that we, by that fact alone, have got any better ideas to put forward about tax. We have to study the existing and other tax systems. We have to work out how the tax system can be changed in such a way as to encourage employment, the provision of better services, and a more equal society.

**DM: So are you saying that mere rejection of the Conservative Agenda by the Left is not enough?**

**EJ:** Certainly, I am saying that. We have to think. It is no good just talking in terms of public ownership of the means of production. Surely some parts of the economy should be socially owned. We have got to work out how extensive that social ownership should be and what form it should take and how people who are put in charge of it should be elected or appointed. We must also decide what degree of social control is exercised over the parts of the economy not socially owned; and what form of workplace democracy is to be introduced into these workplaces and these industries so that they become an expression of democracy and are not run by bureaucrats, on the one hand, or private entrepreneurs, on the other, without the people having any say in what happens.

**DM: Would you comment on the erosion of workers' rights and labour market reforms?**

**EJ:** I think the Coalition industrial policy is another of the serious attacks on living standards. They are proceeding cautiously in some respects but there is no doubt that their aim is to promote the Australian workplace agreements as the system of the future. This will have the effect of downgrading not only the role of trade unions but equally the role of the industrial tribunals — traditionally the umpire.

Already it is becoming clear that important principles are being undermined: hours of work are being dictated (huge numbers of people work 50 hours a week or more, to the disadvantage of the unemployed); sick leave and other rights are being bought off by pay increases (who pays benefits if a breadwinner falls sick?). These are major questions for the trade unions but also for the society.

For 90 years we have accepted that there will be disputes between employers and their employees, that both sides need their organisations, that the umpire decides. Now all that is being overturned. Increasingly the thrust is towards the employer negotiating with the unrepresented employee. Who is likely to benefit?

**DM: Would you comment on the immigration debate and multiculturalism?**

**EJ:** I think one of this country's greatest achievements is that we have agreed to become or taken the steps which have made us become a country which is made up of so many people from so many diverse communities able to live together overwhelmingly on reasonable terms. That is a wonderful achievement. Recognition by all other Australians of the strength, durability, and cultural significance of the Aboriginal people is a crucial point at this stage in the process of reconciliation.

As far as immigration is concerned I do not think the question of nationality should enter into it. The focus should be on the question of what sort of migrants we need in terms of skills, as well as bringing together relatives which is an important element. There are lots of things to be taken into account but not race.

**DM: How can we ensure that the recommendations of the Royal Commission into Aboriginal Deaths in Custody will be implemented under a Conservative Agenda? How would the Conservative Agenda affect some of these recommendations?**

**EJ:** This is a very wide ranging problem to discuss. It is important to note that the Royal Commission demonstrated there were aspects of the criminal justice system that did not operate fairly or properly from the point of view of Aboriginal people. But that must not be seen as the major cause for a disproportionate number of Aboriginal people being in custody. The major cause was and is (as the Royal Commission pointed out) the social disadvantage of Aboriginal people which is attributable to much wider issues than the criminal justice system — issues of land, of entrenched white supremacy, of health, of denial of any sort of democratic rights, unemployment, racism etc.

In the area of Aboriginal disadvantage there have been in many parts of Australia very substantial steps forward. The biggest step forward has been in relation to land: first of all the legislation in SA and the NT *Land Rights Act*, then *Mabo*. These were huge steps forward. But it is happening in many ways. You [referring to the interviewer] come from Flinders University Law School. The Flinders University Law School has about 12 Aboriginal students in the course this year. That is a step forward. Flinders University as a whole has something like 60 Aboriginal students throughout its schools and faculties. The same thing is happening around the country.

What is happening at universities is also happening in various places in secondary schools. In 1967 when the referendum was carried it was virtually unknown for an Aboriginal student to go past intermediate; but usually they did not

get near to intermediate. Now in many of our schools quite a lot of students are getting to Year 12.

There are Aboriginal people who are studying medicine and nursing and other areas associated with health services. In the CDEP schemes there are people who are getting skills in all sorts of different employment areas. Aboriginal footballers are having an enormous impact and part of that impact is reflected in the AFL anti-racism code. There has been an enormous growth in the number of Aboriginal people who are involved in cultural pursuits over a very wide area. You see some of them on the ABC. So I think a lot of progress is being made although there is still obviously an enormous amount more to be made before Aboriginal disadvantage ceases to be the biggest area of disadvantage in the country.

**DM: Do you think the Conservative Agenda will address Aboriginal disadvantage?**

**EJ:** I do not think the 'Conservative Agenda' will have a great deal of influence. It is clear that budget cuts will slow down some projects but I believe the process will go on. It will continue to happen because Aboriginal people are determined that it happens and there are enough non-Aboriginal people around (including some supporters of the Coalition) who desire to assist. The process will go on despite those who want to stand in the way of it. The gathering in Melbourne around the reconciliation program is an example of that.

**DM: How and why is the Conservative Agenda the same or different from the Conservative Agenda of the 1950s and 1960s?**

**EJ:** It is considerably different. The biggest thing that has changed is the society itself. The 1950s was the Menzies era. It was a period when following the war years, the production of goods needed in ordinary civil society had practically ceased. We had a huge backlog of unsatisfied demand. We had a huge program of immigration. People were coming in with all sorts of skills and backgrounds and engaged in all sorts of activity and they added to the demand for ordinary products. So there was an enormous expansion and growth in the economy to meet these demands.

There was a general acceptance that we should carry on with our tariff program. There was general acceptance about fundamental ways society should go. There was a very broad acceptance of the role of the central banking system. There was a very broad acceptance of the concept of industrial relations, the role of employer organisations and of the trade unions, the role of the court or commission, the propriety of a basic wage (which wrongly distinguished between men and women) but was basic to the economic rights of all men as a group and to all women as a group.

The disputes were to a very considerable extent about political questions, partly related (I think) to Menzies' desire to keep power. I think his anti-Communist legislation and referendum were largely directed towards creating a split in the Labor Party (which in fact happened). There were all the influences, of course, of the cold war involved in that.

Since then society has changed very substantially because of technological developments. We have seen the end of colonialism and the growth of the now independent countries of the third world which are developing their own economies and providing places where the multinationals can go to produce at reduced cost. Globalisation has become a major factor in their planning. At the same time, and along with this,

there is throughout society an increased concern for purely material things and less concern for community things. This is largely related to the development of size — of international corporations, an international press. The worship of money.

BHP can just decide it will not produce steel anymore in Newcastle. It has made absolutely fabulous profits but it has let its capacity to produce steel run down. So it just announces it will not produce steel anymore in Newcastle, which will mean our industries will have to import an increasing amount of steel from overseas which will put our balance of payments further back. This is not criticised. It is said BHP is doing the right thing in the interests of shareholders. This is the so called economic rationalist conception. Some industries have gone off shore and more are looking at ways of doing so.

To sum up, I think it is a vastly different agenda. Tariffs were in, now they are out. The level playing field never existed; it was recognised that it never existed. Now it does not only exist but everything is based on the proposition that it does exist. Progress is associated with the extent to which society develops in accordance with these allegedly economic rationalist ideas. The result is that we get the best part of 10% unemployment. In fact, it is probably something more like 15% of people who are substantially under-employed or who are absolutely unemployed.

Along with this goes another attitude which is almost an act of faith — that is, you cannot increase taxation. The Labor party says you cannot increase taxation. The Liberals say you cannot increase taxation whereas the fact of the matter is taxation *has* to be increased. The rich are getting richer and richer as figures available through the official Taxation Department reports to Parliament demonstrate. The number of people whose income exceeds two million dollars a year from dividends steadily rises.

The problem for the Left is how to tackle this situation. I think the Left is very disorganised at the moment — not at all surprising in view of the fact that economic rationalism has only gained wide acceptance since the Thatcher years. The Left has been affected by events in various parts of the world. It is obvious that the Left is beginning slowly to reassert itself on an international basis. We have to find a way of doing that in Australia.

**DM: Are there any lessons from the 1950s and 1960s the Left could use in developing responses to the issues raised by the Conservative Agenda?**

**EJ:** I am sure there are lessons but it requires a great deal of discussion to agree on them. I do not want to be dogmatic. But I think two things stand out. On the negative side we must avoid sloganising, avoid just accepting certain things as given. We must study, consider and understand. On the positive side we have to learn from our past about building social and community coherence, about promoting the overwhelming value of ordinary people.