



Australia's Commonwealth Self-determination Policy 1972-1998:

The Imagined Nation and the Continuing Control of
Indigenous Existence

Stephen Jenkins

Thesis submitted for the degree of
Doctor of Philosophy
The Politics Department
University of Adelaide
September 2002

Dedicated to the memory of my beloved Grandmother

Katherine Mary Thomas

September 1911 - July 2002

Time held me green and dying
Though I sang in my chains like the sea.
D.M.T.

Table of Contents

Acknowledgements	v
Abstract	vi
Introduction	1
<i>Section One</i>	
1 Indigenous self-determination and its loss through British possession	11
2 'Settlers' and a culture of control 1788–1972	37
<i>Section Two</i>	
3 Nation and culture: the development of the nation-state	74
4 The imagining of White Australia and its impact on Indigenous people	119
5 The rise and 'demise' of the white nation: controlling the Indigenous other	147
<i>Section Three</i>	
6 The Whitlam Government's policy of Indigenous self-determination: the continuation of control	175
7 The Fraser Government's policy of Indigenous self-management: the retreat from "self-determination"	203
8 The Hawke Government's policy of Indigenous self-determination: ATSIC as the vehicle for "self-determination"	227
9 The Keating Government's policy of Indigenous self-determination: in the big picture	260
10 The Howard Government's policy of Indigenous self-management: back to the past	292
Conclusion	326
Bibliography	336

Declaration

This work contains no material which has been accepted for the award of any other degree or diploma in any university or other tertiary institutions and, to the best of my knowledge and belief, contains no material previously published or written by any other person, except where due reference is made in the text.

I consent to this copy of my thesis, when deposited in the University Library, being available for loan and photocopying.

Stephen Jenkins

May 2003

Acknowledgements

I would like to thank Greg McCarthy and Clem Macintyre for their excellent supervision, encouragement, and support, they were always available and offered valuable advice and critiques on the thesis. Many thanks also go to Chris McElhinney and Tina Esca for their valued administrative and technical support. Equally thanks to the academic staff and post-graduates of the Politics Department for their friendship and support, in particular David Olney and Margaret Macilwain. Thanks also go to my good friends Michel Adams and Roxanne Leunig for all their valuable IT support, interest and encouragement.

I also want to acknowledge Margaret Priwer and the staff of the University of Adelaide Law Library for their assistance in my research through seemingly endless volumes of Hansard. Thanks also to Kerrie Round for her final editing advice.

Finally the completion of this thesis would *not* have been possible without the encouragement and full support of my long-suffering family to whom I owe the greatest debt. Thanks to my wife Claire and daughters Meryl, Alys, Sally and Julia.

2. Abstract

The central argument of this thesis is that the Australian nation is the primary obstacle to the granting of self-determination to Indigenous people. It will be argued that this is because the Australian nation is imagined and constituted as a monocultural entity, one that resists any divisions within the national space on the basis of culture or 'race'.

In the late eighteenth-century the British used contemporary English and international law to justify their possession of the Australian continent and never engaged with Indigenous people in any form of treaty, negotiations or purchase of their land. The doctrine of *terra nullius* came to be the central justification of possession, meaning that Australia was legally considered to be a continent without a people or law. From the earliest days of British colonisation Indigenous people began to lose their sovereignty and self-determination because a culture of control developed towards them by the colonisers. Since then they have been subjected to a succession of government policies that have sought to control almost every aspect of their lives. It will be argued that Indigenous people have been dealt with in this way because of how the Australian nation developed. It will be demonstrated that Australia adopted the classical European model of the nation, which resulted in the dominant Anglo-Celtic culture imposing its cultural values, norms and practices throughout its territory to the exclusion of Indigenous cultures.

In 1972 as a response to Australia's changing views on its history and relationship to Indigenous people, demonstrated in the success of the 1967 referendum, the Whitlam government instituted what was seen as a radical shift in Indigenous policy away from assimilation to one of self-determination. Thus acknowledging the need, and right, of Indigenous people to be able to determine their own lives.

Nevertheless, the thesis will argue that the change was more cosmetic than substantial and will through an analysis of five governments show that control has remained a primary concern. This was demonstrated when the 1992 High Court *Mabo* judgement overturned the doctrine of *terra nullius*, but failed to fundamentally alter the exercise of power over them. As a result of this continuing control and disempowerment Indigenous people remain unable to determine their existence according to their own cultural values, norms and practices. The thesis will further argue that the Australian nation needs to be re-imagined and reconstituted in an inclusive way that will accommodate Indigenous self-determination.

Introduction

Throughout Australia's post-1788 history Indigenous people have been denied the recognition and accommodation within the nation of their inherent right to self-determination as distinct peoples. Instead, they have been subjected to a succession of overt, as well as more subtle, forms of control. This control over Indigenous people has ranged, in the extreme, from violence perpetrated by settlers and governments,¹ through to policies that purport to be restoring their "lost power of self-determination".² For most of Australia's colonial history the assumption was that Indigenous people would become 'extinct' and thus resolve the Indigenous 'problem'. When it was realised that they would survive 'settlement' a policy of assimilation was adopted whereby they would have to conform to Non-indigenous modes of living. In the early 1970s there was undoubtedly a shift in government attitude that gave recognition to the right of Indigenous people to control their own existence. However, despite the shift from a policy of assimilation to one of self-determination there remains a sense of apprehension on the part of governments, irrespective of their ideology, about what the Australian nation would become if Indigenous people were empowered to determine their own future. It is argued in this thesis that in order to accommodate substantive Indigenous self-determination there needs to be a paradigm shift in the dominant conception of nation, or a re-imagining of the nation, to one that inclusively recognises the legitimacy of the original and sovereign rights of Indigenous people. Nevertheless, the policies of the major parties remain entrenched in a 'white Australia' paradigm of nation, one that

assumes the 'superiority' and dominance of Anglo-Celtic culture. As a consequence, there has been a demonstrable attitude of ambivalence towards Indigenous people. This attitude is evident in the informed and seemingly genuine desire on the part of Commonwealth governments to resolve the Indigenous 'problem', but which is negated by the overwhelming 'need' to perpetuate control over them in the interest of national unity and social cohesion, as though the integrity of the nation would somehow be threatened by the accommodation of Indigenous self-determination.

The origin of the Australian nation began at a significant time in the development of modern Western national polities. The colonisation of Australia in 1788 corresponded with the formation of nations that had developed out of such significant events as the French and American revolutions. The decline of religious institutions and monarchic dynasties made way for new forms of governance based on humanistic and enlightenment principles, out of which developed the ideas of nations and nationalism. In parallel there also developed a body of international law that defined the rights and obligations of nations, including the concept of self-determination. It will be argued that Australia developed in the form of a classical European nation, that is, as a hegemonic mono-cultural polity. The inevitable consequence of this was the exclusion of Indigenous people from the nation, while nevertheless absorbing these people into the territory of the nascent nation. It will also be argued that a presumption of the 'superiority' of the national culture is embedded within the idea of the Australian nation, which consequently implies the 'inferiority' of Indigenous culture. The co-existence of two diverse cultures on the Australian continent resulted in conflict and the subsequent dispossession of Indigenous people by the dominant European colonisers, depriving them of their

means to self-determination. It will further be argued that culture is the formative material out of which national institutions emerge, inclusive of legislatures, executives, judiciaries and bureaucracies; and out of which defining national documents also emanate, such as constitutions, legislation and policies. Indigenous people had no influence over, or input into the processes that formed the Australian nation, its institutions or its defining documents. They were excluded from the Constitution and enfranchisements, and were subjected to the dictates of discriminatory policies without recourse. Indigenous people were subject to the nation rather than being an accepted and integral part of it.

The cultural exclusivity of Australia was codified through the adoption of the White Australia policy that became an integral and defining part of the imagined nation, enduring until the early 1970s. Throughout the period between colonisation and Federation, as well as in the period between Federation and the abolition of the White Australia policy, overt methods of control were exercised over Indigenous people. However, it will be argued that while the idea of a White Australia was abandoned in 1972 in favour of a multicultural Australia, the concept of a single dominant 'white' culture, representative of the nation, remains undiminished in terms of who formulates and implements policy. This cultural dominance was expressed in the rationale of the multicultural policy in that cultural diversity had to be 'managed',³ a euphemism for Anglo-Celtic 'control' of cultural minorities. This control is equally true of Indigenous policy. As a consequence, an attitude of ambivalence towards Indigenous self-determination prevents its realisation, and thus perpetuates the control of Indigenous existence through more subtle means.

Through the accumulative effects of the 1967 constitutional referendum that enabled the Commonwealth government to legislate on behalf of Indigenous people and to include them in the national census, combined with the 1972 policy transition towards self-determination, Indigenous people were ostensibly brought into the nation. However, control remained an integral part of the relationship between Indigenous people and governments. This control was effected through government policies that defined how self-determination by Indigenous people would be achieved, reinforcing the idea that the decision-making power over Indigenous existence was retained by governments. The change in policy was accompanied by a shift in the control of Indigenous people outside the nation to their control within the nation. A primary aim of this thesis is to demonstrate that the Commonwealth policies of self-determination and self-management are not formulated and implemented by Indigenous people for Indigenous people. Conversely, and in contradiction of policy nomenclature, the policy process is controlled by Non-indigenous governments for Indigenous people, as was the policy of assimilation. Thus the policies of self-determination and self-management, in theory and practice, are a continuing form of control exercised over Indigenous existence that seek to assimilate Indigenous people to Non-indigenous values, norms and practices. The converse of this is that Indigenous people need economic capacity and political freedom restored to them on the basis of their own cultural values, norms and practices to be self-determining.

The emphasis of the thesis on self-determination is a theoretical rather than a practical one. The analysis of policies is to illustrate the inherent ambivalence and apprehension of governments towards the theoretical basis of Indigenous self-

determination and its implications for the nation, as opposed to providing a straightforward analysis of policy. That is, the analysis has not considered the practical outworking of the self-determination and self-management policies, rather the focus has been on the policy intentions of governments in the period 1972–1998. This is based on the premise that if the discourse of self-determination policies does not reflect a commitment to substantive and effective self-determination for Indigenous people, then as a consequence neither can their practical implementation.

It is necessary at this point to make unequivocally clear that the thesis is in no way an attempt to speak for, or represent, the views of Indigenous people. The thesis is entirely intended to be a Non-indigenous analysis of a problematic ‘Indigenous’ policy formulated by Non-indigenous governments *for* Indigenous people. The thesis demonstrates the link that exists between the dominant conception of nation within Australia to government resistance to the granting of self-determination to Indigenous people. In part, the fact that Non-indigenous governments have identified their Indigenous policies either as a policy of self-determination or self-management gives tacit recognition to the right and need for Indigenous people to control their own lives. It will also be argued that the exercise of control over Indigenous people has led to many of the entrenched problems that they continue to suffer, primarily through their disempowerment and developed dependence on government welfare. The proof of these policy failures has been a major finding of both the *Aboriginal Deaths in Custody* and *Bringing Them Home* reports, both of which refer to the control of Indigenous people and their lack of self-determination.⁴ What is being presented in this thesis is evidence that the culturally exclusive nature of the Australian nation prevents it from ceding to Indigenous people the

empowerment that they need to resolve their situation. The perpetuation of control by a dominant culture over an Indigenous minority will never resolve the Indigenous 'problem'. What is required is the ability of Indigenous people to formulate and implement their own policies in ways that will not threaten disintegration of the Australian nation and will instead provide the grounds for the establishing of a national co-existence of Indigenous cultures in co-operation with the dominant Non-indigenous culture. Further, it should be the right entirely of Indigenous people to define the extent of their self-determination. Indigenous people are not a cultural minority in the same way that immigrants are cultural minorities. Indigenous people have legitimate claims to inherent sovereign and self-determination rights in ways that no other Australian people have, that is, as the original occupiers and owners of the continent, of which they were dispossessed without agreement, treaty or compensation. These issues need to be resolved before any substantive advances can be made, and, as this thesis will argue, require a re-imagining of the nation in a way that gives recognition and accommodation to Indigenous self-determination not on the basis of a contingent, government-of-the-day policy, but as an inherent and constitutionally-protected right.

It is also necessary to state that the claims for land rights and the establishment of native title will not be discussed directly, rather the central issue is the conceptual notion of a culture of control in relation to Indigenous self-determination. This focus on control is not to deny the centrality of land to Indigenous culture. Instead, the thesis takes a more holistic approach towards self-determination, as this concept has a broad application relating to political, economic and social empowerment. Further, if the focus of self-determination for Indigenous people was to be primarily upon

gaining titles for traditional lands, then the majority of Indigenous people would be excluded from such gains, having 'lost' their connections to the land through colonial dispossession.

Clarification of Terms and Thesis Perspective

Aboriginal and Torres Strait Islander people consist of many distinct and separate peoples. As a matter of convenience, the term 'Indigenous people' will be used throughout the thesis to identify them collectively as the original owners and occupiers of the continent and its islands. The term 'Non-indigenous' will be used in reference to those who represent the majority Anglo-Celtic culture. The thesis is not intended in any way to represent an Indigenous perspective; rather, it is a Non-indigenous critique of the Non-indigenous treatment of Indigenous people from a perspective of political and social justice.

Thesis Structure

The thesis is divided into three distinct sections: the first section, comprising Chapters One and Two, analyses the problem of self-determination that is being addressed and gives evidence of the culture of control that developed from colonisation; the second section consists of three theoretical chapters, Chapters Three, Four and Five, which address the idea and formation of the classical nation and the ways in which this has influenced the conception and functioning of the Australian nation in relation to Indigenous people; the final section comprises Chapters Six to Ten, which are an analysis of the five Commonwealth governments from 1972–1998 and the ways in which they approached the issue of Indigenous self-determination and self-management.

Chapter One considers the origin and nature of the ‘problem’ that the thesis is addressing, that is, the loss of Indigenous self-determination. Of primary importance to the thesis is the nature and definition of the concept of self-determination, and this is addressed in relation to its international and national context. The first chapter also focuses on the legal issue of *terra nullius* and how it was used to deprive Indigenous people of their right of self-determination. In Chapter Two the focus turns to how the loss of Indigenous self-determination was paralleled with the systematic control of Indigenous people by colonial and state government policies. The control exercised over Indigenous people is constant throughout Australia’s history, and the level of this control will be demonstrated in a survey of Indigenous policies from 1788 to 1972, when there was the ostensible shift in policy philosophy to one of a Commonwealth Indigenous self-determination policy.

The second and theoretical section of the thesis focuses on the classical formation of the nation and its influence on the creation of the Australian nation. Chapter Three draws on the work of Benedict Anderson and Ernest Gellner and their respective ideas of the “imagined community of the nation” and the “invented nation” as a basis for the analysis in the following two chapters. Both theorists argue that the nation as a cultural construct implements programmes to ensure the cultural homogeneity of the nation through processes of assimilation. Also included in this Chapter are a range of liberal perspectives on the nation and its capacity to accommodate Indigenous rights, drawn from the work of Will Kymlicka, Paul Patton, Charles Taylor and Chandran Kukathas. Chapter Four is an analysis of the formation of the Australian nation from colonisation through to Federation, and the centrality to this

process of the development of the White Australia policy. Chapter Five then considers the dominant position of the imagined 'white nation' and its impact on Indigenous people post-Federation to the change of Indigenous policy in 1972.

The third section of the thesis comprises Chapters Six to Ten, with each chapter being a separate analysis of the five consecutive governments from 1972–1998—the Whitlam, Fraser, Hawke, Keating and Howard governments. This section draws on evidence gathered from 26 years of Commonwealth Hansard, in conjunction with policy documents and political speeches. In the above period Labor governments adopted the policy of Indigenous self-determination, while the Coalition governments adhered to a policy of Indigenous self-management. The two policies, on the basis of nomenclature, suggest a significant difference in their implications for Indigenous people, however, it will be established that in theory and practice there is little to distinguish between them. While this finding may come as a surprise to many who champion the Labor party over conservative parties, the thesis proves that despite the difference between the parties their policies are based on the same particular paradigm of nation, one that excludes meaningful self-determination for Indigenous people.

The body of literature that addresses the position of Indigenous people and the difficulties that they face is large. However, what this thesis presents is a new perspective on the Indigenous 'problem' that does not look for resolution within the Australian nation, but instead argues that it is the Australian nation itself that is the greatest obstacle to Indigenous empowerment and wellbeing. This is demonstrated by drawing on the work of numerous authors that have engaged in Indigenous policy

research and critique.⁵ Similar use is made of the works of Australia's cultural critics who have engaged in an examination of the nation's historical 'race' and 'culture' policies.⁶ These works have been incorporated with the thesis's analysis of Commonwealth Hansard, but where this thesis diverges is that it considers these combined analyses in the context of classical European nation theory. This methodology offers insights into the ways in which the Australian nation militates against the self-determination of Indigenous people, despite the ostensible Commonwealth policy commitment to the granting of that right. The thesis therefore offers a unique approach to analysing Indigenous issues in Australia, combining both cultural and empirical research into the complex question of self-determination.

¹ See Reynolds, Henry, (1987) *Frontier*, Allen & Unwin, Sydney.

² See Whitlam, Gough, (1973) *Aboriginal News*, Vol. 1 No. 2, August: 2.

³ See Office of Multicultural Affairs, (1989) *National Agenda for a Multicultural Australia*, AGPS, Canberra: 1.

⁴ Johnston, Elliott, (1991) *Royal Commission into Aboriginal Deaths in Custody: National Report Vol. 2*, AGPS, Canberra.

Wilson, Sir Ronald, (1997) *National Inquiry into the Removal of Aboriginal and Torres Strait Islander Children from Their Families, Bringing Them Home*, Human Rights and Equal Opportunities Commission, Sydney.

⁵ e.g. Henry Reynolds, Scott Bennett, David Hollinsworth, David Roberts.

⁶ e.g. Patricia Grimshaw, Kathryn Manzo, Stephen Castles, Richard White.

1. Indigenous self-determination and its loss through British possession

Introduction

Australia has had for more than a decade a Commonwealth policy of reconciliation that seeks to resolve the historical and contemporary difficulties in the relationship between Indigenous and Non-indigenous Australians.¹ This thesis will consider the cause of these difficulties. It will be argued that the primary cause of the dilemma is the loss of Indigenous self-determination through British possession of the continent and through the subsequent control that has since been exercised by Non-indigenous people and governments over the lives of Indigenous people. This chapter will give a context to the origin and nature of the Indigenous 'problem'. It will consider the concept of self-determination which will be defined in both its national and international contexts, followed by an analysis of the possession of Australia by the British and how it deprived Indigenous people of their right to self-determination through the declaration of the continent to be *terra nullius*, that is a land without a people and law.

The notion that Australia was *terra nullius* is a familiar story in the context of recent writings on Indigenous history and politics.² Nevertheless, in this chapter it will be explored in terms of the Indigenous right of self-determination in contrast with the official concept of self-determination as it is represented in the Commonwealth policy introduced in 1972 to displace the policy of assimilation. The significance of

the loss of self-determination through colonisation carries directly into the present, as the culture of control of Indigenous people developed from 1788 onward has changed principally only in its modes and methods.† It will be argued in later chapters that the Australian nation has developed culturally and institutionally to the exclusion of Indigenous people and that this is the primary obstacle to the process of reconciliation, as it necessitates that Indigenous people should be controlled on the basis of their cultural difference. Assimilation was intended to eliminate their difference in order that they should become a part of ‘mainstream’ Australian culture. While, the implementation of an Indigenous self-determination policy in 1972 gave tacit recognition to the flawed rationalé of the assimilation policy and the need for Indigenous people to be able to control their own existence, this thesis will demonstrate that Non-indigenous ‘control’ remains a distinguishing feature of respective governments’ notions of self-determination and thus demonstrates that reconciliation still requires the effective and substantive extension of the right of self-determination to Indigenous people. This must take place not on the basis of Commonwealth policy but as a Constitutionally protected right of Indigenous people as the original sovereign peoples of the continent.

It will be argued that the necessity for ending the culture of control is evidenced by entrenched Indigenous disempowerment, disadvantage and dysfunction. This argument is well supported by two recent and extensive analyses of Indigenous life, the *Royal Commission into Aboriginal Deaths in Custody* (1991) and the *National Inquiry into the Separation of Aboriginal and Torres Strait Islander Children from Their Families* (1997), also known as the *Bringing Them Home* report. Both analyses have found that control was exercised, either well intended or overtly

discriminatory, through policies, policing and an entrenched welfare mentality towards Indigenous people. The Royal Commission and the National Inquiry both recommended Indigenous self-determination as a means of countering the effects of discrimination and control. However, in order to achieve this goal the Australian nation must be re-imagined and reconstituted in ways that will accommodate genuine Indigenous self-determination. The issue that Indigenous people are denied self-determination on the basis of their own cultural values, norms and practices, and only possess self-determination as it applies through United Nations Covenants to “whole peoples” of nation-states will be addressed in detail below. Self-determination for them in this context means having to conform to Non-indigenous values, norms and practices that pervade the national institutions, laws, and policies that are formulated on their behalf.

Origin and Nature of the ‘Problem’

¶While there have been many changes to the ways in which Indigenous people have been treated by Non-indigenous governments and people, control has remained the distinguishing feature of the relationship since 1788. Its broad manifestation has, for the most part, but not entirely, moved from overt and explicitly racist actions and attitudes that portrayed Indigenous people as ‘inferior’, ‘primitive’ or ‘uncivilised’, to today where the exercise of government and bureaucratic control of Indigenous policies and funding prevents genuine Indigenous self-determination.¶ This later discrimination is founded on the ‘normative’ liberal notion of citizenship of those who live within a liberal democratic society, one that resists the recognition of Indigenous rights on the basis of cultural difference. There has *never* been in Australia’s post-settlement history any attempt or inclination by Non-indigenous

governments or people to co-exist with Indigenous people on the basis of cultural equality, one that accepts and respects *as a whole* Indigenous law, society, culture or land tenure. This bold assertion is supported in the *Australian Law Reform Commission Report* of 1986 that noted “although there had been some recognition of customary laws and traditions by some courts and legislation, generally such recognition has been ‘exceptional, uncoordinated and incomplete’” (Bourke, 1994: 61). This denial of Indigenous self-determination has created a very difficult and complex national problem. The rejection of a co-existence of cultures has resulted in almost universal dispossession, disempowerment, deprivation, marginalisation and disadvantage on the part of Indigenous people. They have been constructed, viewed and controlled as the subordinate and marginal ‘other’ by Non-indigenous governments and people. This has occurred on the basis of their cultural difference and an inability or unwillingness to comprehend and accept the legitimacy of Indigenous culture and rights on the part of Non-indigenous Australia. This is underpinned by a relationship of power in which the Non-indigenous population has been able to maintain domination over Indigenous people through numerical and technological ‘superiority’, which has commonly been interpreted as ‘racial’ and ‘cultural’ superiority based on the enlightenment concepts of ‘civilisation’ and ‘progress’.

The Australian nation is not constituted by, nor does it function according to, *acultural* laws, principles or norms. The Australian nation-state is in practice an Anglo-Celtic cultural hegemony that resists substantive cultural difference, while it rhetorically supports superficial and ‘non-threatening’ expressions of difference under a policy of multiculturalism.³ The rhetorical initiative of governments to

facilitate reconciliation is seriously undermined by their refusal to accommodate genuine Indigenous self-determination. Reconciliation without self-determination requires that Indigenous people continue to submit themselves to Non-indigenous control, when it is control and the concomitant loss of self-determination that has caused the injustice and disadvantage that Indigenous people suffer. This is supported by the findings of the *Royal Commission into Aboriginal Deaths in Custody: National Report Vol. 5* and the *Bringing Them Home* report.

Indigenous people are increasingly calling for the establishment of self-determination as an inherent Indigenous right under international law.⁴ Given this call it is difficult to envisage the willingness of Indigenous people to be reconciled to Non-indigenous Australia when they will continue to be denied the right to control their own existence. This point was also stressed by Commissioner Elliott Johnston QC. In his *National Report on Aboriginal Deaths in Custody*, he stated that “the principle of self-determination must be applied at all stages if Aboriginal commitment to the process of reconciliation is to be achieved” (Johnston, 1991: 64). Internationally there is a movement towards the establishment of the right to self-determination for Indigenous peoples. The United Nations Working Group on Indigenous Populations’ (WGIP) position is that self-determination needs to be recognised as an inherent Indigenous right under international law. Self-determination, they argue, is necessary for the resolution of the problems Indigenous people face as minorities within nation-states, as well as for their long term survival and development (Iorns, 1992: 11). However, the issue of Indigenous self-determination is complex as it necessarily implies sovereignty, and this is perceived as a potential threat to the unity and integrity of nation-states (Iorns, 1992: 11). Nevertheless, it will be argued that it

is necessary, in order to eliminate the widespread Indigenous political and social disadvantages, for Indigenous people of Australia to be granted self-determination, and that it is only under these circumstances that a *meaningful* reconciliation can be achieved. Johnston further argued that if the process of reconciliation is to be successful the “principle of self-determination ... should be the guiding principle for all change in Aboriginal affairs” (Johnston, 1991b: 64). On this basis consideration will first be given to defining the concept of self-determination.

PART I ***SELF-DETERMINATION***

In order to account for the historical loss and current refusal to grant the right of Indigenous self-determination it will be necessary to define and explain self-determination according to its twentieth century context, as self-determination was not a developed concept of international law in the eighteenth century (Anaya, 1996: 76). This raises the question of how current international law can be applied to events that occurred in the eighteenth and nineteenth centuries. While these principles were not then developed or articulated in today’s terms, they were nevertheless implicit in the relations between the emerging European nation-states and between those nation-states and their people (Anaya, 1996: 76). It can be argued that the principles of self-determination are in fact universal and apply to all peoples whose lives are ordered by systems of government and law, and who occupy defined geographical territories free from the interference of external powers. The Indigenous people who inhabited the Australian continent before European settlement can be said to have been self-determining according to its current definition in international law, even though these people may not have articulated or reflected on their existence in such a way. The central argument of this chapter is

that Indigenous people began from 1788 to progressively have their exercise of, and right to self-determination removed from them, through their loss of land, sovereignty, economy, law and society. The effects of this loss can be identified throughout the whole of Australia's post-1788 history.

What is Self-determination?

Self-determination as a right has been enshrined in two United Nations covenants, the International Covenant on Civil and Political Rights (ICCPR), and the International Covenant on Economic, Social and Cultural Rights (ICESCR) (Henkin, 1995: 197). Despite its importance as a basic human right under international law, self-determination is a contentious and ambiguous concept. Louis Henkin, an expert in international law, has argued that "There is no agreement as to ... what the right of self-determination implies" (1995: 198). This view was supported by Johnston, who argued that:

The confusion and uncertainty about the definition of self-determination reflects ... the fact that it is, indeed, an evolving concept, one which encompasses a wide range of ideas; different aspects receiving emphasis at different times. It is easier to determine when self-determination does not exist than it is to articulate policies and processes which would be universally accepted as being both consistent with the concept and be achievable in practice. (Johnston, 1991a: 504)

Despite the ambiguity about when self-determination exists and how it can be identified and facilitated, it does have a specific meaning. Succinctly, self-determination "is an expression ... of the aspiration to rule one's self and not be ruled by others", that is, "not just to be 'free', but to be 'free from' what [is] perceive[d] as 'others'" (Ronen, 1979: 7). Thus self-determination can be defined as freedom from the interference of "others" and freedom to determine one's own existence.

Further defining the concept ICCPR Article 1 declares that: “All peoples have the right to self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural developments” (Dodson, M., 1993: 41). Unambiguously it is the right of “all peoples” to be self-determining in relation to their political, economic, social and cultural status. However, in international law nation-states are equated with “peoples” in relation to the right of self-determination (Iorns, 1992: 63). It is this issue that complicates the claim of Indigenous peoples to the right of self-determination. In the international context self-determination is descriptive of the freedom of a nation-state’s people to determine their own existence, free from the interference of peoples of other sovereign states. Iorns argued that this is the “legitimate external aim” of self-determination in relation to other nation-states (Iorns, 1992: 59).

In its national, or intra nation-state application “it is the people as a whole that is considered to be the unit of self-determination and not any particular part of the whole people” (Iorns, 1992: 58). Extending this idea, Patrick Thornberry has argued, in relation to national self-determination, that it is “‘whole’ territories or peoples” that “are the focus of rights, rather than ethnic groups” (Iorns, 1992: 35). This suggests the integrity and unity of a *whole* people, inclusive of the majority culture and the Indigenous minority, within the particular nation-state in which they live. The implication of this is that an Indigenous minority, as citizens of a nation-state, are an integral part of its ‘people’ as a whole and have no separate right to self-determination. As was stated above this conforms with the liberal notion of ‘normative’ citizenship that theoretically takes no account of cultural or ethnic

difference. However, as will be established in Chapter Three, culture is in fact the central concept of the nation-state. As a consequence 'normative' citizenship becomes for Indigenous people the covert rationalé of policies that seek to control them and assimilate them to the dominant national culture.

Despite the conceptual unity between the nation-state and its people as a "whole", Henkin has argued that in international law "There is no agreement as to what (or who) is a people" (1995: 198). This dispute about what constitutes a people has arisen in debates between nation-states and Indigenous peoples concerning their right to self-determination. As part of the process of drafting the Declaration on International Indigenous Rights, the WGIP invited national governments whose territories incorporate Indigenous peoples to participate in the forum. In the ensuing negotiations the representatives of these governments "rejected the use of the term 'peoples' and instead referred to indigenous 'populations' so as to avoid any implication that indigenous peoples are thereby entitled to the right of 'all peoples' to self-determination" (Iorns, 1992: 13). The use of the term "populations" avoids the implication of original sovereignty that underpins Indigenous claims for self-determination, and equates the status of Indigenous peoples with that of migrant minorities, an analogy that clearly cannot be made. In support of this assertion, James Anaya has argued, "Indigenous groups insist on being identified as 'peoples' rather than 'populations' so as not to be reduced to simple aggregations of individuals" (Iorns, 1992: 49). The basis for the rejection of the term "populations" has been articulated by Erica-Irene Daes, the Chairperson-Rapporteur of the WGIP, who argued that:

Indigenous groups are unquestionably "peoples" in every political, social, cultural and ethnological meaning of this term. They have their

own specific languages, laws, values and traditions; their own long histories as distinct societies and nations; and the territories in which they have lived. It is neither logical nor scientific to treat them as the same “peoples” as their neighbours, who obviously have different languages, histories and cultures. (Dodson, M., 1993: 53)

The differentiation between the concepts of “peoples” and “populations” is central to the issue of Indigenous self-determination, and is used by governments to reject the extension of that right. Clearly Daes’ argument for the Indigenous right to a “people” status cannot be dismissed and the issue will inevitably have to be resolved by the international community. Despite the importance of the distinction it is necessary at this point to note that a United Nations Declaration does not establish rights in international law, in the way that international covenants do; they are intended to be guides to state behaviour (McRae, 1997: 156). However, United Nations Declarations do facilitate international pressure on states that do not comply with their guidelines. In addition they serve to further the cause of Indigenous peoples in the international community and for this reason Indigenous peoples continue to engage in these forums.

Nevertheless, international law as it stands recognises that only Indigenous peoples colonised through foreign occupation are entitled to the right of self-determination. Henkin has argued that “self-determination outlaws traditional colonialism over unwilling peoples; [but] apparently it does not include a right of secession from an existing state for a ‘people’ or for inhabitants of part of the territory of a state” (1995: 198). The international legal position is that: “indigenous peoples are not entitled to self-determination under international law as the legal right of self-determination is only appropriate to the process of decolonization and liberation from occupation and that, under the relevant legal criteria, indigenous peoples are not colonized under

foreign occupation” (Iorns, 1992: 13). As a consequence, Indigenous people are considered to have the right to self-determination only within the context of the nation-state within which they live (Iorns, 1992: 67). However, to counter this position, the WGIP has argued in relation to the claim to self-determination that “this right is flexible and does not necessarily imply separatism or secession” (Iorns, 1992: 12). It is in this framework that Indigenous self-determination can be achieved within Australia, in a way that would not require “separatism or secession”, but flexibility in relation to Indigenous rights. However, as Hurst Hannum has observed, “governments tend to equate all demands for self-determination with independence and secession” (1990: 672). Of primary concern to the existence of nation-states is the preservation of their sovereignty, territorial integrity and national unity. The granting of self-determination to Indigenous people is perceived by governments as having the potential to undermine their capacity for maintaining supreme political authority. Nevertheless, in discussions with the WGIP:

most government representatives have agreed that indigenous peoples should be allowed ‘an increased degree of self-determination ... in their relations with respective Governments’, they have also made it clear that any standards must not imply any right of secession of indigenous peoples from existing independent states. The government representatives have accordingly rejected any recognition of a full right of self-determination for indigenous peoples. (Iorns, 1992: 12-13)

While governments have conceded that there is a legitimate need to grant a greater degree of self-determination to Indigenous people, the problem lies in who will decide what self-determination will mean. Self-determination is inherently about relations of power, and it is the Non-indigenous state which monopolises the political power to which Indigenous people are subjected. Consequently it is the state that defines the meaning of Indigenous self-determination. Even if there is goodwill on the part of governments demonstrated in the formulation of Indigenous self-

determination policies, they are conditional and limited, and ultimately demonstrate and maintain effective government control. Johnston illustrated this point when he argued that: "Governments can genuinely believe that their policies give practical recognition to self-determination, and yet in the eyes of Aboriginal people the policies not only fail to do so but, at times, are regarded as being founded on the concept of assimilation - the very antithesis of self-determination" (Johnston, 1991a: 502). The reason that the policy of self-determination can be viewed as one that is assimilationist, from the perspective of Indigenous people, is that it is granted subject to "the legal structures common to all Australians" (House of Representatives Standing Committee on Aboriginal Affairs, 1990: 12). Australian legal structures do not reflect Indigenous laws or cultural norms, and are therefore not common to all Australians, but rather are the legal structures of the dominant Anglo-Celtic culture to which all Australians are subject. Inherent in the Committee's statement is national sovereignty, something on which the state refuses to compromise.

Therefore, one of the fundamental obstacles to Indigenous self-determination is the issue of state sovereignty. Iorns argued that in the interest of human rights there needed to be a shift in the way that sovereignty is understood in international law. She stated that it is: "the concept of sovereignty, as presently understood and applied by states, that poses the ultimate barrier - that no right of self-determination is recognised in international law where it clashes with the world system of state sovereignty. ... state sovereignty is given priority over other, competing claims, even when those claims are matters of fundamental human rights" (Iorns, 1992: 6). Clearly the preservation of state sovereignty has the potential to entrench violations

of basic human rights particularly in relation to Indigenous self-determination. Iorns adds that:

From the first session, the position of indigenous peoples' representatives at the Working Group has been that a full legal right of indigenous peoples to self-determination must be included in any standards that the Working Group devises under its mandate. The indigenous representatives have consistently maintained that a right of indigenous peoples to self-determination is the most important right that any standards could recognise and should thus be included as a fundamental element of any document. The reasons given for this emphasis on the right of self-determination are twofold. First, it is argued that it is essential for their survival and development as peoples and thus 'the key to the implementation of solutions for [their] problems.' Second, it is argued that self-determination is an inherent right of peoples (including indigenous peoples); this right entails inherent sovereignty that cannot be denied. (1992: 11)

As a consequence the WGIP is resolute in its demand for the recognition of self-determination as an inherent right of Indigenous peoples, free from the implication of secession. Clearly, self-determination is viewed by the WGIP as fundamental to the resolution of the problems they face as disadvantaged peoples existing within nation-states, as well as for their long term survival. The Indigenous claim for self-determination is central to this thesis in relation to Aboriginal reconciliation and the concomitant resolution of Indigenous disempowerment and disadvantage. It is difficult to envisage an Indigenous commitment to a reconciliation process that does not address the issue of self-determination as an inherent human right. Nevertheless, in 1988 the Australian government's representatives at the United Nations forum on Indigenous rights resisted the claim to Indigenous self-determination and argued that "the declaration must specify that the references to 'peoples' and to 'autonomous institutions' do not imply either the full right to self-determination 'as understood in international law' or the identification of a unique set of rights for a separate group within the state" (Iorns, 1992: 13). Consequently, there continues to be an impasse between the Indigenous claim for self-determination in Australia and the resistance

to such a right by consecutive Australian governments. There are two main reasons for the resistance to Indigenous self-determination by Australian governments. The first, is the essential nature of what a nation-state is and how the Australian nation has developed. The second, the culture of control that has developed towards Indigenous people since 1778. The origin of the culture of control will now be considered in relation to the possession of the continent by the British and the establishing of Australia as *terra nullius*.

PART II ORIGIN OF THE PROBLEM

Possession, Terra Nullius and the Loss of Indigenous Self-determination

Since the early 1980s there has been a growing debate concerning the legitimacy of the claim to the Australian continent by the British Crown in 1770. As a direct result of this debate the High Court, in the *Mabo (2)* (1992) case, overturned the notion of Australia being declared to be *terra nullius* at the time of British possession (Council for Aboriginal Reconciliation, 1994a: 23-4). The High Court's decision gave recognition to the fact that Indigenous people had inhabited and were owners of their traditional lands in pre-settlement times (Council for Aboriginal Reconciliation, 1994a: 24). The doctrine of *terra nullius* is one of the fundamental factors that has entrenched the discriminatory treatment of Indigenous people, as they were considered to have no legitimate claim to the continent and thus no inherent right to self-determination. This culturally specific judgement on the lands of Indigenous people and their rights parallels the development of the classical European nation-state. As will be argued in Chapter Three, through the work of Benedict Anderson and Ernest Gellner, nation-states developed out of notions of cultural superiority,

domination and homogeneity within a given national territory to the exclusion of other 'lesser' cultures. Another primary issue that entrenched the culture of control is that of the so called 'primitive' conditions in which Indigenous people were believed to exist, based on a perceived racial hierarchy. This was 'evidenced' by the lack of governmental and legal systems recognisable to British observers, and the fact that Indigenous people did not cultivate the land as 'civilised' European peoples, again reflecting the ideas inherent in the classical development of the nation-state. The issues of *terra nullius* and a racial hierarchy will be addressed below, but attention will first be given to the basis and legality of the British possession of the Australian continent.

Terra Nullius and the Legality of Possession

The work of historian Henry Reynolds has cast considerable doubt on the claim to legality of the British possession of Australia in 1770 through his study of historical texts, legal documents and personal journals (1996). Nevertheless, it is necessary to note that the same sources were also used to justify the British claim to the continent and the resulting Indigenous dispossession (McRae, 1997: 139). The ambiguous nature of the legality of possession was able to be obfuscated in Australia's history through the fiction of *terra nullius*. However, the ambiguity surrounding the legality of possession and settlement needs to be considered in order to demonstrate how the culture of control was able to be justified and perpetuated in the relationship between Indigenous people and the colonisers. This will be made evident through the ways in which Indigenous people and their lands were viewed by the British, and how English and international law was applied to the situation in order to justify the possession.

English Law and Possession

A British statesman and scholar Francis Bacon stated that it was necessary for “a plantation [to be] in a pure soil, that is, where people are not displaced to the end to plant in others, for else it is rather an extirpation than a plantation” (Reynolds, 1996: ix). In the early seventeenth century, long before the settlement of Australia, the potential consequences of colonial “plantations” on Indigenous peoples were recognised. A meaning of “extirpation” includes the “extermination of a race”, and also the “action of expelling or destroying as undesirable” (*Shorter Oxford English Dictionary*). Therefore, the plantation of a people in a place already occupied, in Bacon’s terms, would result in the destruction of the Indigenous population or at best their expulsion. To prevent this Bacon argued that the plantation should occur “in a pure soil”, that is, an unoccupied territory. However, there was ambiguity concerning what constituted an “unoccupied territory” or land that could be declared to be *terra nullius*. Before examining this issue it is useful to note how new lands could be acquired by colonising nations.

For Britain there were three possible means by which the Australian continent could have been possessed; “by persuading the indigenous inhabitants to submit to its overlordship; by purchasing from those inhabitants the right to settle part or parts of it; [or] by unilateral possession, on the basis of first discovery and effective occupation” (Frost, 1981: 514). The first two options were not taken up by Britain. No negotiations were ever entered into with Indigenous people concerning colonial rule, nor was land purchased from them for settlement. The possession of Australia by Captain James Cook was made on the basis of “unilateral possession”. However,

“unilateral possession” can only occur when a territory is considered to be unoccupied or *terra nullius*. Thus the legality of the possession of Australia depends on whether or not Australia was considered to be occupied at the time of possession, and the basis on which this assessment was made. The eminent eighteenth century British jurist Sir William Blackstone stated in reference to British colonies that:

Plantations, or colonies in distant countries are either such where the lands are claimed by right of occupancy only, by finding them desert and uncultivated, and peopling them from the mother country; or where, when already cultivated, they have been either gained by conquest, or ceded to us by treaties. And both these rights are founded upon the law of nature, or at least upon that of nations. (Blackstone, 1979: 104)

It is evident from both the above quotes that according to international laws of the time, the unilateral possession of an uninhabited territory was legitimate. However, “uninhabited” is qualified by the terms “desert and uncultivated”. “Desert” does not mean simply an arid land, but more specifically a “sparsely inhabited tract of land, a wilderness” (*Shorter Oxford English Dictionary*). Although there were many records made by European explorers of the presence of Indigenous people, it was presumed that it was only the coastal areas that were inhabited, and then only sparsely (Yarwood, 1982: chapter 2). The interior, Sir Joseph Banks “conjectured”, was “totally (sic) uninhabited” (Reynolds, 1996: 17, 19). However, this view was overturned soon after settlement when it became obvious that the inlands were populated and in much greater numbers than had been previously thought (Reynolds, 1996: 19). Therefore, the conclusion that must be drawn is that Australia was clearly not “desert”, but an occupied territory.

The further qualification of “uncultivated” that Blackstone raised was made on the basis of the “biblical commands about rendering the land fruitful” (Yarwood, 1982: 15). This principle was emphasised by the seventeenth century English philosopher

John Locke in his work *Two Treatises of Government*, published in 1690, a work that contributed significantly to the development of the liberal discourse on government and the rule of law. Locke compared the “unproductive occupation by American Indians of the waste lands of the New World with the sturdy efforts of English farmers, and justified colonization in terms of bringing the wilderness into proper economic use” (Yarwood, 1982: 15). In Locke’s view “unproductive” occupation did not constitute a legitimate claim to land, and in fact justified its colonisation by those who would cultivate it. Locke’s position was unambiguously culturally specific, and took no account of the equally legitimate views of other cultural uses of land. Almost a hundred years later, Adam Smith, the “founder of modern economics”, stated in his celebrated text *Wealth of Nations* that “to cultivate the ground was the original destination of man” (Yarwood, 1982: 17). Further, Smith argued, on the basis of an English rule of property law, that ownership “imposes upon every proprietor the obligation of improving and cultivating, within a limited time, a certain portion of his lands” (Yarwood, 1982: 17). It is evident therefore that cultivation was embedded in the English notion of land ownership at the time of colonisation. Significantly, Cook wrote in a journal entry in 1770 that “we never saw one inch of Cultivated land in the whole Country” (Beaglehole cited in Yarwood, 1982: 15). Thus, Cook’s possession of the continent for Britain was in part based on the lack of Indigenous cultivation, which he believed negated their claim to ownership (McConnochie, 1988: 55). These judgements were made on the culturally specific values and practices inherent in English law which did not recognise the legitimacy of Indigenous values and practices. These attitudes, displayed through the assumed ‘superiority’ of British culture and law will be shown

through the works of Benedict Anderson and Ernest Gellner to be those that led to the development of the classical modern nation-state.

Nevertheless, the lack of cultivation and “sparse” habitation was not the only basis on which Cook took possession. It was also based on a prevailing Eurocentric view of Indigenous peoples, of a scale of ‘race’ made according to physical features and cultural practices, in which races were categorised as being high or low on the scale of humanity (Yarwood, 1982: 28). The higher scale were those who more closely resembled people of English “appearance and manners” (Yarwood, 1982: 28). The British explorers saw themselves as the bearers of civilisation, progress and a superior culture, whereas the Indigenous people were considered to be closer to “animals” than a human race of people (Reynolds, 1987: 110). This judgement was made on the basis of a number of characteristics: Indigenous people’s “negroid” colour and appearance; their complete nudity; a perceived “aversion” to labour; the uneven division of labour that favoured Indigenous men; and the lack of cultivation, dwellings and possessions (Yarwood, 1982: 27-32). Cook and his botanist, Joseph Banks, recorded in their journals that: “We are to Consider that we see this Country in the pure state of Nature, the Industry of Man has had nothing to do with any part of it” and that its inhabitants “have no fix’d habitation but move about from place to place like wild Beasts in search of food” (Beaglehole cited in Yarwood, 1982: 31). While the observations concerning the hunting and gathering existence of Indigenous people may be correct, no attempts were made to understand what the Indigenous relationship to land was, or how they managed their environment and resources in order to survive. The overwhelming assumption was that Indigenous people were ‘inferior’ beings and therefore did not need to be consulted about the taking of their

land. Again the ideas of European enlightenment, progress and civilisation were central to the development of the modern nation-state, ideas that continue to reinforce the 'necessity' for a culturally homogenous and hegemonic nation-state. This, it will be argued, remains a fundamental obstacle to the extension of the right to Indigenous self-determination.

The portrayal of Indigenous people as being at the lowest end of the scale of humanity was used as a legitimisation for possession, as well as for the later waves of dispossession and the destruction of Indigenous existence (Yarwood, 1982: 29). Despite these prevailing racist views about Indigenous peoples, the British government's instructions to Cook were: "with the Consent of the Natives to take possession of Convenient Situations in the Country in the Name of the King of Great Britain; or, if you find the Country uninhabited take Possession for His Majesty by setting up Proper Marks and Inscriptions, as first discoverers and possessors" (Beaglehole cited in Yarwood, 1982: 30). However, Cook did not consult with Indigenous people concerning possession and laid claim to the whole of the east coast of Australia (McConnochie, 1988: 55). Even though Cook disobeyed the instructions of the British government, his actions were not inconsistent with the established English understanding of "uninhabited" as it related to land ownership and cultivation. Therefore, while the legitimacy of Britain's claim to Australia according to English law was ambiguous, it was unilaterally proclaimed to be *terra nullius*. Consideration will now be given to the legitimacy of British possession on the basis of international law in order to further demonstrate the ambiguous nature of what passed into Australian history as a legitimate settlement of the continent, rather than an invasion of Indigenous lands.

International Law and Possession

In Reynolds' examination of eighteenth century international law he has drawn upon the work of the Swiss jurist Emerich de Vattel, whose arguments in his 1760 publication *The Law of Nations* offers a further understanding of the possession and colonisation of Indigenous lands. Reynolds' asserted that Vattel's book was "the most popular international law text of its era" (Reynolds, 1996: x). Anaya has further contended that Vattel's "philosophy greatly influenced the development of Western liberal thought" (Anaya, 1996: 13). On this basis Vattel can be relied on as an authority on the eighteenth century development of international law and the issues with which it was faced, as well as being a contributor to the development of liberal views of nation and sovereignty. Nevertheless, Reynolds has also observed that Vattel's text is "full of inconsistencies and contradictions" (1996: 52). This criticism can also be levelled broadly at other eighteenth century sources of international law as it was a *developing* body of law, one developing in parallel with the emerging concept of the nation-state.

Despite this criticism of Vattel's work he was clear concerning the issue of colonial possession and sovereignty over an unclaimed territory: "When a Nation takes possession of a country which belongs to no-one, it is considered as acquiring sovereignty over it as well as ownership, for, being free and independent, it cannot intend, when it settles a territory, to leave to others the right to rule over it, nor any other right which belongs to sovereignty" (Vattel cited in Reynolds, 1996: x). International law, like English law, was unambiguous concerning the right of nations to take possession of land that was genuinely unoccupied and unclaimed. Equally

clear according to Vattel was the possession and ownership of lands occupied by nomadic tribes. On this point he argued that: "When a country is occupied by wandering families, like those of pastoral tribes, which move from place to place according to their needs, it is possessed by them in common. They hold it to the exclusion of other peoples, and they cannot be justly deprived of lands of which they are making use" (Vattel cited in Reynolds, 1996: 52). Even though there were no domesticable animals on the Australian continent which would have enabled Indigenous people to become "pastoral" people,⁵ arguably, this law would be applicable to Indigenous people because of their comparable pattern of existence to "pastoral tribes" in the nomadic seasonal use of their lands. Vattel intimated this when he further supported the rights of nomadic peoples: "no other Nation has the right to restrict their possessions ... for, after all, they are in possession of the country, they make use of it after their own fashion, they obtain from it what is needed for their manner of life, as to which no one can dictate to them" (Vattel cited in Reynolds, 1996: 52-3). His phrase "after their own fashion" implies a recognition of the validity of cultural difference in regard to the use of land, unlike the English position discussed above. Further, and by implication, "cultivation" or "pastoralism" was not a primary definition of the term "use". He also asserted that nations have inherent rights which cannot be justly over-ridden by other nations, that is, that tribes are sovereign peoples, even if they are nomadic, and have an inherent right to remain self-determining.

However, Vattel went on to qualify this statement by arguing that it was conditional on the "absolute need of land" that may exist on the part of the nation desiring to

possess such a country (Vattel cited in Reynolds, 1996: 52). This qualification was expanded upon in another reference where he asserted:

There is another celebrated question, to which the discovery of the new world has principally given rise. It is asked if a nation may lawfully take possession of a part of a vast country, in which there are found none but erratic nations, incapable, by the smallness of their numbers to people the whole? ... Their removing their habitations through these immense regions, cannot be taken for a true and legal possession; and the people of Europe, too closely pent up, finding land of which these nations are in no particular want, and of which they make no actual and constant use, may lawfully possess it, and establish colonies there. (Vattel cited in Reynolds, 1996: 53)

His qualification, or even contradiction, was that numerically small groups of people could not make legitimate claims to “immense regions” that they could not constantly use, in particular, when there were other nations which need land because of over-population. While, he did not elaborate on how this should be determined, and left it open to the view that ‘might is right’, he recognised that nomadic tribes had a sovereign claim to land and could not justly be deprived of *all* of it, as was to become the case for the Indigenous people of Australia. As was discussed above, Cook determined that Australia was sparsely populated and on that basis proceeded to take possession without consultation with, or the consent of, its people. According to international law as it was expounded by Vattel, Cook’s act of possession appears to be a valid one, because Australia’s Indigenous people did not use or inhabit their vast tracts of land on a constant basis, and therefore their possession was not a “true and legal” one. However, Britain eventually possessed the whole of the continent rather than “a part of” it as Vattel had argued would be the limit of a justified possession. Elsewhere, Vattel brought into question the legality of possession of the extent that Britain had made, asking “whether a Nation can thus appropriate by mere act of taking possession, lands which are more extensive than it can inhabit or cultivate. It is not difficult to decide that such a claim would be absolutely contrary

to the natural law” (Vattel cited in Reynolds, 1996: 53). Here the legitimacy of Britain’s claim to a vast tract of the east coast of Australia, and ultimately to all of the continent, was seriously undermined by the fact that it would take Britain more than a century to populate and utilise such an extensive territory. Further, as Vattel argued, it would constitute an act of supreme injustice on the part of the dispossessors. Nevertheless, this is what happened in the case of the Indigenous people of Australia.

From this analysis it can be concluded that both English and international law recognised, under very specific conditions, Indigenous rights of territorial possession, but this position was then qualified through a Euro-centric view of the world, and ambivalence concerning the rights of Indigenous people. What occurred in the case of Australia was that Indigenous rights were completely disregarded. Indigenous people were considered to be too ‘primitive’ and too few in number to be the sovereign owners of the continent, and so Australia was declared by the British to be *terra nullius*. It was the consequences of the rationalisation of possession which commenced in 1770 that determined the treatment to which Indigenous people were to be subjected from 1788 and into the foreseeable future.

Conclusion

This chapter has identified the loss of self-determination as being the fundamental issue that underlies the Indigenous problem. This occurred as the result of the colonisation of the Australian continent by the British. Further, it has been shown that Australia’s Indigenous people have a legitimate claim to the right of self-determination as the original sovereign occupiers and owners of the continent. The

concept of self-determination has been defined in its international and national contexts in order to demonstrate the difficult position of Indigenous people in relation to their claim. The basis of the Indigenous claim to the right of self-determination is that it would allow Indigenous people to determine their own existence according to their own cultural values, norms and practices, without any implication of secession. Indigenous people have also argued that securing this right is imperative for their long term cultural survival and development, as well as being necessary for the resolution of their problems. It has also been established that governments recognise the need to grant self-determination to Indigenous peoples on the basis of their own cultures and histories, but that it remains impeded by concerns over the issues of sovereignty and territorial integrity because of its meaning according to international law.

Consequently, there continues to be an impasse between the Indigenous claim for self-determination in Australia and the resistance to granting such a right by consecutive Australian governments. Equally it was contended that the failure to grant self-determination perpetuates the denial of a basic human right that is the right of "all peoples". In Australia the loss of Indigenous self-determination began with the unilateral possession of the continent by the British in 1770, on the basis that Indigenous people were too 'primitive' and too few in number to have any rightful claim to the land. This was despite Bacon's recognition that it would lead to the destruction of Indigenous societies, a consequence that continues unabated in Australia. It has also been argued that the legality of the declaration of Australia to be *terra nullius* was ambiguous according English and international law, but that it was nevertheless unilaterally possessed by Britain without treaty, purchase or

negotiation with the Indigenous people. It will be argued in the following chapter that the failure to recognise Indigenous people as the original occupiers and owners of the continent has led to the development of a culture of control on the part of Non-indigenous people and governments. This control is exercised over the whole of Indigenous existence, leading to entrenched dependency and disempowerment.

¹ *Council for Aboriginal Reconciliation Act (1991)*, (Cwlth).

² See Reynolds, Henry, (1996) *Aboriginal Sovereignty: Reflections on race, state and nation*, Allen & Unwin, NSW.

³ See Jenkins, Stephen, (1997) Honours Thesis (unpublished), *Australian Multiculturalism: What is the National Agenda?*, University of Adelaide. Gunew, Sneja, (1990) *Denaturalizing cultural nationalisms: multicultural readings of 'Australia'*, in Bhabha, Homi, (ed.), *Nation and Narration*, Routledge, London. Foster, Lois, Stockley, David, (1988) *Australian Multiculturalism: A Documentary History and Critique*, Multilingual Matters, England. Smolicz, J.J. (1985) *The Rhetoric of Multiculturalism*, Occasional Papers, 7, Ethnic Affairs Commission of NSW. Grimshaw, Patricia, *et al.*, (1994) *Creating A Nation: 1788 - 1990*, McPhee Gribble Publishers, Ringwood.

⁴ See Dodson, Michael, (1993) *Aboriginal and Torres Strait Islander Social Justice Commission First Report: 1993*, AGPS, Canberra.

⁵ See Diamond, Jared, (1997) *Guns, Germs and Steel*, W.W. Norton & Company, New York.

2. 'Settlers' and a culture of control 1788–1972

Introduction

It was argued in the previous chapter that when Australia was declared to be *terra nullius*, through the absence of Indigenous cultivation and recognisable legal and political systems, it enabled the British colonists to view the Indigenous Australian people at best as 'lesser' beings who had no sovereignty or right to self-determination. Consequently, they were not treated with the respect accorded to Indigenous peoples elsewhere who were cultivators and who possessed political and legal systems readily identifiable to Europeans (Bourke, 1994: 52). Britain's treatment of Indigenous Australians was distinctly different to the treatment that Indigenous people of other British colonies experienced. Heather McRae *et al.* argue that:

Although the Australian colonies were acquired and settled by Britain relatively late in the period of European colonial expansion, Anglo-Australian law until very recently showed markedly less regard for the position of the Indigenous peoples than had been the case elsewhere in relation to land ... recognition of Indigenous laws ... and political rights. (1997: 140)

The statement supports a central argument of this thesis that little regard was given to the rights of Indigenous people, based on their assumed 'inferiority', from the first days of settlement, and that it is only in recent years this has been challenged and some change effected. As was stated in the previous chapter, the *Royal Commission into Aboriginal Deaths in Custody* (1991) and the *Bringing Them Home* (1997) reports, which will be drawn upon throughout this chapter, both support the

arguments of this thesis concerning the loss of Indigenous self-determination and the consequent levels of control exercised over Indigenous people. It is also necessary to note that due to the entrenched nature of discrimination towards Indigenous people there is both political and social resistance to the trend towards recognising and addressing the injustices of the past, manifest overtly in the rise of such groups as Pauline Hanson's One Nation Party, and more subtly in the politics of the current Howard government's Indigenous policies. It must also be stated in relation to the Australian Labor Party, that while they have given rhetorical and some positive policy support to Indigenous issues, their position remains underpinned by resistance to the granting of effective self-determination to Indigenous people. These issues will be discussed in detail in the chapters that deal with the five governments between 1972 and 1998. Attention will first be given to the development of the culture of control from settlement to 1972, when the ostensible dismantling of the policy of assimilation took place.

Commissioner Johnston QC has argued that the various forms of control that were directed against Indigenous Australians often began "through the barrel of a gun during the 'frontier' eras of different colonies, then changing into the restrictions affecting mobility and personal liberty policed by mission and reserve authorities" (Johnston, 1991a: 39). The practice of Indigenous control by Non-indigenous governments and people has been constant throughout Australia's post-1788 history, through the British policy of protection, the use of violence, the colonial and state policies of protection and assimilation, and also, it will be argued, through the policies of self-determination and self-management. The scope of these latter Indigenous policies is ultimately determined and controlled by Australia's Non-

indigenous government, which retains the final decision-making authority over policy issues. This is despite the policy nomenclature that suggests the handing over of control of Indigenous policy to Indigenous people. To support the argument for the extension of self-determination to Indigenous people as a permanent and fundamental human right rather than as a contingent and limited policy initiative, this chapter will give a brief overview of the history of Indigenous policy and the exercise of Non-indigenous control from 1788 to 1972.

The Loss of Indigenous Self-determination: 1778–1972

From the time of British possession in 1770 the doctrine of *terra nullius* became an instrument of power against Indigenous Australians. This doctrine allowed the British to transplant their legal system without reference to Indigenous law, making itself the absolute sovereign of the Australian continent without consent and claiming “absolute title to all land”¹ (Reynolds cited in Johnston, 1991a: 10). As a consequence, Indigenous people became the subjects of a foreign legal and political system to which they were expected to conform. This act by the British government laid the foundation for a culture of discrimination against Indigenous people that permeates the whole of the Australian nation-state. The Hon. Justice Michael Kirby has stated that:

A charitable interpretation of the relationship between the Australian legal system, post 1788, and the indigenous Aboriginal people of the continent is that it is a tale of indifference and neglect. A less charitable interpretation is that it represents a cruel assertion of power: sometimes deliberate, sometimes mindless, resulting in the destruction of Aboriginal culture, unparalleled rates of criminal conviction and imprisonment and massive deprivations of property and land. (Hazelhurst, 1987: xv)

The “cruel assertion of power” was not confined to the legal system but extended also to government. This exercise of control continues through the continuing denial of the legitimacy of Indigenous law, and the imposition on Indigenous existence of a foreign legal system, government and culture. Because English law did not recognise Indigenous law in relation to land, Indigenous Australians were dispossessed of their lands. The loss of land also meant the loss of culture as they are intimately linked for Indigenous people (Council for Aboriginal Reconciliation, 1994a: 2).

Dispossession and British ‘Protection’ 1788–1860: The Beginning of Ambivalence

As the legality of the declaration of *terra nullius* had been ambiguous, so too would be the official attitudes towards the treatment of Indigenous people. This is despite considerable concern being expressed by the British government for the protection and welfare of Indigenous people. It is necessary at this point to distinguish between the policy of protection implemented by the British government throughout the period of colonial rule and the later Protection *Acts* that were enacted in the late nineteenth century and early twentieth century by the various independent colonies and states. The loss of Indigenous sovereignty and self-determination inevitably posed a threat to their well being, something that was well understood at the time of settlement as evidenced in the views of Francis Bacon discussed in the previous chapter (Reynolds, 1996: ix). Nevertheless, there was considerable inconsistency between the policy of Indigenous protection developed in Britain and its implementation in the colonies. Henry Reynolds argued that the colonies complied “selectively” with Colonial Office initiatives, rejecting “the central emphasis on legal

equality and land rights” and “supporting such purely humanitarian aspects as protection of life and tight fisted charity” (1992: 157). As a consequence, an attitude of ambivalence developed towards Indigenous people, denying them their rights to land while begrudgingly assisting them with welfare handouts.

This ambivalence of the colonists, which gave rise to the culture of control, will be made evident below through documents of the time. Considerable use will be made of Fay Gale and Alison Brookman’s book, *Race Relations in Australia – The Aborigines*, which in their words “is a collection of documents selected to illustrate the key themes in Aboriginal race relations in Australia” (1975: Preface). First, however, it will be made clear that the British government had good intentions towards Indigenous people. The commission given by the British government to the first Governor of NSW, Arthur Phillip, stated that:

You are to endeavour by every possible means to open an intercourse with the natives, and to conciliate their affections, enjoining all our subjects to live in amity and kindness with them. And if any of our subjects shall wantonly destroy them, or give them any unnecessary interruption in the exercise of their several occupations, it is our will and pleasure that you do cause such offenders to be brought to punishment according to the degree of offence. You will endeavour to procure an account of the numbers inhabiting the neighbourhood of the intended settlement, and report your opinion to one of the Secretaries of State in what manner of intercourse with the people may be turned to the advantage of the colony. (Gale, 1975: 37-8)

The commission, dated 25 April 1787, clearly stated the intention of the British government towards the Indigenous inhabitants as one of protection and benevolence. However, it is nevertheless qualified and motivated by the self-interest of the colony, rather than from a completely genuine regard for Indigenous well being. If no “advantage” could be gained from a humanitarian approach it was unlikely that the colonisers would contemplate decolonisation in order to guarantee

Indigenous well being. The truth was that they were here to stay, and if they could co-exist harmoniously with the Indigenous people they would make every attempt to do so but there were no plans for decolonisation.

The same sentiment was repeated in the proclamation of South Australian colony in 1836, almost half a century later. Governor Hindmarsh stated in his Proclamation of the South Australian Colony that:

It is also, at this time, especially my duty to apprise the Colonists of my resolution to take every lawful means for extending the same Protection to the Native population as to the rest of His Majesty's Subjects and my firm determination to punish, with exemplary severity, all acts of violence or injustice which may in any manner be practised or attempted against the Natives who are to be considered as much under the safeguard of the law as the Colonists themselves, and equally entitled to the exercise of moderation and forbearance by all Classes, in their intercourse with the Native inhabitants, and that they will omit no opportunity of assisting me to fulfil His Majesty's most gracious and benevolent intentions towards them, by promoting their advancement in Civilization, and ultimately, under the blessing of Divine Providence, their Conversion to the Christian Faith. (Gale, 1975: 38)

The proclamation stated unambiguously that the Indigenous people were to receive the same protection under British law as the colonists, and that they should suffer no acts of violence against them. Clearly, the British government had a consistent policy of protection towards Australia's Indigenous people across the period of colonisation. However, Hindmarsh's declaration also stated that the benevolence towards the Indigenous people was to be achieved through a process of "civilising" and "conversion" to Christianity. This approach strongly implies a rejection of Indigenous culture and religion as 'inferior' and 'uncivilised', and of the need to change the whole of their existence to that of European norms and practices. The 'inferiority' of Indigenous culture justified the Non-indigenous desire to control and

change Indigenous existence. It will be made evident that it is an attitude that has changed little throughout Australia's history.

However well meaning the British policy of protection, it did not take account of the cultural 'clash' that was inevitable between very diverse cultures. As with the application of *terra nullius*, where no account was made of Indigenous sovereignty and self-determination in relation to British possession, so also no account was taken of the Indigenous use of land that was to be occupied by the colonists. Land use proved to be a fundamental cause of violence in the colonial period. Because there was no Indigenous demarcation of their land with recognisable physical boundaries and signs, it was assumed that their interest in land was negligible. Indigenous use of land was perceived to be only that of nomadic occupation, one area of land being no more important than another considering the vast areas that they occupied. However, all land is of great significance to Indigenous people on the basis of food resources, law, religion, ceremonies and all other aspect of their lives (Edwards, 1994: 68-74). While Indigenous land demarcation existed in the form of dreaming trails, sacred sites and ceremonial responsibilities to particular areas of land, none of these aspects were visible or recognisable to the colonisers. In fact, the issue of land depended upon opposing religious views of the use of land: the colonisers' were based on the biblical views involving cultivation discussed in Chapter One, while the Indigenous beliefs rested on their responsibilities to Dreaming ancestors who created the land (Pardoe, 1992: 136). The issue of land use was to become, and remains to this day, a primary source of conflict between Indigenous and Non-indigenous peoples and governments, one that 'necessitates' the exercise of control.

When Francis Dutton, an early South Australian settler, wrote of this problem in 1846, he expounded at great length on the significance of the problem of land and its effects upon Indigenous existence across the continent. He also recorded the attempts by a number of governments to protect Indigenous people:

In Van Dieman's Land, there once *were* natives, there is now not one left; in Australia, they have a greater extent of country to fall back upon, it is true; but the native has his predilections for the place he was born in, as well as we have; unwilling, because unaccustomed to labour for his subsistence, he now drags on a miserable and precarious existence within those settled districts, which he looks upon as his own; his means of procuring food are becoming daily more circumscribed; his usual haunts are occupied by others, nor does he find sympathy from his more fortunate sable brethren further in the interior; for should he encroach or settle upon their territory, he is quickly made to feel, that there also, is he looked upon as an intruder.

But let it not be supposed that the British Government has been either blind to their claims, or deaf to the reasonings of humanity in their behalf. Much has been tried for their benefit, and vast sums have been expended to improve their social condition, and all to no purpose. The wisdom which has for centuries directed, and watched over the destinies of the British Nation, which has been equal to meet, and cope with any emergency which the world could produce, has been as yet unable to devise the means of rescuing from the, I fear, too certain doom of an early and total extinction, a few thousand simple minded black people.

Their hard fate has repeatedly occupied the attention of our ablest statesmen, as the parliamentary annals can prove; their benevolent intentions have been seconded to the utmost of their power, by the representatives of the Government in the colonies; but nothing can be shewn to prove that the Australian savage is in the least better off now than he was twenty, or more, years ago. The large sum of nearly £80,000 has been expended, since 1821, in New South Wales, in keeping up a widely ramified establishment of Protectors; the Protectors has cost during that period £51,807, and half the expense of the border police, £27,700 more. Had the money been annually dropped into the sea, outside Sydney Heads, the loss could not be more regretted, than its resultless application in redeeming the savage, and it would have saved both Sir George Gipps and Lord Stanley the trouble of writing the immensity of despatches they did; the protectorate plan has, I believe, been now abandoned in despair, as being productive of no good; and although the experiments in South Australia have been made on a far more moderate scale, no better results can be shewn, with us, than in the neighbouring colonies;—but the effects of our civilizing influence is shewn, as Mr Eyre says, “in their diminished numbers.” Again, he says, “many attempts, upon a limited scale, have already been made in all the

colonies, but none have in the least degree tended to check the gradual, but certain, extinction that is menacing this ill-fated people; nor is it in my recollection, that throughout the whole length and breadth of New Holland, *a single real and permanent convert to Christianity has been made amongst them.*" (Gale, 1975: 39-40) (italics Dutton's)

This graphic account by Dutton indicates the degradation of Indigenous existence that had resulted from European occupation of their lands and "the effects of [their] civilizing influence". The loss of land placed great pressure on Indigenous people which no amount of 'protection' could compensate for, despite concerted efforts and the expenditure of large sums of money. The solutions, as Dutton explained, are applied from an entirely European perspective, based on the 'wisdom of centuries'. Despite the recognition of the Indigenous attachment to land and this wisdom of centuries, it escaped Dutton, as it did the colonial authorities, that if they themselves had experienced a similar loss of land they too would suffer great hardships. Dutton's account regarding colonial protection and welfare could, with little change to the content, have been written by a contemporary observer of the lives of many Indigenous Australians.¹ What is being argued throughout this thesis is that welfare and money are not sufficient to resolve the difficulties that Indigenous people currently suffer, rather the issue is of continued control of Indigenous existence that has disempowered them, causing entrenched disadvantage. The loss of control over one's existence has far-reaching consequences, causing social dysfunction, alienation and despair, which no amount of money can compensate for. To effect real change will require the restoration of self-determination to Indigenous people, whereby they can take control of their own existence. Indigenous people resisted loss of their land, which necessitated more violent attempts at land acquisition on the part of the settlers. Significantly, Dutton noted that the plan of protection had to his knowledge been "abandoned in despair". It was the despair at their "diminished numbers" that

contributed to the belief that Indigenous people would die out and which also led to an attitude of ambivalence towards them.

Indigenous Control Through Violence

In recent years there has been a very public, significant and ongoing debate concerning the veracity of claims about the level of violence that the colonists and early Australian governments used to control Indigenous people. The debate between two prominent Australian historians, Henry Reynolds and Keith Windschuttle, has been the most public. This was sparked by Reynold's research and his publication of *The Other Side of the Frontier* in 1981 and *Frontier: Aborigines, Settlers and Land* in 1987. In 2000 part of Windschuttle's response to Reynolds work, as well as to a number of similar publications by other historians and journalists, was a three-part series of articles in the political journal *Quadrant*, entitled "The Myths of Frontier Massacres in Australian History".² This debate is intimately linked to historian Geoffrey Blainey's dichotomy of Australian history into the "black-armband" history of the 'revisionists' and the "three cheers" history of the traditionalists.³ However, the purpose of Windschuttle's articles is not to refute any notion of frontier violence, but rather the estimated number of Indigenous deaths, and also whether the claims of the numbers of massacres were well supported by contemporary evidence. Despite the obvious importance of these issues, they are nevertheless secondary to the purposes of this thesis, and Windschuttle himself agreed that violence characterised the relationship between Indigenous people and the colonisers. In the first of his articles he agreed with the arguments put forward in Charles Rowley's 1970 book *The Destruction of Aboriginal Society*:

Rowley was the first historian to demonstrate that Aborigines had endured a long, unbroken arch, stretching from the eighteenth century to the twentieth, of violence, dispossession and incarceration. Nothing I have read for this essay has persuaded me that his overall assessment is fundamentally wrong, even though Rowley is plainly mistaken about some of the events he discusses, such as those at Forrest River where he accepts the royal commission's findings without question. It is important to note, though, that Rowley was careful not to exaggerate, especially when it came to calculating how many violent deaths there had been on the pastoral frontier. Compared to the impact on indigenous peoples other colonising powers have had throughout history, Rowley said the Australian story amounted to "comparatively small-scale homicide". (Windschuttle, October 2000: 21)

It is clear that Windschuttle's issue was with the scale of violence, and he clearly agreed that Indigenous people suffered a "long, unbroken arch" of violence between the eighteenth and twentieth centuries. This is precisely the point of the argument in this section, that violence, irrespective of the scale, characterised the relationship between Indigenous people and the Non-indigenous colonists and governments, as will be evidenced below.

In the same way that Francis Bacon had warned of the destructive effects of dispossessing a people of their land, the President of the Royal Society in London warned, prior to Captain Cook's voyage, that:

shedding the blood of these people is a crime of the highest nature. They are the natural, and in the strictest sense of the word, the local possessors of the several Regions they inhabit. No European nation has a right to occupy any part of their country, or settle among them without their voluntary consent. Conquest over such people can give us no title. (Smith cited in Johnston, 1991a: 10-11)

Despite the concern expressed for Indigenous people and an acknowledgement of their rights to land, ambivalence towards their protection is evident in the attitude of the colonists and the ways in which they acquired land. McConnochie *et al.* argue that:

The 1830s and 1840s saw the rapid expansion of the frontier and with the establishment of the colonies which became Victoria, Western Australia and South Australia, the issue of Aboriginal policies and practices reached crisis point. To the vast majority of settlers Aborigines were simply an impediment to taking up the land. They were considered as part of the flora and fauna, like dingoes and emus—something to be cleared from the land, to allow farming and grazing to develop in a safe, tidy and profitable environment. (1988: 58-9)

It is clear that a widespread ambivalence towards Indigenous interests in land and for the general welfare of Indigenous people developed in the colonies. The perception of Indigenous people as being a part of the continent's 'fauna' played a significant role in this. This view was based on the "assumption that European culture was superior to all others, and that Europeans could define the world in their terms" (Johnston, 1991a: 8). In 1845 the Catholic Archbishop of Sydney gave evidence before a NSW Select Committee on Aborigines. He condemned the settlers' use of aggressive methods of land acquisition because it had caused "a vast loss of life to the native population" (cited in Gale, 1975: 47-8). In his evidence the Archbishop argued that he had heard first hand:

a man, educated, and a large proprietor of sheep and cattle, maintain, that there was no more harm in shooting a native, than in shooting a wild dog. I have heard it maintained by others, that it was in the course of Providence, that the blacks should disappear before the white, and the sooner the process was carried out, the better for all parties. I fear such opinions prevail to a great extent. Very recently in the presence of two clergymen, a man of education narrated as a good thing, that he had been one of a party who had pursued the blacks, in consequence of the cattle having been rushed by them, and that he was sure they shot upwards of a hundred—When expostulated with, he maintained that there was nothing wrong in it, that it was preposterous to suppose they had souls. In this opinion he was joined by another educated person present.

... I fear also, though I am ashamed to say it, that I have reason to believe that poison has been, in many instances, used. (cited in Gale, 1975: 47-8)

This evidence to the Select Committee demonstrates that some held that the control of Indigenous people through violence was a 'common sense' solution to controlling 'pests' as their lives were of no consequence. It should be noted that in this instance

they were opinions held by educated and privileged men, and not convicts or squatters of whom it might be expected. The colonists' desire for land overrode the British government's desire to 'protect' Indigenous people.

Recently Sir Ronald Wilson has argued that even though "governments in the nineteenth century professed abhorrence at the brutality of expansionist European settlers, they were unwilling or unable to stop their activities" (1997: 28). He went on to argue that, in time, governments came to "typically [view] Indigenous people as a nuisance" (1997: 28). This parallels the attitudes of those to which the Archbishop's evidence referred and marked a significant change in approach by the various colonial governments towards Indigenous people from that advocated by the British government. Reynolds contended that "once settlement had dispersed it was impossible to control the Europeans" (1987: 39). While the colonial governments may have had difficulty in controlling Europeans, they were also working to establish and consolidate their colonies and depended on settler expansion to secure their long-term economic viability. Expansion, therefore, was also in their best interests, and as already noted, Indigenous people represented a difficult obstacle to that end. As a consequence, the colonial way of thinking became one of ambivalence whereby Indigenous people became more expendable in the cause of European 'progress'. These attitudes towards Indigenous people reflect those made evident in the following chapter in relation to the development of the classical European nation-state, when such approaches were considered necessary for progress and civilisation.

In 1816 colonial protection gave way to confrontation when Governor Macquarie of NSW declared that if “Aborigines approached the European settlements with any weapons, or if they were unwilling to leave the settlers’ properties when told to do so, they were ‘to be driven away by force of arms by the settlers themselves’” (Reynolds, 1987: 39). In Tasmania the government engaged officially in violence against Indigenous people. Colin Bourke and Helen Cox reveal that in 1828 Governor Arthur “proclaimed martial law, which was tantamount to a declaration of war against Aborigines. During the three years in which martial law remained in force, the military were entitled to shoot on sight any Aboriginal person in the settled districts” (Bourke, 1994: 53). As far as Governor Arthur was concerned any Indigenous person in a settled district was perceived as a direct threat to the colony. He argued in a letter to the Secretary of State for the Colonies that “Terror may have the effect which no proffered measures of conciliation have been capable of inducing” (Reynolds, 1987: 38). The Indigenous people of Tasmania clearly were not prepared to be placated in a process of conciliation over the loss of their land, and as a consequence the government resorted to violence in order to enforce their own claim. This action was paralleled in Western Australia where Governor Stirling “considered that the only method of control was the early exhibition of force” (Reynolds, 1987: 39). This reinforces a major argument of the thesis that the defining characteristic of the relationship between Indigenous people and Non-indigenous people and governments is that Indigenous people need to be controlled by whatever means is necessary as circumstances dictate. An attempt at a negotiated coexistence of two distinct peoples and cultures was not considered, and Indigenous people were expected to conform and comply with European ways. Clearly there was a move away from the notion of Indigenous ‘protection’ in the colonies to one of

Indigenous control. Bourke and Cox argue that “massacres and genocide were ... ignored in the application of the doctrine of *terra nullius*, which justified the acquisition of land. Aboriginal resistance was far from insignificant, as many examples show” (Bourke, 1994: 53). What the colonisers failed to realise was that Indigenous people viewed their aggressive grab for land as an invasion.

The recent discovery of a manuscript containing a Kaurna song from the Adelaide Plains people supports this idea. The translation by Rob Amery, a linguist from the University of Adelaide, indicates that the song conveys the message “I don’t make a claim on your land, why do you make a claim on ours?” (*Australian*, 11 May 1999: 5). Amery argued that it is a “powerful protest about these people being pushed out of their country” (*Australian*, 11 May 1999: 5). Johnston argued that the loss of land by Indigenous people was instrumental in causing “violent Aboriginal resistance”, and in response “settlers assumed a conquest mentality” (1991a: 12). Johnston further suggested that:

Aboriginal styles of resistance, such as attacking isolated shepherds or killing livestock, were usually classed by non-Aboriginal authority as breaches of the law rather than acts of war. This reflected the failure of colonial authorities to recognise Aboriginal people as original owners with anything to defend, and it also reinforced stereotypes of their savage treachery or barbarity. In fact many attacks by Aboriginal people were of a judicial nature, intended to punish individual transgressions on their territory. From the Aboriginal perspective, the ‘hostile blacks’ occasionally portrayed in the school texts were in fact the ‘policemen’ of their communities. (1991a: 22)

The assumption that ‘justified’ the doctrine of *terra nullius* was that Indigenous people were too ‘primitive’ to be the possessors of land in the ways that Europeans understood land ownership, and were instead, as hunters and gatherers, closer to animals in the ways that they lived. The early colonist Henry Melville’s recounting

of resistance by Indigenous people and the subsequent reprisals by the colonists evidences the level of ignorance concerning Indigenous land ownership:

The natives became exceedingly troublesome, and many persons were frequently speared by them. Their depredations became so frequent that the authorities knew not in which way to proceed towards them. If, however, the white population suffered from the frequent attacks of these misguided creatures, they themselves in return were massacred without mercy. At this time it was common for parties of the *civilised* portion of society to scour the bush, and falling in with the tracks of the natives, during the night to follow them to their place of encampment, where they were slaughtered in cold blood. (Gale, 1975: 31-2) (*italics Melville*)

Melville describes the Indigenous attacks as “misguided” when in fact they were serious attempts to reclaim the land of which they had been dispossessed. As Johnston argued, resistance was seen as unfounded acts of “barbarity” rather than a justifiable protection of their country. Violence, therefore, was widely viewed as a most effective means of controlling Indigenous people. This misunderstanding of Indigenous resistance casts serious questions on the notion of the ‘settlement’ of Australia, which from an Indigenous perspective was nothing less than an invasion. Reconciliation has to deal with this distortion of history if it is to be a meaningful process. The current ignorance concerning Indigenous rights to land began in the earliest days of European occupation and is now deeply embedded within the imagined Australian nation.

Indigenous Control through Exclusion: The Protection Policies 1860–1940

It is not possible to periodise precisely by date the various policies that were implemented to control Indigenous people, as policies overlapped or were not implemented simultaneously by the various colonies (Armitage, 1995: 14). However, policies of control did loosely follow a pattern of enactment across the

continent. From approximately the 1860s Indigenous policy shifted to one of exclusion, whereby Indigenous people were removed from areas of white settlement and contained on reserves and missions, even though, as will be demonstrated below, these ideas were developing much earlier than 1860. Nevertheless, violence remained a factor in relations between Indigenous and Non-indigenous people well into the twentieth century in the more remote areas and also at times in the populated areas. Indeed, the question of police violence against Indigenous people was still a contemporary issue at the end of the twentieth century, and was a major contributing factor in the establishment of the *Royal Commission into Aboriginal Deaths in Custody*. In the case of the Northern Territory, frontier violence continued until the 1930s before any systematic and effective policy of welfare was introduced (Rowse, 1992: 88). This was because of the late encroachment of colonial expansion into the Territory, which did not effectively begin until the 1860s and 1870s (Rowse, 1992: 88). McConnochie *et al.* argue that for Indigenous people the period 1860 to 1940 was a period of “segregation, protection and separation as they were subjected to ever-increasing laws denying them rights and freedoms in their own land” (1988: 62). That is, the “rights and freedoms” of self-determination were steadily being eroded. “Protection” in this context refers to the protection extended through legislated colonial and state *Protection Acts*. Most of these *Acts* were legislated midway through the period 1860–1940, even though responsibility for Indigenous protection had shifted from the British government to colonial governments in the middle of the nineteenth century. The exclusion of Indigenous people from the settled areas was based on a number of factors that preceded the shift in policy, as outlined below.

The previous section revealed that colonial governments began to view Indigenous people as a 'nuisance' when settlers realised that the British government's policy of Indigenous protection was failing to conform Indigenous people to Europeans modes of living, and further, that Indigenous people were actively resisting the occupation of their lands. Simultaneously the Indigenous population was rapidly declining through violence, European diseases and the loss of traditional lands and food resources, to the point where it was believed that the Indigenous people would eventually "die out" (Reynolds, 1996: xi). The sharp decline in population gave weight to the accepted notion of European superiority, which was later underpinned by social Darwinism and the theory of natural selection. These factors encouraged the idea that the exclusion of Indigenous people from the settled areas would resolve the difficulties of the cultural divide.

While social Darwinism and natural selection did not become an established 'science' of racial difference until the 1870s, it developed and gained favour over a number of decades from the early 1800s. Charles Darwin first articulated clearly and systematically the theory of natural selection in his famous text concerning the origin of the species, published in 1859. Significantly the full title of Darwin's book is *On the Origin of Species by Means of Natural Selection, or the Preservation of Favoured Races in the Struggle for Life*. The idea of the survival of the "favoured races" over 'lesser races' fuelled the discrimination that was directed to Indigenous peoples across the world. Throughout the mid to late 1800s evolutionary theories of race were adapted to social theory by those willing to justify a racial hierarchy that ranged from the 'civilised' European races at the top of the scale of humanity to the

'primitive' Indigenous peoples at the bottom. Hierarchical notions of race became increasingly influential in European attitudes towards Indigenous people.

The early ideas of a racial hierarchy are reflected in the journal of Sir George Grey, the colonial Governor of South Australia, who in the late 1830s wrote:

All past experience has shewn that the existence of two different races in a country, one of which, from any local circumstances, is considered inferior to the other, is one of the greatest evils under which a nation can labour; a more striking instance of which could be adduced, than is shewn in the present state of the free coloured population in America. (cited in Gale, 1975: 56)

Grey's belief that the coexistence of two diverse cultures within a single nation was "one of the greatest evils" a nation could face exemplifies the thinking that would underpin the change in direction of Indigenous policy and control. He went on to suggest that:

In contemplating, then, the future destiny of the Australian races, at the same time laying aside all thought of their amalgamation with Europeans, the prospect is melancholy—only two cases can arise; either they must disappear before advancing civilization, successively dying off ere [before] the truths of Christianity, or the benefits of civilization have produced any effect on them—or they must exist in the midst of a superior numerical population, a despised and inferior race; and none but those who have visited a country in which such a race exists, can duly appreciate the evils both moral and physical, which such a degraded position entails upon them. (Gale, 1975: 56)

For Grey it is self-evident that "inferior" races can neither be civilised nor amalgamated with "superior" races, and that it is inevitable that they will either become extinct or remain in a marginalised and "degraded position" within the nation. Clearly, there was no contemplation or comprehension that coexistence could be successful on the basis of mutual respect for land, culture and law. The hierarchical notions of race and the enlightenment notion of 'progress' pervaded all social and cultural theory. This resulted in a resignation to a passive form of

genocide later in the nineteenth century, articulated in the phrase “smoothing the dying pillow” (Mullard, 1976: 9), which was a reference to the inevitable disappearance of the Indigenous people, whose passing was to be made as painless as possible. The influential views of people like Grey led to the policies of protection through exclusion that developed over the following decades.

When in 1845 the Catholic Archbishop of Sydney expressed the view that exclusion was the only solution to the Indigenous ‘problem’, he was less pessimistic in his judgement than Governor Grey, in that he believed that Indigenous people had the potential to be ‘civilised’. Nevertheless, his opinion was founded upon the same hierarchical notions of race, as he believed that the European and Indigenous races were incompatible and needed to live in isolation from one another. In evidence to the Select Committee on Aborigines, he argued that:

I conceive if the Government were to take care of aborigines, and give them tracts of land on which they might congregate, and where they would be in safety, much good might be done, even in the civilised parts of the Colony. They might be encouraged to have little gardens and be gradually brought into habits of civilization. Beyond the boundaries, the only way would be to allot to them certain portions of ground, to let them have cattle and other things for their use. Instead of protectors with large salaries, industrious simple minded married men might have care of them, to prevent the intrusion of whites, and to look after their well-being and concerns. The natives would soon learn that it was better to tend their cattle, and to be able to kill an ox when they required it, than to hunt the kangaroo and emu. The natives would have confidence inspired by the fact that they would have an asylum where they would be safe from the aggression of the whites.

The Chairman Your Grace’s intention is, entirely to isolate them?

[Archbishop] Entirely.

[The Chairman] ... would you make this a tabooed ground, on which no white man should come?

[Archbishop] As far as I could do so. I would make these Government reserves, and would not allow any white person to trespass upon them; and if the law can protect the white in possession of his land, I conceive

the Government may extend an equal protection to the land it may hold for the use of the aboriginal owners of the soil. (Gale, 1975: 56-7)

Clearly, the Archbishop believed that Indigenous people could best be protected “from the aggression of the whites” through isolation. His view is a paternalistic one, whereby Indigenous people are constructed as needing instruction and care from Europeans in order to adjust to more ‘civilised’ modes of living. It is significant that he indirectly equated cultivation with the civilising process, reflecting the English notion of valid land use and ownership as discussed in Chapter One. If their plan to protect Indigenous people was to be successful, he argued, it should be through complete isolation. There is no indication of an independent Indigenous ownership of land, but that land should be controlled by the government for Indigenous people. The views of the Archbishop represent the basic principles that were to later to inform the exclusion policy.

The rationale of the exclusion policy was that Indigenous people would be protected by the government from exploitation and violence at the hands of the settlers. Wilson stated that “enforcement of the protectionist legislation at the local level was the responsibility of ‘protectors’ who were usually police officers” (Wilson, 1997: 28-9). Johnston argued that the police force was officially required to protect Indigenous people from white vigilante groups, however, their role was in practice reversed, involving the protection of settlers (Johnston, 1991a: 23). A Royal Commission in Western Australia in 1927 heard evidence from Archbishop Riley, Archbishop Clune, Mr Neville [Chief Protector of Aborigines in Western Australia], Mr Durack, as representative of Vestey's, and Mr. Haley, representing the Meat Works. This Commission was held:

in view of the fact that the native was suffering under the impact from the white man, that the present law and order up there [northern areas of Western Australia] was useless, and that the future of the squatter depended upon getting rid of the native, even though he represented cheap labour, and if only by segregation. ... The result of that meeting was an affirmation in which representatives of the biggest area of the country up there, together with two Archbishops, affirmed the principle of segregation. (cited in Gale, 1975: 57-8)

The Protector's and Archbishops' views reflect those of the NSW Archbishop of more than 80 years before, signifying that little had changed in the way that Indigenous people were viewed and treated. The notion of Indigenous 'protection' was a euphemistic term that in practice meant the protection of colonists from the Indigenous 'nuisance'.

Despite their active status over many decades, protection policies were intended to be a temporary measure which would control Indigenous people until their inevitable extinction (Evans, R., 1993: 367). According to Wilson, the government used this premise of extinction to:

reserve land for the exclusive use of Indigenous people and assign responsibility for their welfare to a Chief Protector or Protection Board. By 1911 the Northern Territory and every State except Tasmania had 'protection legislation' giving the Chief Protector or Protection Board extensive power to control Indigenous people. In some States and in the Northern Territory the Chief Protector was made the legal guardian of all Aboriginal children, displacing the rights of parents. The management of reserves was delegated to government appointed managers or missionaries in receipt of government subsidies. Enforcement of the protectionist legislation at the local level was the responsibility of 'protectors' who were usually police officers. (1997: 28-9)

There was no ambiguity concerning the role of the Chief Protectors, or of the police, managers and missionaries who represented the Protectors' authority at the local level: it was to control Indigenous existence. Under the exclusionist protection policy Indigenous people were denied basic human rights, and in particular their right to self-determination. In 1990 the House of Representatives Standing

Committee on Aboriginal Affairs investigating the extent to which Indigenous lives were controlled during the protection period found that the:

chief protector was empowered to remove Aboriginal people from urban areas to Aboriginal reserves and to compel them to remain there. Association with Aboriginal people was strictly controlled by forbidding unauthorised persons to enter reserves. Marriages needed the approval of the protector, in some cases Aboriginal property was placed in official hands and children were forcibly removed from their parents. Protective legislation defined who were Aboriginal persons and effectively transformed their status into a class of Australians without the rights accorded to the rest of the community. The policies of protection meant that Aboriginal people exercised little control over the management of their affairs and lives and they were held in a state of dependency. (House of Representatives Standing Committee on Aboriginal Affairs, 1990: 1)

The rationale for such pervasive control of Indigenous lives was based on “paternalistic notions which defined Aboriginal people as a ‘child race’ requiring the sort of ‘supervision’ ... the ‘gentle hand to guide’, that children required” (Johnston, 1991a: 33-4). As stated above, these perspectives underpinned the evolutionary notions of the survival of the most advanced races. Reynolds argued that: “As far as the whites were concerned the general view by the end of the century was that there was a direct relationship between colonial progress—the fulfilment of their mission—and the destruction of Aboriginal society. It was in itself a proof of progress” (1987: 16).

The destruction of Indigenous society was taking place on two levels: in the sense of their declining numbers; and, for those that survived, on cultural destruction. When it was realised that Indigenous people were not in fact disappearing, ‘cultural destruction’ became the underpinning of the assimilationist policy, whereby Indigenous culture would be eliminated and Indigenous people would be totally absorbed by the Non-indigenous society.

'Indigenous Control through the Policy of Assimilation: 1940–1972

The policy of assimilation was implemented in a piecemeal manner over an extended number of years and marked a significant change in the means of addressing the Indigenous 'problem'. This policy was first agreed to on an Australia-wide level in 1937 by the Ministers responsible for Indigenous Affairs in the Northern Territory and the States (Johnston, 1991a: 510). During the 1937 conference the Western Australian Protector A.O. Neville argued for the "merging" of Indigenous people with "the people of the Commonwealth" (Wilson, 1997: 32). Neville's idea eventually developed into the assimilation policy:

Being a long-range policy the process must needs be gradual, so a formula having been evolved for the people considered ready to be trained for absorption it became necessary to provide for those not yet ready, but who in the course of time would attain the same degree of civilisation as those first considered. Then followed in natural sequence the other resolutions covering the detribalised natives and others yet remaining in the bush. (Neville, 1947: 27-8)

For Neville the process of assimilation would require 'training' in "civilisation". As will be demonstrated in the following chapter, this concept is integral to the classical conception of the European nation-state. While Neville distinguished between "full-blood" and "half-caste" Indigenous people in terms of "civilisation", he nevertheless argued that "no neglect of the three full-blood classes was thus implied. It merely placed the people in evolutionary order looking at it from the point of view of assimilation" (1947: 29). Neville viewed the process of assimilation as one of "evolutionary" progression to the point of full "absorption" within the Non-indigenous community. Clearly there was to be no place for Indigenous culture

within the Australian nation, which 'necessitated' the exercise of Non-indigenous control over Indigenous lives. |

The assimilation policy has often been attributed to Sir Paul Hasluck, however, he refuted this idea, arguing:

In later years some writers have linked my name with the policy of assimilation, either for blame or commendation. I did not originate the idea nor did I introduce the word into the discussion of policy. When I became minister for territories in the Australian Government in May 1951 I inherited both the word and the purpose it expressed. My contribution was to give greater precision to the idea, to bring clearer and efficient measures to promote the purpose and to seek fuller co-operation between the seven governments in Australia engaged in this phase of administration. (Hasluck, 1988: 70)

This policy did develop over the decades, and as Hasluck stated, more "efficient measures" were introduced to achieve the purposes of the policy despite a disruption by the advent of the Second World War (Johnston, 1991a: 510). However, a number of factors reflected the general lack of commitment to resolving the Indigenous problem at a national level, even though the eventual 'solution' would prove to have a devastating effect upon Indigenous people. Johnston argued that the assimilation policy was implemented when economic and political circumstances suited the State and Territory governments, and in the case of Queensland, the policy was not implemented until 1957 when mineral deposits were discovered on Aboriginal reserves (Johnston, 1991a: 510). There was also no agreement between the State and Territory governments as to what the assimilation policy meant in theory or practice until 1961, 24 years after it was agreed to (Johnston, 1991a: 510). Despite the dramatic decline in the Indigenous population, endemic health problems, poverty and welfare dependency, resolving the Indigenous problem was not a high priority of Australian governments, for whom it remained a 'nuisance' issue. Nevertheless,

assimilation represented a unified shift in the philosophy and aims of Indigenous policy. Scott Bennett argued that assimilation was characterised by a greater degree of conformity between the policies of the major parties and its implementation than previous Indigenous policies (1989: 22-3), reflecting that the Indigenous 'problem' was beginning to emerge as a national issue.

A statement made at the Native Welfare Conference of Commonwealth and State Ministers in 1961 clearly outlines the nature of the policy:

The policy of assimilation means, in the view of all Australian governments, that all Aborigines and part-Aborigines are expected eventually to attain the same manners of living as other Australians and to live as members of a single Australian community, enjoying the same rights and privileges, accepting the same responsibilities, *observing the same customs and influenced by the same beliefs*, hopes and loyalties as other Australians. Thus, any special measures taken for Aborigines and part-Aborigines are regarded as temporary measures not based on colour but intended to meet their need for special care and assistance to protect them from any ill effects of sudden change and to assist them to make the transition from one stage to another in such a way as will be favourable to their future social, economic and political advancement. (Gale, 1975: 72) (italics Gale)

The statement is clear in its aims for the total assimilation of Indigenous people to the Anglo-Celtic Australian culture. This represents not merely the control of Indigenous lives but demands a complete transformation of these lives, culturally, socially, economically and politically to Non-indigenous norms and modes of living.

Wilson argued that:

Whereas 'merging' was essentially a passive process of pushing Indigenous people into the non-indigenous community and denying them assistance, assimilation was a highly intensive process necessitating constant surveillance of people's lives, judged according to non-indigenous standards. Although Neville's model of absorption had been a biological one, assimilation was a socio-cultural model. (1997: 32)

Assimilation, which became the most controlling of Indigenous policies, was aimed at the total removal of Aboriginality from Indigenous lives. As Charles Rowley has

explained, through the process of assimilation “Aboriginal people were to be part of the past, not the future” (Rowley, 1971a: 400). Wilson further argued that: “Implicit in the assimilation policy was the idea current among non-Indigenous people that there was nothing of value in Indigenous culture” (1997: 32). Wilson’s observation is made in reference to the assimilationist period, however, he identifies one of the most fundamental obstacles to the process of reconciliation. If no value can be seen in Indigenous culture, then it can never be attributed the respect that it deserves. In consequence it will only ever be viewed as something ‘inferior’ and ‘peripheral’, that is, not deserving of a place of equal standing with Non-indigenous culture. If reconciliation is to have any substantial meaning, there must be a meaningful recognition of Indigenous cultures and their equal acceptance as part of the social and political life of the nation. If this does not occur, the position of Indigenous people within the nation will always remain subject to the whims of policy makers and social and political trends. Indigenous cultures need to be recognised not as minority cultures in the context of a multicultural Australia, but with the status of ‘first nations’ that are entitled to the right of self-determination. The policy of assimilation represents the antithesis of what is required of reconciliation and the restoration of Indigenous self-determination.

Assimilation became a policy of almost total control of Indigenous existence. It was characterised “by a lack of any Aboriginal involvement in decision making or management” (House of Representatives Standing Committee on Aboriginal Affairs, 1990: 2). An educator, John von Sturmer, who conducted a study in the Cape York region in the early 1970s concerning the Indigenous communities’ involvement in the education of their children, stated in reference to those communities:

The structure of life is imposed from outside; social changes have been implemented, suddenly, from outside with no reference to the Aboriginals living in the communities and often poorly understood by them ... The staff are the directors and controllers; the Aboriginals are the directed and controlled. (House of Representatives Standing Committee on Aboriginal Affairs, 1990: 2)

This example epitomises the level and extent of control exercised under the assimilation policy. The House of Representatives Standing Committee's Report describes the communities as being "artificial" (House of Representatives Standing Committee on Aboriginal Affairs, 1990: 2) because they were an exercise in social engineering, whereby Indigenous cultural practices were forbidden and Non-indigenous cultural practices were imposed against the will of Indigenous people through psychological and social manipulation. Johnston has argued that:

Like earlier policies, assimilation portrayed 'Aboriginality' as a thing of the past. But, unlike its antecedents, this policy was based not on 'race' or related scientific theory, but on a notion of culture and shared values. So assimilation represented a shift from biology to life style, from skin-colour to what was inside people's heads. The pitch became more one of 'psychological warfare', implemented with the assistance of the disciplines of psychology and other social sciences which promised new understandings of normative behaviour and methods of cultural indoctrination. The Aboriginal child was thus 'deprived' of important stages in early development; intelligence testing showed them to be of inferior capability. New justifications were therefore introduced to remove children away from their homes for intelligence boosting. The value-laden nature of such cross cultural testing was not understood or acknowledged. 'Intelligence' (not 'racial superiority') was now being defined by the 'superior culture' (rather than the 'superior race'). (Johnston, 1991a: 511-12)

The policy shift to assimilation, as stated above was distinct from past policy, it moved towards the total acculturation of Indigenous existence to Non-indigenous norms and behaviours. The mode of policy control shifted from one of containment and isolation to one of surveillance and policing, not only on reserves and settlements, but into the homes of Indigenous families, policing their "personal lives, sexual relations, hygiene, child-rearing and general housekeeping", a process which

continued into the 1970s (Johnston, 1991a: 42, 512). Concerning the means by which assimilation was to be achieved, Johnston argued that: “All these pressures upon Aboriginal families were more than a mere request for social conformity. In effect they represented an ultimatum: meet the ideal standards and be examined at any time, or your children will be taken away, and made wards of the state” (Johnston, 1991a: 513). Assimilation was enforced under the coercive threat to remove Indigenous children if the parents did not comply. This demonstrates the level of determination that governments had in implementing their policy, and their commitment to achieving a culturally homogenous nation.

Underlying the desire to control Indigenous Australians through assimilation was the idea of the superiority of the Anglo-Celtic Australian culture. The idea of a dominant Australian culture was implicitly articulated in the statement “*observing the same customs and influenced by the same beliefs, ... as other Australians*” (Gale, 1975: 72) (italics Gale). The implications of the policy for Indigenous people, Johnston argued, was that they were portrayed as:

something *other*, something outside this—people not in fact part of this nation, this Australia. Yet they were from the start of white settlement and had a continuing impact upon the evolution of the nation’s history and society. The assimilation policy offered a chance to ‘fit in’. The formula requested that Aboriginal people stop being culturally distinctive. Presumably their Aboriginality would not then be noticed. Non-Aboriginal people would not have to change at all. These were the only terms upon which non-Aboriginal Australians would accept Aboriginal people as having a place in the nation. (Johnston, 1991a: 511) (italics Johnston)

The Australian nation was imagined to be exclusively Anglo-Celtic in culture and any cultural aberration had to be controlled and assimilated. Within the imagined nation, citizenship was inextricably linked to culture. In this sense Indigenous people were seen as subjects rather than citizens, being subject to Non-indigenous

law but not benefiting from the rights and freedoms extended to citizens as Non-indigenous people did. Johnston argued that “Being an ‘Aboriginal native’ ... disqualified a person from national citizenship”, and that “‘Civil liberties’ were not considered an issue for Aboriginal people” (Johnston, 1991a: 517). This was despite the fact that under the *Nationality and Citizenship Act* of 1948, citizenship is acquired by birth within Australia (Chesterman, 1997: 2). In contrast to Johnston’s view, John Chesterman and Brian Galligan astutely argue that Indigenous people were in fact citizens, albeit “citizens without rights” (1997: 3). Whether Indigenous people were citizens or not is almost immaterial, the central issue is the denial of their inherent human rights in contrast to those of the Anglo-Celtic majority. Notwithstanding the literal meaning of the 1948 *Act*, in 1951 the Australian Council of Native Welfare convened the “first inter-governmental discussion on citizenship status for Aborigines” (Rowley, 1971a: 391). Thus the citizenship status of Indigenous people within the nation was ambiguous. For migrants, citizenship could be granted on the basis of their “good character” and “and adequate knowledge of English and of the responsibilities and privileges of citizenship” (Jaensch, 1988: 42). In respect to these criteria for citizenship and the prevailing attitudes towards Indigenous people at the time, it can be deduced that they were not considered to be sufficiently ‘advanced’ to be granted citizenship. Indeed, Alastair Davidson has argued that the:

rules of nationality and citizenship in Australia have always been more discriminatory against Aborigines than against any other part of the population. The attempts of Aboriginal people to meet what was required of them to become citizens by an Anglo-Celtic nation were doomed to failure because those requirements were impossible to meet. (1997: 188)

According to Davidson, Australia’s criteria for citizenship represented an effective barrier to the inclusion of Indigenous people within the nation. He held that

Indigenous people “thus contributed to Australian citizenship by showing how inadequate any notion based on a single national identity must be today and in a future global world. The ruling party and the state still resist” (Davidson, 1997: 189). It is worth noting that Davidson was still able to observe in 1997 that the notion of a dominant Anglo-Celtic national identity remained a potent force in Australian politics, one that militated against the cultural inclusion of Indigenous people within the nation.

Indigenous people were subjected to discrimination in relation to citizenship in a number of ways. The most important example of this relates to two sections of the Australian Constitution, the defining document of the nation. The first of these sections prior to its amendment in 1967 stated:

51. The Parliament shall, subject to this Constitution, have power to make laws for the peace, order, and good government of the Commonwealth with respect to:

...
(xxvi) the people of any race, other than the aboriginal race in any State, for whom it is deemed necessary to make special laws; (*Commonwealth of Australia Constitution Act 1900*, Section 51 (xxvi)).

The inference that can be drawn from this is that in the minds of those who drafted the Constitution, Indigenous people were to be distinguished from the Non-indigenous people of the Commonwealth in the same way that foreign races were, excepting that the responsibility for making “special” race laws would lie with the States. Consequently, Indigenous people were viewed as not being an integral part of Australia’s national citizenry, but were instead a special case in the way that other races were. However, there are other views as to how this section should be interpreted. John Summers states in reference to this section that:

... it appears that the “race power” was intended to give the Commonwealth power to deal with ‘coloured groups’ from outside Australia - such as people who may have come to Australia as indentured labourers - but in line with the general federalist philosophy of the Constitution, Aboriginal matters would remain with the States. (Summers, 2000: 2)

Summers’ inference is that Indigenous people were to be dealt with by the States as ‘internal’ “coloured groups” that were excluded from citizenship. Chesterman and Galligan support this view arguing that: “The exclusion of Aborigines from citizenship was by no means a constitutionally ordained necessity, but rather a deliberate product of Commonwealth and State government legislation and administration” (Chesterman, 1997: 84). However, in 1965 the Prime Minister Robert Menzies argued that the section should be interpreted as a “protection against discrimination by the Commonwealth Parliament in respect of Aborigines” (Menzies, 1965: 2638). Presumably Menzies’ view was that Indigenous people were not to be singled out by the Commonwealth legislating in any discriminatory way that distinguished them on the basis of race from the Non-indigenous population. While this may have been the intention of the section it also meant that the Commonwealth could not intervene in any positive ways on the basis of race. In part the rationalé for holding the 1967 referendum was to resolve that problem (Bennett, 1989: 10).

Section 127 of the Constitution, however, is unambiguously exclusionary, before it was removed following the result of the 1967 referendum it stated that: “In reckoning the numbers of the people of the Commonwealth, or of a State or other part of the Commonwealth, aboriginal natives shall not be counted” (*Commonwealth of Australia Constitution Act 1900*, Section 127). Clearly, Indigenous people were not to be numbered as the people of the Commonwealth were, making them something

other than citizens. This section also prevented the Commonwealth and States from accurately gauging the size of the Indigenous population, thus eliminating a critical element of policy development. A census provides vital demographic information that enables the allocation of appropriate funding for social needs such as housing, health and employment. These exclusionary sections of the Constitution leave no doubt that Indigenous people were not considered to be full citizens of the newly formed Federation.

Further evidence of the exclusion of Indigenous people from citizenship comes from the *Commonwealth Electoral Act* which allowed them to vote only if they were enrolled to vote in the States (Johnston, 1991a: 517). However, State laws concerning Indigenous enfranchisement varied widely, and depended on such things as membership of the armed forces (Rowley, 1971a: 392-4, 402-4). Consequently, electoral laws throughout Australia, both Commonwealth and State, were racially discriminatory against Indigenous people because they did not grant universal enfranchisement. It was not until 1962 that the Commonwealth government legislated to give all Indigenous people the right to vote without qualification (Bennett, 1989: 114). Nevertheless, Hilary Rumley argued that the extension of voting rights to Indigenous people “was seen by politicians and bureaucrats as an important part of the assimilation process” (Rumley, 1979: 113). Rumley stated that the rationale appears to have been that “the more educated or politically aware an aborigine is, the more assimilated he or she will be to European society and the more likely he or she will be to voluntarily enrol and exercise the franchise” (Rumley, 1979: 113). The extension of the franchise to all Indigenous people can be interpreted as a significant advance in their civil rights. Nevertheless, as Rumley

argued, it came with a sub-text of assimilation, reinforcing the exercise of Indigenous control.

Colin Tatz also questioned the significance of Indigenous enfranchisement: "I have always dismissed as moronic the view which says that by virtue of their franchise Aborigines have political equality and are therefore political participants. Assuredly they have no political equality in the generally accepted sense" (1979: 19). The point that Tatz was making was not that the Indigenous right to vote is unimportant, rather that for Indigenous people to enjoy substantial equality required profound changes to the way in which the Australian political system is influenced and informed by Indigenous cultural perspectives. In other words, if there is no significant political representation and accommodation of Indigenous culture then Indigenous enfranchisement is merely token. Therefore, enfranchisement, if it is to be a meaningful right of citizenship for Indigenous people, must be culturally accommodating in order to deliver equality between Indigenous and Non-indigenous people. If not, it can only amount to a token extension of rights within a Non-indigenous-dominated nation. Tatz further argued in support of Rumley's view concerning the Indigenous franchise:

Since 1962 Aborigines have been entitled to a federal franchise. Unlike other voters, they are not compelled to register: they do so *voluntarily*—but once registered they must vote. This especial 'freedom' was based on assimilationist notions: the train of thinking being that bush illiterates wouldn't be interested but the 'educated', more politically aware, more 'white aware', would probably enroll.

Initial efforts to educate Aborigines in voting procedures were pathetic ... Political education was the rock bottom priority of the then very colonial administrations. (1979: 19-20) (*italics Tatz*)

Thus, the granting of the Commonwealth franchise to Indigenous people was largely a token gesture, it was not supported with the necessary education that would make

the right effective and influential for Indigenous people. Again this demonstrated an underlying desire by Non-indigenous governments to exercise control over Indigenous people, although in this case it was through inaction.

Towards the end of the assimilation period, and signalling a level of change in official attitudes towards Indigenous people, the 1965 Native Welfare Conference of Commonwealth and State Ministers amended the definition of assimilation to read:

The assimilation policy seeks that all persons of Aboriginal descent *will choose* to attain a *similar* manner and standard of living to that of other Australians and live as members of a single Australian community ... Any special measures taken are regarded as temporary measures, not based on *race*, but intended to meet their need for special care and assistance and to make their transition from one stage to another in such a way as will be favourable to their social, economic and political advancement. (Gale, 1975: 72) (*italics Gale*)

When the above statement is read against the inclusive acts of the 1962 extension of the franchise and the 1967 amendments to the Constitution, it does not reflect the acceptance of Indigenous people and their culture in a place of equal standing nor does it represent an extension of citizenship. Rather, as Rumley argued, it represents an attempt to acculturate Indigenous people to Anglo-Celtic cultural norms, reflected in the phrases “will choose to attain a similar manner of living ... to that of other Australians” and “live as members of a single Australian community”. It is difficult to accept how this statement was not based on ‘race’ in the context of what is demanded. It is a further example of the ambivalence inherent in the relationship: an attitude of care towards Indigenous people countered by a desire to control them.

Conclusion

In the previous chapter it was argued that Indigenous people as the original owners and occupiers of the Australian continent had, prior to colonisation, been sovereign and self-determining people. This chapter has shown that following colonisation Indigenous people began to lose these inherent rights as the colonists progressively occupied the continent. As a direct consequence of the territorial expansion Indigenous people were increasingly subjected to the controlling policies implemented by the colonists. The early intention of the British government to protect Indigenous people from any detrimental effects that might ensue from colonisation was abandoned when it became clear that Indigenous people were resisting the loss of their traditional lands and inherent rights. From this point a culture of control developed towards Indigenous people on the part of the colonists that has continued unabated, characterised only by changes to the modes and methods of control and an attitude of ambivalence towards Indigenous rights. The policy changes and forms of control discussed in this chapter have ranged from frontier violence, protection through exclusion, and finally to assimilation, where Indigenous people were expected to conform to the cultural norms, values and practices of the dominant Anglo-Celtic culture of the nation, a policy which ostensibly ended with the introduction of the Indigenous self-determination policy in 1972.

The following chapter will argue that the culture of control developed out of the way in which the Australian nation has been imagined, that is, according to the classical European model of the nation-state. The nation-state will be shown through the theoretical work of Benedict Anderson and Ernest Gellner to be an entity that works

to assimilate minority cultures to the culture of its dominant majority. Chapters Four and Five will show how the Australian nation has developed according to the classical European model of the nation-state.

¹ In an article in the *Weekend Australian* in 1999 Rosemary Neill echoes his argument: "Despite governments spending billions of dollars on Indigenous affairs, Aborigines remain much more likely than others to die young, poor, behind bars and with only a primary school education" (*Weekend Australian*, 24-25 April 1999).

² This series comprised: Part I, (October, 2000) "The Invention of Massacre Stories", *Quadrant*: 8-21; Part II, (November, 2000) "The Fabrication of the Aboriginal Death Toll", *Quadrant*: 17-24; Part III, (December, 2000) "Massacre Stories and the Policy of Separatism", *Quadrant*: 6-20.

³ See Geoffrey Blainey, (1993) "Drawing Up a Balance Sheet of our History" (Latham Lecture), *Quadrant*, July-August: 10-15.

3 Nation and culture: the development of the nation-state

Introduction

In this chapter and the following two chapters the defining issues in the development of the classical European nation and their congruence in the formation of the Australian nation will be considered in relation to its cultural exclusivity and homogeneity. The intellectual debates that centre around the issues of nation and nationalism are numerous, particularly when consideration is given to whether the nations and nationalisms are European, American, African, Asian, colonial or post-colonial, among other differentiations. In applying nation and nationalism theory to the problem of this thesis it is not possible or necessary to engage with the whole range of debates. Nevertheless, it is necessary to position the thesis within a particular debate that is relevant to the Australian case, and thus to frame and justify the theoretical position that will be adopted. It will be argued that Australia came into existence at the time when the idea of nation and nationalism was a relatively new political phenomenon, even though Australia was not constituted as a nation in its own right until 1901. In the formative years leading up to Federation and beyond, Australia adopted the 'classical European' approach to nation building. It was in conceptualisation, as Partha Chatterjee has noted, a "pure type" intimately linked to the liberal ideal of "progress".¹ While this framework is applicable to the formation of the Australian nation, it requires qualification.

The continuing debates over the issues of national identity and status within the community of nations that have raged throughout much of Australia's post-federation history have been described by the historian Richard White as a "national obsession" (White, 1981: viii). In many ways the formation of the Australian nation was unique, beginning in the late eighteenth century as a penal colony designed to relieve Britain's over-populated penal institutions, progressing in the mid to late nineteenth century to become a diverse group of self-governing 'settler' colonies, and finally becoming an independent nation at the beginning of the twentieth century. This progression, which took place at almost the opposite end of the world to Europe, creates a sense of ambiguity about Australia's place in the region and poses the question of whether Australia is a European nation, despite its isolation from Europe, or an Asian nation because of its proximity to Asia?² To address these questions would not be in keeping with the focus of the thesis, yet they do call into question the certainty about how Australia should be perceived. However, the analysis in this chapter will firmly place Australia within the 'classical European' conceptions of nation and nationalism. Benedict Anderson has argued that the ideas of nation and nationalism made themselves available to be copied and adapted to the local conditions, and this is what took place in the Australian experience of nation building (Anderson, 1991: 67). Of primary importance to the way in which the Australian nation and nationalism will be addressed is the exclusion of Indigenous people from the mid-nineteenth century processes of national formation and its progress since 1901. In this Australia did not vary from the classical European model.

This chapter will consider the work of three prominent theorists of nation and nationalism: the historian, Benedict Anderson; the social anthropologist, Ernest Gellner; and as a counterpoint, the critiques of Partha Chatterjee on the work of the other two theorists. Further, the chapter will focus on the theory of nation and nationalism, considering their origin and development, their form and composition and the implications for the minority cultures of Indigenous people. However, a comprehensive account of the factors surrounding the origin and development of nations and nationalism will not be attempted owing to the constraints of the thesis. Instead, the principles inherent in the nation theories to be considered will be drawn together to form a theoretical approach to the debates of nation within Australia. The works of Anderson and Gellner have received wide-ranging acceptance and acclaim, and the authors are considered to be among the primary contributors to the debates of nation and nationalism. The supporting arguments for their theories will be used to demonstrate and support the arguments developed in this thesis concerning the monocultural hegemony that characterises the Australian nation.

Under the final subheading of this chapter, *The Nation, liberalism and Indigenous self-determination*, consideration will be given to the liberal theoretical perspectives of Will Kymlicka, Paul Patton and Chandran Kukathas on the capacity of liberalism to accommodate Indigenous rights to self-determination. An alternative perspective on this debate will also be given, drawing on the work of the communitarian philosopher Charles Taylor. However, particular emphasis will be given to the work of Kymlicka who has developed a unique theoretical position within liberalism in relation to Indigenous rights. Despite the potential of Kymlicka's liberal perspective, it will be shown in later chapters that Australian governments have been unwilling to

embrace such an innovative liberal position on Indigenous rights, thus reinforcing the central argument of the thesis about the way in which Commonwealth governments refuse to compromise the dominant Anglo-Celtic imagining of the nation.

Before commencing an analysis of the theory of nation, it will first be necessary to define both nation and nationalism in order to clarify their use within the arguments of this chapter. Equally, the term 'state' also requires definition so as to differentiate it from the nation.

PART I

DEFINITIONS: STATE, NATION AND NATIONALISM

The State

In defining the state, Gellner used Max Weber's definition as a starting point: "that agency within society which possesses the monopoly of legitimate violence" (Gellner, 1983: 3). While violence, regardless of its legitimacy, is not generally a function that the average citizen of a democracy would associate with the idea of the state, it is central to understanding the state's role. Gellner went on to argue that:

The idea behind this is simple and seductive: in well-ordered societies, such as most of us live in or aspire to live in, private or sectional violence is illegitimate. Conflict as such is not illegitimate, but it cannot rightfully be resolved by private or sectional violence. Violence may be applied only by the central political authority, and those to whom it delegates this right. Among the various sanctions of the maintenance of order, the ultimate one—force—may be applied only by one special, clearly identified, and well centralised, disciplined agency within society. That agency or group of agencies is the state. (Gellner, 1983: 3)

In democratic polities, as it is the people's will that is represented by the "central political authority", or government, its delegation of the right to maintain order reflects the will and desire of the people. In this sense the state enforces and maintains the values inherent in the will of the people for a "well-ordered" society,

rather than being the source of the will and the definer of values. The importance of this latter point will be made apparent in the definition of nation below. The state, Gellner argued:

is the specialization and concentration of order maintenance. The 'state' is that institution or set of institutions specifically concerned with the enforcement of order (whatever else they may also be concerned with). The state exists where specialized order-enforcing agencies, such as police forces and courts, have separated out from the rest of social life. They *are* the state. (Gellner, 1983: 4)

The state is made identifiable in a set of institutions and agencies that are *separate* "from the rest of society". This again is an important point, as in many ways "the rest of society" constitutes the nation. The relationship between the state and the nation is important, as it is the state that enacts and enforces the values, norms, and practices that are inherent in the nation.

The Nation

The nation, unlike the state, which can be defined and identified in the existence and roles of particular institutions and agencies, is more ambiguous. Anderson has argued that: "Nation, nationality, nationalism—all have proved notoriously difficult to define, let alone to analyse" (Anderson, 1991: 3). Anderson went on to add:

In contrast to the immense influence that nationalism has exerted on the modern world, plausible theory about it is conspicuously meagre. Hugh Seton-Watson, author of far the best and most comprehensive English-language text on nationalism, and heir to a vast tradition of liberal historiography and social science, sadly observes: "Thus I am *driven* to the conclusion that no "scientific definition" of the nation can be devised; yet the phenomenon has existed and exists. (Anderson, 1991: 3)

On the basis of the considered opinion of two renowned theorists of nation no attempt will be made to give a definitive answer to the question, what is a nation?

However, both Anderson and Gellner offer valuable insights into some of the characteristics that evidence the existence of nations and nationalism.

Central to the idea of nation are human relationships and interactions. Anderson stated: "In an anthropological spirit, then, I propose the following definition of the nation: it is an imagined political community—and imagined as both inherently limited and sovereign" (Anderson, 1991: 5-6). There are a number of important points to be discussed here. As was argued above, the state can be identified in institutions; the nation, however, exists as a political community only in the *minds* of a people. The nation therefore is an abstract, intangible entity. Further, the community that is the nation is "limited" because it is inclusive of only a select group of people, and is "sovereign" because it has been emancipated from religious and dynastic control, with the "sovereign state" being symbolic of its "freedom" (Anderson, 1991: 7). Gellner is more explicit in his definition of nation and its connection to a people:

Romanticism was almost ideally suited to provide nationalism with its idiom and its style. And so it did. Had commercialism and/or industrialism led, as liberalism and Marxism expected, to an irresistible all-embracing melting pot and a universal humanity, then indeed the original philosophy of the Enlightenment would have provided it with a perfect ideological cover. But, for whatever reasons ... this did not happen: at least so far, the push towards homogeneity ... is engendering not one universal culture, but a finite number of internally standardised but externally differentiated 'national' cultures. These cultures define and make nations: it is not the case, as nationalists believe and proclaim, that independently and previously existing nations seek the affirmation and independent life of 'their' culture. Cultures 'have' and make nations; nations initially neither exist nor have or do anything. High cultures and homogeneity replace low cultures and diversity, and become politically significant: so-called 'nations' are simply the political shadows of this basic fact. (Gellner, 1998: 69)

For Gellner the nation is in essence the creation of a culture, with cultural homogeneity being the distinguishing feature of the nation. However, he asserted

that the *nation*, rather than being defined by cultural homogeneity, is merely the term that should be employed to describe the specific political and homogeneous culture. This is a very significant statement concerning the nature of the nation, that it is merely the 'political shadow' of a culture, in other words 'the culture' *is the substance* of 'the nation'. While Gellner offered the definition: "a system of ideas and signs and associations and ways of behaving and communicating" (Gellner, 1983: 7) for the complex idea of 'culture', he qualified it by stating that it is "best to approach this problem by using this term without attempting too much in the way of formal definition, and looking at what culture *does*" (Gellner, 1983: 7). That is, the role that culture plays in the existence of the nation.

Finally, Anderson made another important observation concerning the community of the nation, arguing that:

it is imagined as a *community*, because, regardless of the actual inequality and exploitation that may prevail in each, the nation is always conceived as a deep, horizontal comradeship. Ultimately it is this fraternity that makes it possible, over the past two centuries, for so many millions of people, not so much to kill, as willingly to die for such limited imaginings. (Anderson, 1991: 7)

Clearly, the idea of nation is not a superficial one, because it engenders a profoundly deep-seated sense of belonging, one that not only involves living together, but one for which individuals will kill and even die for. From this perspective then, it is not difficult to see that the people of such a community would seek to protect the 'sanctity' of their culture within their national space. When the nation is understood in these terms, it allows for a new understanding of the way in which the Indigenous 'problem' can be approached, and the kind of solutions that can be applied. This is because one of the main obstacles to resolving the Indigenous 'problem' is that of the "internally standardised 'national' culture" which does not accommodate cultural

difference within the nation. From the work of Anderson and Gellner it can be concluded that the nation exists only in the minds of a culturally homogeneous people.

Nationalism

Anderson defined nationalism as being a “cultural [artefact] of a particular kind” (Anderson, 1991: 4), arguing that: “nationalism has to be understood by aligning it, not with self-consciously held political ideologies, but with the large cultural systems that preceded it, out of which—as well as against which—it came into being” (Anderson, 1991: 12). Nationalism, therefore, is an expression of culture rather than ideology. This view is also held by Gellner, who stated that nationalism:

is a political principle which maintains that similarity of culture is the basic social bond. Whatever principles or authority may exist between people depend [sic] for their legitimacy on the fact that the members of the group concerned are of the same culture (or, in nationalist idiom, of the same ‘nation’). In its extreme version, similarity of culture becomes both the necessary and the sufficient condition of legitimate membership: only members of the appropriate culture may join the unit in question, and all of them must do so. (Gellner, 1997: 3-4)

It is clear that nationalism is a cultural mode of operating within the national space, one that requires social and cultural cohesion, and maintains the basis for political legitimacy. Nationalism, therefore, is a culturally totalising political principle that seeks to maintain cultural homogeneity within the national space. Gellner further added that:

The impulsion towards nationalist sentiment in politics has, in our view, exceedingly profound roots in the lifestyle of modern man, which makes for homogeneity of a single high culture within any one political unit, and which condemns those not masters of the said culture, or unacceptable within it, to a humiliating, painful second-class status. (Gellner, 1997: 102-3)

This statement cuts to the source of the Indigenous ‘problem’—their ‘cultural difference’. Inherently and explicitly the “nationalist sentiment” is antipathetic towards cultural difference and diversity. Certainly, Australia’s Indigenous people have been and continue to be subjected to ‘second-class’ treatment in ways that seek, either overtly or covertly, to assimilate them to ‘mainstream’ culture. Throughout the rest of this chapter the formation of nations and the circumstances in which they developed will be considered in some detail. The relevance of this analysis will be made clear in the following two chapters as consideration is given to the development of the Australian nation and its implications for Indigenous people.

PART II

THE FORMATION OF NATIONS

In considering the historical development of the nation and nationalism, Anderson argued that the possibility for their development only occurred with the coinciding erosion of the power of longstanding historical institutions and ideas, and the contemporaneous advances in knowledge and technology. The first was the decline of religious institutions and truths concerning the world and humanity’s place in it; second was the decline of monarchies that represented a link between the people and divine order; and third was the consequent decline in the idea of humanity’s link to universal order. The effect of these factors was further accentuated by social, scientific, and economic advances (Anderson, 1991: 36). The period of the late eighteenth and early nineteenth centuries represented a transition in human organisation from religious and dynastic systems to people-orientated systems of government. Gellner identifies this transition as being from agrarian-based societies to industrial societies (Gellner, 1983, chapters 2 and 3). This period was often characterised by great upheavals of social organisation, such as the American and

French revolutions. However, at least from the perspective of Non-indigenous Australians, the process in Australia was relatively peaceful and orderly. Out of this context Anderson argued that it was: “No surprise then that the search was on, so to speak, for a new way of linking fraternity, power and time meaningfully together” (Anderson, 1991: 36). These issues of “fraternity, power and time” combined to form the foundation of the classical European idea of nation, but one that is exclusive of cultural difference. Therefore, the nation came to replace the religious and dynastic systems as the source of reference for social existence and organisation. Anderson further argued that the “‘nation’ thus became something capable of being consciously aspired to ... the ‘nation’ proved an invention on which it was impossible to secure a patent. It became available for pirating” (Anderson, 1991: 67). Thus Australia developed as a nation from disparate colonies to a federation at a time when the ideas of nation and nationalism were in their infancy, and followed the precedents that had occurred throughout Europe and the Americas.

In the Americas, Anderson argued, there was a “profound feeling that a radical break with the past was occurring”, a break with the dynastic past, while in Europe “the new nationalisms almost immediately began to imagine themselves as ‘awakening from sleep,’” and looking back to “ancestral glories” (Anderson, 1991: 193, 195). Central to these “breaks” and “awakenings” was the new intellectual discipline of history, which shifted the focus from universal or cosmological themes to the humanistic issues of race, origins, development, interactions, and conflicts. Consequently, in the context of nation and nationalism “began the process of reading nationalism *genealogically*—as the expression of an historical tradition of serial continuity” (Anderson, 1991: 195).

The Nation and History

It is of vital importance to understand how the modern conception of history impacted upon the idea of nation, and its ongoing role as a source of national legitimation. Anderson compared and contrasted the development of a human individual with that of the nation in order to demonstrate the centrality of the historical narrative to the process of nation creation and legitimacy. Under a chapter subtitle of "The Biography of Nations" Anderson explained:

All profound changes in consciousness, by their very nature, bring with them characteristic amnesias. Out of such oblivions, in specific historical circumstances, spring narratives. After experiencing the physiological and emotional changes produced by puberty, it is impossible to 'remember' the consciousness of childhood. How many thousands of days passed between infancy and early adulthood vanish beyond direct recall! How strange it is to need another's help to learn that this naked baby in the yellowed photograph, sprawled happily on rug or cot, is you. The photograph, fine child of the age of mechanical reproduction, is only the most peremptory of a huge modern accumulation of documentary evidence (birth certificates, diaries, report cards, letters, medical records, and the like) which simultaneously records a certain apparent continuity and emphasizes its loss from memory. Out of this estrangement comes a conception of personhood, identity (yes, you and that naked baby are identical) which, because it can not be remembered, must be narrated. ...

These narratives, like the novels and newspapers discussed in Chapter 2, are set in homogeneous, empty time. Hence their frame is historical and their setting sociological. This is why so many autobiographies begin with the circumstances of parents and grandparents, for which the autobiographer can have only circumstantial, textual evidence; and why the biographer is at pains to record the calendrical, A.D. dates of two biographical events which his or her subject can never remember: birthday and death-day. (Anderson, 1991: 204)

Anderson explained in his example of the human individual that the continuum of consciousness in the journey from infancy to adulthood is ruptured by amnesias, evidenced by "birth certificates, diaries, report cards, letters, medical records, and the like" rather than direct recollection. This evidence can then be collated into a

sociological and historical narrative that gives an account of the individual and reveals an identity. This process, said Anderson, takes place in “homogeneous, empty time” as it does with that of the nation. The important point here is that while there are “amnesias” in the continuum of consciousness, there is nevertheless, unlike the nation, a fixed date of origin and expiration, even though they are beyond memory.

It is of primary importance to understand the discontinuity of perceptions of time between the pre-industrial ages and the industrial age, and its centrality to the narration of the nation. To explain what he meant by “empty, homogeneous time” Anderson argued in reference to a medieval representation of a religious image that: “Figuring the Virgin Mary with ‘Semitic’ features or ‘first-century’ costumes in the restoring spirit of the modern museum was unimaginable because the mediaeval Christian mind had no conception of history as an endless chain of cause and effect or of radical separations between past and present” (Anderson, 1991: 23). It is difficult from the perspective of the twenty first century to comprehend the world in this mediaeval way. The view was that the world and humanity had a single destiny that could not be averted, and that the passage of time led to only one inevitable end. Marc Bloch’s insight into the mediaeval perspective of time is used by Anderson to reinforce this point:

Bloch observes that people thought they must be near the end of time, in the sense that Christ’s second coming could occur at any moment: St. Paul had said that ‘the day of the Lord cometh like a thief in the night.’ It was thus natural for the great twelfth-century chronicler Bishop Otto of Freising to refer repeatedly to ‘we who have been placed at the end of time.’ Bloch concludes that as soon as mediaeval men ‘gave themselves up to meditation, nothing was farther from their thoughts than the prospect of a long future for a young and vigorous human race.’ (Anderson, 1991: 23)

It is apparent that the passage of time in the pre-industrial age was relevant only to a religious understanding of the world and humanity's place in it. To extend the understanding of this conception of time, Anderson quoted the following biblical example from Erich Auerbach:

If an occurrence like the sacrifice of Isaac is interpreted as prefiguring the sacrifice of Christ, so that in the former the latter is as it were announced and promised and the latter 'fulfills'... the former, then a connection is established between two events which are linked neither temporally nor causally—a connection which it is impossible to establish by reason in the horizontal dimension ... It can be established only if both occurrences are vertically linked to Divine Providence, which alone is able to devise such a plan of history and supply the key to its understanding ... the here and now is no longer a mere link in an earthly chain of events, it is simultaneously something which has always been, and will be fulfilled in the future; and strictly, in the eyes of God, it is something eternal, something omnitemporal, something already consummated in the realm of fragmentary earthly event. (Anderson, 1991: 24)

Auerbach's argument is that the mediaeval perception of time was one of "simultaneity", where the events of 'today' were inherent both in time past and in the future, rather than being the result of past agency and a determinant of future events. At this juncture the above argument can be linked to the previously acknowledged decline of the ancient religious and dynastic influences. What was taking place at the beginning of the industrial age concerning the perception of time and history was the dramatic shift away from a world in which earthly events could only be accounted for by Divine will or intervention to one where the understanding of the principle of cause and effect could give a serial account of events through the progression of time, or "empty, homogeneous time". That is, time that contains no inherent meaning or serves any particular purpose, and in which narratives can be independently constructed. Anderson further added that Auerbach: "rightly stresses that such an idea of simultaneity is wholly alien to our own. It views time as something close to what Benjamin calls Messianic time, a simultaneity of past and

future in an instantaneous present” (Anderson, 1991: 24). What was occurring during the transition to the industrial age was a radical shift in the way of understanding the world, human agency, and position, and also in the way that past events could be understood and interpreted. The effect was that the world, humanity, and events could be imagined and understood in new ways. Humanity was no longer held captive to a cosmological order that had been perceived as immutable and determinist.

With this understanding of time and history it is possible to appreciate more fully the idea of the narration of the nation. Contrasted to the documentation of the individual narrative, such as birth certificates etcetera, the narratives of the nation are expressed through, among other forms, the novel and newspapers, mediums that create a form of unity of time and space in a common national consciousness that previous to their invention had not been possible (Anderson, 1991, chapter 2). Establishing the connection between the narrative of the individual to that of the nation, Anderson explained that the process of narrating the nation compares with that of the individual in that:

As with modern persons, so it is with nations. Awareness of being imbedded in secular, serial time, with all its implications of continuity, yet of ‘forgetting’ the experience of this continuity—product of the ruptures of the late eighteenth century—engenders the need for a narrative of ‘identity.’ ... Yet between narratives of person and nation there is a central difference of employment. In the secular story of the ‘person’ there is a beginning and an end. She emerges from parental genes and social circumstances onto a brief historical stage, there to play a role until her death. After that, nothing but the penumbra of lingering fame or influence. ... Nations, however, have no clearly identifiable births, and their deaths, if they ever happen, are never natural. Because there is no Originator, the nation’s biography can not be written evangelically, ‘down time,’ through a long procreative chain of begettings. The only alternative is to fashion it ‘up time’—towards Peking Man, Java Man, King Arthur, wherever the lamp of archaeology casts its fitful gleam. This fashioning, however, is marked by deaths,

which, in a curious inversion of conventional genealogy, start from an originary present. World War II begets World War I; out of Sedan comes Austerlitz; the ancestor of the Warsaw Uprising is the state of Israel. (Anderson, 1991: 205)

What Anderson has argued here is that history is not an axiomatic retelling of ‘truths’ concerning the nation from the present, rather that the “history” of nations and nationalism are retrospectively and selectively constructed. The implication is that the nation is narrated out of a particular, and subjective contextuality in the “originary present”. For the nascent Australian nation on the new continent there were no predecessors, no historical figures, wars or culture on which to construct an inversed ancient genealogy of a ‘European’ Australian history. The issue of how the Australian nation was constructed and narrated will be dealt with in the following chapter. However, it will be useful to consider Chatterjee’s critique of Anderson’s ideas of the “modular” European nation and “empty, homogeneous time”, and its relevance to the situation of Indigenous people within the Australian nation.

To give context to Chatterjee’s critique it is necessary to identify his position as being that of a post-colonial theorist whose interests broadly lie in the decolonised nations of Asia and Africa. Nevertheless, in contextualising his point of contention with Anderson, it is evident that this is also applicable to the position of Indigenous people within the Australian nation. In his book *The Nation and Its Fragments: Colonial and Postcolonial Histories*, in the chapter “Whose imagined community?”, Chatterjee stated, in reference to Anderson’s *Imagined Communities*:

I have one central objection to Anderson’s argument. If nationalisms in the rest of the world have to choose their imagined community from certain “modular” forms already made available to them by Europe and the Americas, what do they have left to imagine? History, it would seem, has decreed that we in the postcolonial world shall only be perpetual consumers of modernity. Europe and the Americas, the only true subjects of history, have thought on our behalf not only the script of

colonial enlightenment and exploitation, but also that of our anticolonial resistance and postcolonial misery. Even our imaginations must remain forever colonized. (Chatterjee, 1993: 5)

Chatterjee rejects the idea of the imposition of a colonial “modular” imagined community and a ‘scripted’ historical modernity onto post-colonial nations. This is a valid point in reference to the post-colonial world, even though it is not directly applicable to the hegemonic view of the Australian nation. However, it becomes relevant when consideration is given to the perspective of Indigenous people. While Australia had historically been a collection of self-governing British colonies that went on to become an independent nation, albeit with a constitutional monarchy at its head, there is no likelihood for Indigenous people of Australia becoming a decolonised nation. Therefore, from the Indigenous perspective they remain a colonised people, subjected to a European “modular” form of nation and nationalism. Again this highlights the ambiguous nature of the imagined Australian community. Arguably, Australia can be portrayed as a post-colonial nation, in the sense that it is no longer a colony of Britain, yet retains certain settler attributes from its colonial past. However, the post-colonial shift has been achieved not through complete decolonisation, but through a process of colonisation of its Indigenous people by the newly imagined nation. Consequently, Indigenous cultures have been subsumed under the rubric of one Non-indigenously imagined community, and remain colonised. Therefore, to answer Chatterjee’s question “Whose imagined community?” in relation to Australia, it is not the imagined community of Australian Indigenous people, and no space is given for them to imagine *their* community within the idea of the Australian nation. In a national context, ‘imagining’ can be equated to a particular act of ‘self-determination’, that is the ability and freedom to imagine a community and to live in it as an expression of culture. This issue is

expanded on when consideration is given to Chatterjee's critique of "empty, homogeneous time".

In his 1999 article, "Anderson's Utopia", Chatterjee expanded upon his objection, and asked in reference to Anderson's idea of the perceived "goodness" of nations whether it was:

Utopian? Yes. And there lies, I think, a major theoretical and political problem, which is also the chief source of my disagreement with Anderson. The dominant strand of modern historical thinking imagines the social space of modernity as distributed in empty homogeneous time. A Marxist could call this the time of capital. Anderson explicitly adopts the formulation from Walter Benjamin and uses it to brilliant effect in *Imagined Communities* to show the material possibilities of large anonymous socialities being formed by the simultaneous experience of reading the daily newspaper or following the private lives of popular fictional characters. ... Empty homogeneous time is the time of capital. Within its domain, capital allows for no resistances to its free movement. When it encounters an impediment, it thinks it has encountered another time—something out of precapital, something that belongs to the premodern. Such resistances to capital (or to modernity) are always thought of as coming out of humanity's past, something people should have left behind but somehow haven't. But by imagining capital (or modernity) as an attribute of time itself, this view succeeds not only in branding the resistances to it as archaic and backward, but also in securing for capital and modernity their ultimate triumph, regardless of what some people believe or hope, because after all, as everyone knows, time does not stand still. (Chatterjee, 1999: 130-1)

Chatterjee asserted that the imagined community existing in "empty, homogeneous time" allows for no resistances, and if they are encountered it portrays them as "archaic and backward". He further exposed such imagining as based on a triumphalist discourse of modernity, one that rejects any association with the "premodern". For most of Australia's history Indigenous people have been seen as representative of the "premodern" world, and the view is held that they need to leave this world behind. This form of thinking underpinned the assimilation policy, in

conjunction with the superiority of the notions of European progress, enlightenment, and culture. Chatterjee went on to argue that:

Anderson has a similar view of modern politics as something that belongs to the very character of the time in which we now live. It is futile to participate in, or sympathize with, or even to give credence to efforts to resist its sway. In *Imagined Communities*, he wrote of the modular forms of nationalism developed in the Americas, in Europe, and in Russia which then became available for copy by the anticolonial nationalisms of Asia and Africa. In *Spectre*, he speaks often of “the remarkable planetary spread, not merely of nationalism, but of a profoundly standardized conception of politics, in part by reflecting on the everyday practices, rooted in industrial material civilization, that have displaced the cosmos to make way for the world”. Such a conception of politics requires an understanding of the world as one, so that a common activity called politics can be seen to be going on everywhere. Politics, in this sense, inhabits the empty homogeneous time of modernity. (Chatterjee, 1999: 131)

In effect, what Chatterjee argued concerning Anderson’s “world” is that it, as well as time, is homogeneous, and will inevitably conform to the “modular” forms of nation and nationalism. Thus world ‘civilisation’ is inevitable, and further, resistance to this process is “futile”. This position, however, leaves no room for a politics of difference either on a national or international scale. If this ‘logic’ was to be applied to the position of Indigenous people in Australia, they would have to ‘forget’ their past and submit to the “common activity called politics” within its ‘universal’ Eurocentric application. Chatterjee disagreed with Anderson’s assumptions:

I believe this view of modernity, or indeed of capital, is mistaken because it is one-sided. It looks at only one dimension of the time-space of modern life. People can only imagine themselves in empty homogeneous time; they do not live in it. Empty homogeneous time is the utopian time of capital. It linearly connects past, present, and future, creating the possibility for all of those historicist imaginings of identity, nationhood, progress, and so on that Anderson, along with others, have made familiar to us. But empty homogeneous time is not located anywhere in real space—it is utopian. The real space of modern life is a heterotopia (my debt to Michel Foucault should be obvious). Time here is heterogeneous, unevenly dense. Here, even industrial workers do not all internalize the work-discipline of capitalism, and more curiously, even when they do, they do not do so in the same way. Politics here does not mean the same

thing to all people. To ignore this is, I believe, to discard the real for the utopian.

Obviously, I can make my case more persuasively by picking examples from the postcolonial world. For it is there more than anywhere else in the modern world that one could show, with almost the immediacy of the palpable, the presence of a dense and heterogeneous time. In those places, one could show industrial capitalists waiting to close a business deal because they hadn't yet had word from their respective astrologers, or industrial workers who would not touch a new machine until it had been consecrated with appropriate religious rites, or voters who could set fire to themselves to mourn the defeat of their favorite leader, or ministers who openly boast of having secured more jobs for people from their own clan and having kept the others out. To call this the copresence of several times—the time of the modern and the times of the premodern—is only to endorse the utopianism of Western modernity. I prefer to call it the heterogeneous time of modernity. (Chatterjee, 1999: 131-2)

Chatterjee argued that people can only imagine themselves in “empty, homogeneous time” when they in fact live in “heterogeneous time” or “real” space-time. Chatterjee's critique is correct that Anderson's is a “one-sided” observation. However, the point that Anderson made is not that “empty, homogeneous time” is real, but rather that it is imagined to be real, as is the imagined community of the nation, which nevertheless facilitates the exercise of a homogeneous cultural power. In the context of this chapter it is in fact the ‘unreal’ constructed and imagined community that is imposed through the politics of modernity onto the ‘homogeneous’ community, despite its heterogeneous and diverse nature. Chatterjee drew on post-colonial examples, demonstrating that time is in fact “dense and heterogeneous”. However, in the Australian case, while there are similar heterotopian realities such as the coextensive existence of traditional Indigenous cultures alongside ‘mainstream’ Australian culture, the politics of the Australian community is not imagined as heterotopian, but in a “utopian” and “homogeneous” Eurocentric way. To see it this way is not as Chatterjee suggested, that is, as an endorsement of “the utopianism of Western modernity”, but rather as the lived and

imposed 'reality' of Indigenous existence within the Non-indigenous Australian community. Chatterjee summarised his position by stating that he believed "it is no longer productive to reassert the utopian politics of classical nationalism. Or rather, I do not believe it is an option that is available for a theorist from the postcolonial world" (Chatterjee, 1999: 132-3). However, what is being argued in this chapter is that the "utopian politics of classical nationalism" continues to be practiced in Australia, to the detriment of Indigenous people. In short, the application of the ideas of nation and nationalism to a national population are homogenising and reductive processes that endeavour to negate cultural difference.

PART III ***THE HOMOGENEOUS NATION***

In this section the idea of the cultural homogeneity of the nation that was discussed above will be expanded on in relation to the theories of Gellner and Anderson. Chatterjee has argued that there are no "substantive differences between Anderson and Gellner on 20th century nationalism", and that both argue that cultural homogeneity is imposed upon the national population (Chatterjee, 1986: 21). What differs is the means by which this process occurs. For Gellner there is an imposition of a common "high culture" on the diversity of "low cultures" within the national space (Gellner, 1983: 57). For Anderson the process takes place through the development of national languages at the expense of local dialects, as result of the invention of the printing press and "print-capitalism" (Anderson, 1991, chapter 3). However, Gellner contended that it is in fact not a matter of cultural imposition by nationalism, but rather is: "the kind of cultural homogeneity demanded by nationalism" that as a characteristic of industrial society is "imposed by objective, inescapable imperative [that] eventually appears on the surface [of industrial society]

in the form of nationalism” (Gellner, 1983: 39). For the purposes of this thesis, however, the means by which cultural homogeneity is achieved is not of primary importance; rather, it is the fact that it is a fundamental characteristic of industrial society and the modular nation. Also of importance is its subsequent implications for Indigenous people. In the case of Australia, a common language was never in doubt; it is the issue of culture that was paramount, even though language is the basic medium of culture. In the classical European modular nation the imposition of, in Gellner’s terms, a “high culture” was on a diversity of “low cultures” and language groups. This in some ways is reflected in the Australian case. For the most part the new Australian population consisted of people from the British Isles—English, Welsh, Scots and Irish, who had already been subjected to the homogenising processes of the British nation. However, there was almost no correlation between the British culture and the cultures of the Indigenous people, which is a major contributing factor to the way in which Indigenous people have been dealt with in the Australian nation. This issue will be returned to in the following chapter.

The ‘Homogeneous’ Invented Nation

For Gellner the process of national construction was pragmatic. Chatterjee argued that Gellner was unconcerned by the processes of imagination and the intellectual aspect of creation that Anderson utilised; rather his approach was that nations are “invented” out of “necessity” (Chatterjee, 1986: 21). The point of “necessity” is particularly relevant to Australia as, as was stated above, there was no history of European culture on the Australian continent on which to draw, and the formation of the nation was a pragmatic solution to the problems of distance from Europe, the security of the colonies, inter-colonial trade, and immigration. In relation to the

“necessity” of national invention, Chatterjee added that for Gellner “some distinguishing cultural marks simply have to be chosen in order to identify the nation” (Chatterjee, 1986: 21-2). Again this applies to the Australian case; while Australia still felt a close affinity to British culture, a concerted effort was made to create a distinctive Australian culture. However, it was not a dramatic shift away from British culture in comparison to its disparity to Indigenous cultures. This point will be discussed in greater detail in the following chapters. Chatterjee argued that both Gellner and Anderson theorised that an “unproblematic modular” form of nation and nationalism existed, one that could be adopted by any potential national group (Chatterjee, 1986: 22). Clearly Chatterjee is correct in this critique of Gellner and Anderson, particularly in reference to post-colonial nations. However, from the perspective of this thesis, both Gellner and Anderson provide a pertinent framework that corresponds with its critique of the Australian nation. That is, both their theories of a modular classical European nation are reflected in the processes of the formation and nature of the Australian nation. Nevertheless, even in the Australian case they are ultimately problematic because the modular nation takes no account of the Indigenous situation, a situation that differs considerably from that of the post-colonial nations. While this thesis develops an argument that parallels Chatterjee’s post-colonial perspective, it is an argument that relates to Indigenous people and the problem of the “modular nation”.

As indicated at the beginning of this chapter, Gellner has argued that the industrial society that characterises the modular nation developed out of pre-existing agrarian societies. In Gellner’s view, the cultural plurality that was the norm in agrarian societies was no longer a compatible mode of social existence with the advent of

industrial society, and was thus replaced by cultural homogeneity. To Gellner, nations came into existence not as the result of political organisation but rather as a result of social conditions:

The great, but valid, paradox is this: nations can be defined only in terms of the age of nationalism, rather than, as you might expect, the other way round. It is not the case that the 'age of nationalism' is a mere summation of the awakening and political self-assertion of this, that, or the other nation. Rather, when general social conditions make for standardized, homogeneous, centrally sustained high cultures, pervading entire populations and not just elite minorities, a situation arises in which well-defined educationally sanctioned and unified cultures constitute very nearly the only kind of unit with which men willingly and often ardently identify. The cultures now seem to be the natural repositories of political legitimacy. (Gellner, 1983: 55)

Gellner clearly links nationalism and culture, and argues that the established culture becomes an inherent part of the discourse of political legitimacy within the nation. In the following two chapters, which analyse the formation process of the Australian nation, it will be made evident that culture and political legitimacy were explicitly linked in the debates leading to Federation. Continuing on from the above quote, Gellner stated that:

Under these conditions, though under these conditions only, nations can indeed be defined in terms both of will and of culture and indeed in terms of the convergence of them both with political units. In these conditions, men will be politically united with all those, and only those, who share their culture. Polities then will to extend their boundaries to the limits of their cultures, and to protect and impose their culture with the boundaries of their power. The fusion of will, culture and polity becomes the norm, and one not easily or frequently defied. ... These conditions do not define the human situation as such, but merely its industrial variant. (Gellner, 1983: 55)

The formation of the Australian nation closely conforms to the point that Gellner made here; no invitation was extended to Indigenous people to become part of the national Australian polity because there was no cultural correspondence with them. The colonisation of the Australian continent proceeded on the basis of European will, culture, and power, and this set the precedent for what would become the norm for

the Australian government—the cultural domination of Indigenous existence. Thus it can be argued that there exists within the nation a characteristic that can be identified as a ‘cultural sovereignty’, that is, the hegemony of the dominant culture to which all other minority cultures within the national space are subjected.

The means of this imposition is similarly linked with Anderson’s understanding of how cultural homogeneity was imposed. Gellner argued that it was achieved through a:

generalized diffusion of a school-mediated, academy-supervised idiom, codified for the requirements of reasonably precise bureaucratic and technological communication. It is the establishment of an anonymous, impersonal society, with mutually substitutable atomized individuals, held together above all by a shared culture of this kind, in place of a previous complex structure of local groups, sustained by folk cultures reproduced locally and idiosyncratically by the micro-groups themselves. That is what really happens. (Gellner, 1983: 57)

The idea of an education-based imposition of culture parallels with Anderson’s language and print-capitalism’s unification of culture; a ‘universal’ education system would not be possible without a single national language. It is significant that Gellner also raised the point of the codification of culture in the education and bureaucratic systems. This thesis will take this point further and argue that culture was in effect codified in the Constitution of Australia. This is evidenced by the explicit exclusion of Indigenous people from the national census and the lack of Commonwealth powers of legislation on behalf of Indigenous people. The idea of an imposed culture unambiguously equates with a program of assimilation to the national culture. This idea is also reflected in Gellner’s views on the origins of the nation in eastern Europe:

These populations of eastern Europe were still locked into the complex multiple loyalties of kinship, territory and religion. To make them conform to the nationalist imperative was bound to take more than a few

battles and some diplomacy. It was bound to take a great deal of very forceful cultural engineering. In many cases it was also bound to involve population exchanges or expulsions, more or less forcible assimilation, and sometimes liquidation, in order to attain that close relation between state and culture which is the essence of nationalism. And all these consequences flowed, not from some unusual brutality of the nationalists who in the end employed these measures (they were probably no worse and no better than anyone else), but from the inescapable logic of the situation. (Gellner, 1983: 100-1)

Gellner raised a number of relevant points here. He equated the idea of nation with “cultural engineering” and “assimilation”, and identified the essential relationship between “state and culture”. He then describes these as “measures” employed by nationalists as the consequence of the “inescapable logic of the situation”. Again, all these “measures” can be assigned to the founders of the Australian nation, and the ongoing relationship between Indigenous people and the Non-indigenous government. However, the argument implicitly tends towards a reductionist view of human agency, one that in Gellner’s words is “inescapable”. It is difficult to accept that there are no possibilities other than “cultural engineering” and “assimilation”, and even his euphemism for genocide, “liquidation”. From the earliest days of colonisation in Australia there were some, albeit a minority, who opposed the treatment of Indigenous people. The fact that there was resistance, however small or ineffective, suggests that other outcomes were possible. In the United States and Canada, Indigenous people were dealt with as first nations and treaties were entered into, even though these people ultimately suffered discrimination and disadvantages similar to those experienced by Indigenous Australians.

Gellner presented the ideas of nation and nationalism in terms that are restrictive and reductionist, even if they do offer valid explanations of what has transpired since the late seventeenth century. This is despite his rejection of “the nationalist ideologue’s

most misguided claim: namely, that the ‘nations’ are there, in the very nature of things, only waiting to be ‘awakened’ (a favourite nationalist expression and image) from their regrettable slumber, by the nationalist ‘awakener’” (Gellner, 1983: 47-8). Nevertheless, it is the purpose of this thesis to explore the possibilities of other outcomes. Consideration will now be given to Anderson’s idea of the “imagined community”.

The ‘Homogeneous’ Imagined Community

It will be argued that Anderson’s notion of the “imagined community” offers greater possibilities and flexibility for a more inclusive idea of nation. As discussed above, Anderson identified a number of paradoxes that problematise the idea of nation and nationalism for theorists. The first was their “objective modernity” for historians as opposed to the nationalist’s view of their “antiquity”; second the universal acceptance of “nationality as a sociocultural concept” set against the inherent uniqueness of a particular nationality; and the “‘political’ power of nationalisms versus their philosophical poverty and even incoherence” (Anderson, 1991: 5). These paradoxes reveal the contingent and contrived nature of nations and nationalisms as well as their undeniable inherent power. In the context of this thesis, this understanding evidences what has taken place in the case of Australia, but it also suggests that there is room to negotiate a definition and inclusivity. From the point of acknowledging the paradoxes inherent in the ideas of nation and nationalism, Anderson adds that:

Part of the difficulty is that one tends unconsciously to hypostasize the existence of Nationalism-with-a-big-N (rather as one might Age-with-a-capital-A) and then to classify ‘it’ as an ideology. (Note that if everyone has an age, Age is merely an analytical expression.) It would, I think,

make things easier if one treated it as if it belonged with 'kinship' and 'religion', rather than with 'liberalism' or 'fascism'. (Anderson, 1991: 5)

As has already been discussed, the bases of nation and nationalism are not cosmological or universal, rather they are ethno-centric cultural concepts. Further, that rather than being ideological they are much more closely analogous to "kinship" or "religion". Thus, the fundamental basis of nationalism and the nation, rather than being founded on principles of political science or legal jurisprudence as might be expected, is instead a more 'familial' phenomenon that gives expression to the perceived political, social, and economic destiny of a people. In the following chapter engagement with the idea of nationalism in Australia will be related to Anderson's connection of nationalism to "kinship" rather than any specific analysis of nationalist movements exemplified in the role of the Constitutional conventions, national figures, or political parties. It is important to state here that the focus is not on the issue of Australian nationalism *per se*; nevertheless, nationalism as a concept is inseparable from the idea of nation.

Anderson's definition of the nation as "an imagined political community" corresponds with Gellner's view that it is "a new form of social organisation, based on deeply internalized, education-dependent high cultures, each protected by its own state" (Gellner, 1983: 48). Therefore, from the perspectives of Anderson and Gellner, the nation and nationalism are constructs of the imagination and an internalised culture. The "new form of social organization" with its deeply internalised culture is not an intimate community but is in a way 'transcendent', crossing national territory and uniting geographically distant people. Anderson argued that the nation is "imagined because the members of even the smallest nation will never know most of their fellow-members, meet them, or even hear of them, yet

in the minds of each lives the image of their communion” (Anderson, 1991: 6). Anderson links nationalism to “kinship”, so the nation is similarly equated with “community” and “communion”. The imagining of the nation is specific and particular, even though it can never be defined in absolute terms, as it is not possible for people who “will never know most of their fellow-members, meet them, or even hear of them” to share exactly the same imagining. However, the imagining does have dominant themes of who is to be included, the culture that predominates, the norms and modes of living that are acceptable, conceptions of justice, and the nation’s place in the world, reflecting both the sense of community and communion within it. These themes necessarily inform the way in which the state is constituted, the laws that are made, and the ways in which life in general, within the nation, is conducted. As quoted above, Gellner argued that each nation is “protected by its own state”, a state that is the mirror image of the nation. Clearly, the ideas of ‘nation’ and ‘nationalism’ operate in a metonymic way representing the sum total of human relations of a “particular kind” within the ‘national’ space. The idea of an ‘Australian’, or any other nationality, embodies particular attributes, values, practices, and loyalties, in short a culture that ultimately has and wields hegemonic political and social power within the territorial space. In other words a nation possesses ‘cultural sovereignty’ to the exclusion of ‘others’. While ethnic minorities may have some impact upon superficial issues within the imagined Australian nation, such as festivals, the arts, and food, they have little impact when it comes to determining what is in the ‘national interest’.

One example of an ethnic community that has experienced the contingent nature of acceptance within the Australian nation is the German community of the Barossa

Valley who emigrated to South Australia in the mid 1800s and made a considerable contribution to the nation through the development of primary industries. However, during the first and second world wars many were interned because they were perceived as a *threat* to the nation, even though they had been citizens for a number of generations. The issue on which they were judged was not the value of their contribution to the nation or their level of integration, but on their cultural origins. It will be argued that this cultural origin is of fundamental importance to the imagining of the nation within Australia, particularly in relation to Indigenous people, a view that will be strongly supported by an analysis of the White Australia policy.

Australia was in part modelled as a nation on the American examples, of which Anderson argued:

Out of the American welter came these imagined realities: nation-states, republican institutions, common citizenships, popular sovereignty, national flags and anthems, etc., and the liquidation of their conceptual opposites: dynastic empires, monarchical institutions, absolutisms, subjecthoods, inherited nobilities, serfdoms, ghettos, and so forth. (Anderson, 1991: 81)

It is particularly important from the perspective of this thesis that emphasis is placed on the idea of “imagined realities”. That is, that the ‘reality’ of the nation as it is imagined is not axiomatic but contingent and flexible, as are the concepts of “common citizenships” and “popular sovereignty”. Therefore, in relation to Indigenous people, their exclusion from the process of imagining the nation can be remedied. Anderson’s position on “imagined realities” is opposed to that of Gellner, who argued that: “Nationalism is not the awakening of nations to self-consciousness: it invents nations where they do not exist” (Gellner, 1964: 169). Anderson’s criticism of this statement is that:

Gellner is so anxious to show that nationalism masquerades under false pretences that he assimilates 'invention' to 'fabrication' and 'falsity', rather than to 'imagining' and 'creation'. In this way he implies that 'true' communities exist which can be advantageously juxtaposed to nations. In fact, all communities larger than primordial villages of face-to-face contact (and perhaps even these) are imagined. Communities are to be distinguished, not by their falsity/genuineness, but by the style in which they are imagined. (Anderson, 1991: 6)

The important point here is that communities can only be distinguished "by the style in which they are imagined". The imagining of communities is potentially an open-ended process, which can either be inclusive or exclusive in relation to other cultural minorities within the nation's territory. Anderson cites the example of the Peruvian liberator San Martin who decreed that "in the future the aborigines shall not be called Indians or natives; they are children and citizens of Peru and they shall be known as Peruvians'" (Anderson, 1991: 49-50). This approach to Indigenous populations stands in stark contrast to what occurred in Australia, where it was thought that the Indigenous people would eventually 'die out'. Without giving close consideration to the case of the Peruvian Indians, San Martin's declaration could also be interpreted as one of assimilation, but even if this was the case at least it was inclusive within the concept of the imagined Peruvian nation. Nevertheless, that is in no way a defence of assimilation. However, in Australia Indigenous people were totally excluded from this process, and assimilation only became an option when it was realised they would survive colonisation. The point that Anderson infers from San Martin's position was that:

Here San Martin's edict baptizing Quechua-speaking Indians as 'Peruvians'—a movement that has affinities with religious conversion—is exemplary. For it shows that from the start the nation was conceived in language, not in blood, and that one could be invited into the imagined community. Thus today, even the most insular nations accept the principle of naturalization (wonder word!), no matter how difficult in practice they may make it. (Anderson, 1991: 145)

Anderson admitted that while the process of inclusion may not be smooth, it nevertheless is possible. It is telling that in the Australian case no invitation was extended to the Indigenous people; the founders and people of the Australian Federation did not imagine Indigenous people to be part of the national community. In very real terms Australia developed as an 'insular nation' that excluded cultural difference, and this is evident in the ways in which the Australian nation is narrated.

The Nation, liberalism and Indigenous self-determination

The pivotal place of culture in the preceding theoretical analysis of nation will continue, as culture presents a fundamental dilemma for the theoretical basis of liberalism, which advocates the universal rights of the acultural liberal individual to the exclusion of particular rights for minority cultural groups. The following discussion will offer liberal perspectives on the idea of nation, through the analysis of current debates in liberal theory, which consider Western democratic states and their ability to accommodate Indigenous rights to self-determination. These debates within liberalism will be used here to confirm the central arguments of the thesis concerning the particular position of the Australian nation and its response to the issue of Indigenous self-determination. In a recent book edited by Duncan Ivison, Paul Patton and Will Sanders, entitled *Political Theory and the Rights of Indigenous Peoples*, the following questions are posed in their searching introduction which summarises the core issues for Indigenous people that are at stake in these current debates within liberalism:

If contemporary liberal political thought presents itself as a universal idiom for understanding and reflecting upon social and political relations, where does this leave indigenous political thought and indigenous understandings of their rights to land, culture and self-rule? How can

contemporary political theory contribute to a future in which indigenous communities no longer suffer the consequences of colonisation, dispossession and forced assimilation? Can liberal democracy become genuinely intercultural? (Iverson, 2000: 1)

The analysis will address the aspects of these debates relevant to the Indigenous experience in Australia.

Historically liberalism has, despite its emphasis on human rights, equality, autonomy and freedom, worked to deny basic rights to Indigenous people because of its emphasis on the rights of the hypothetical liberal individual to the exclusion of group rights (Iverson, 2000: 2). Iverson, Patton and Sanders extend this critique and argue that liberalism is not necessarily the acultural theory that it claims to be, but is informed by culturally specific norms, values and practices that work against the inherent rights of Indigenous people, particularly in post-colonial states (Iverson, 2000: 2). Moreover, in the case of Australia it is the norms, values and practices of the majority culture that take precedence over those of Indigenous people and minority immigrant groups and determine the way in which the Australian liberal democratic nation is imagined and constituted.

Iverson, Patton and Sanders argue in their introduction that there are several ways to consider how liberal theory could respond to the issue of Indigenous rights, the most critical of these are:

that liberal political theory need not be reshaped in light of indigenous demands, but instead should hold fast to its individualist and non-interventionist credentials, and ensure that the rights and protections it cherishes effectively be extended to indigenous peoples. The second argues that liberal political thought can be remoulded and reshaped to meet indigenous aspirations, but only to the extent of the limits given by liberal conceptions of equality and autonomy. (Iverson, 2000: 6-7)

The first perspective is assimilationist in its effect, because Indigenous rights are viewed as one and the same with any other individual citizen of a particular liberal state, thus denying them any recourse to special cultural or group rights (Iverson, 2000: 6). Chandran Kukathas is a proponent of this form of liberalism, however he has argued that:

Liberalism is fundamentally a theory of multiculturalism. It is, in other words, a philosophical response to the fact of moral, religious and cultural diversity. Its recommendation is that diversity be accommodated and that differences be tolerated. It also argues that a form of social unity characterised by a uniform and common culture, integrating and harmonizing the interests of individual and community, is both unattainable and undesirable. (Kukathas, 1997: 134)

Kukathas argues here that liberalism is in fact a theoretical response to diversity, one that rejects any processes or goals that would attempt to achieve social homogeneity. Nevertheless, this view stands in contrast to the empirical research that informs the work of Anderson and Gellner discussed above in relation to the development of western liberal states. Despite the inclusive theoretical basis of liberalism, Kukathas opposes what he terms “interest-group pluralism” in society, that is, where “minority interests, and especially their interest in self-determination” are accommodated (Kukathas, 1993: 26-27). He summarises his position as one that:

resists according a specific place or role to the pluralist elements of society. Political institutions should, as far as possible, serve to allow these different elements to flourish but should not be in the business of enabling these elements or interests to shape society. This is not to ... deny that the nature of society will inevitably be shaped in some way by the interests and values of its different components. It is simply to maintain that the role of political institutions should be neutral, as far as possible, as to how this happens. And I would suggest that the best prospect for this happening is for institutions to be designed, not to deal with the plurality of interests and values in society as they are manifested in particular groups or representatives, but rather to uphold particular individual rights and freedoms regardless of the particular interests or affiliations of the individuals. (Kukathas, 1993: 27)

Kukathas states that in a liberal society political institutions should strive to be “interests and values” neutral. However, he qualifies this stipulation acknowledging that it is inevitable that society will be influenced to some degree by “interests and values”. When a society is dominated by a majority culture this becomes a difficult ideal to achieve and it instead enables a particular element or interest of the majority to “shape society” to the detriment of minority groups or cultures. As Ivison *et al.* argued above this is particularly the case when consideration is given to Indigenous minorities in post-colonial states. Despite Kukathas’ claim that liberalism is a response to diversity he argues that:

Liberalism is indifferent to the groups of which individuals may be members. It recognizes the freedom of individuals to join or form groups, or to continue to belong to groups into which they may have been born - but takes no interest in the interests or attachments (whether cultural or religious or ethnic) which people might have. (Kukathas, 1997: 135)

Clearly his view is that minorities should have no special rights extended to them, only the right of an individual to be a member of a minority group if they so choose. This position assumes that all individuals in a liberal society have equal opportunity and are equally empowered to determine the course of their own lives within a central institutional framework. However, it will be demonstrated in later chapters that in Australia this is not the case for Indigenous people as the institutions are neither neutral nor is there equal access to them. This first response of liberalism to Indigenous rights is inadequate because it does not consider the issue of discrimination towards them or provide a framework to remedy their situation.

These issues are recognised in the second liberal response to the rights of Indigenous people. The second approach, while nevertheless continuing to maintain liberalism’s basic individualistic principles, advocates a more flexible response to Indigenous

rights. It does this on the basis that to deny Indigenous people group rights impinges on their right to “freedom and autonomy” as individuals within their own cultural context, and so particular rights can be extended to them as individuals without compromising liberal principles (Iverson, 2000: 7). The second of these responses will be discussed in greater detail because it offers a viable alternative to the rigidity of the first position (Iverson, 2000: 9-10). The second debate offers an alternative liberal model which Australian governments could adopt, one that has the potential to facilitate a form of self-determination that may be acceptable to Indigenous people.

The Canadian political philosopher Will Kymlicka has made a significant contribution to liberal thought on the issue of Indigenous rights and it is his work that most significantly informs the second debate. His position, Iverson *et al.* argue, has been “developed with considerable skill”, adding that his “innovative argument has broken new ground in liberal political theory. It manages to transcend the sterile debate between liberals and communitarians” (Iverson, 2000: 7). In addition, the debate between liberals and communitarians referred to here involves another significant contributor to debates on cultural diversity, the communitarian philosopher Charles Taylor. The dispute focuses on the differences between the liberal emphasis on protecting individual rights and the communitarian emphasis on community interests and values (Paul, 1996: vii). In a previous work I have gone into more detail on the matter (Jenkins, 1997: 40-44). However, it is worth commenting upon Taylor’s basic communitarian position detailed in “The Politics of Recognition” as it is one of his most important works on this topic.

Taylor argues that it is essential that recognition be given to cultural difference within a liberal democratic state in order for it to be an equitable society (Taylor, 1994: 36). Nevertheless, he qualifies this position by arguing that “liberalism can’t and shouldn’t claim complete cultural neutrality” and that it “has to draw a line” somewhere in relation to the extent of cultural recognition (Taylor, 1994: 62). The line that Taylor wants to draw is over the demand that “we all *recognize* the equal value of different cultures; that we not only let them survive, but acknowledge their *worth*” (Taylor, 1994: 64) (*italics Taylor*). Despite the communitarian commitment to achieving an equitable society, Taylor objects to the uncritical recognition of the value and worth of minority cultures, arguing that an objective judgement of cultures can be made (Taylor, 1994: 69-70). This is a problematic position that implicitly suggests a hierarchy of cultures and their inherent value and worth. As has been discussed through the work of Anderson and Gellner it is the dominant culture that is in the powerful position of making such an “objective” judgement at the expense of minority cultures. Despite its noble sentiments Taylor’s position differs little in its outcome for minority cultures than that of the rigid liberal perspective discussed above, it is merely the emphasis of the theoretical perspective that differentiates the two.

It is on this basis that Kymlicka seeks to establish his unique liberal position which is responsive to the rights of minority groups. Ivison *et al.* argue in relation to Kymlicka that his position “addresses the claims of cultural, ethnic and national minorities historically left out of the story of the emergence of the liberal state; and it preserves a fluid and dynamic account of culture that avoids romanticising or ‘freezing’ cultural practices in time (Ivison, 2000: 7). Kymlicka’s argument is that

Western liberal democratic states with majority national cultures are able to accommodate Indigenous self-determination within a liberal theoretical framework. The foundation of his belief about the capacity of liberalism is principally based on the claim of the supposed “recent developments within contemporary liberal democracies” relating primarily to debates about multiculturalism (Iverson, 2000: 7). Kymlicka develops his argument in response to two alternative conceptions of multiculturalism advanced by David Hollinger, the first a “pluralist” model, the second a “cosmopolitan” model.³ Hollinger defines the two models in the following way:

pluralism respects inherited boundaries and locates individuals within one or another of a series of ethno-racial groups to be protected or preserved. Cosmopolitanism is more wary of traditional enclosures and favours voluntary affiliations. Cosmopolitanism promotes multiple identities, emphasises the dynamic and changing character of many groups, and is responsive to the potential for creating new cultural combinations. (Hollinger, 1995: 3)

While Hollinger states that the pluralist model “respects inherited boundaries”, he later dismisses “the notion of legally protected territorial enclaves for nationality groups” (Hollinger, 1995: 91). He does this on the basis of what is termed “minority nationalism”, a key concept within this debate, which according to Kymlicka “is the extreme form of what Hollinger calls ‘pluralist’ multiculturalism” (Kymlicka, 2000: 231). Hollinger is critical of the pluralist model of multiculturalism, but defends the cosmopolitan model which more readily conforms to the fundamental principles of liberalism. He argues that the cosmopolitan model represents the “ideal according to which individuals decide how tightly or loosely they wish to affiliate with one or more communities of descent” (Hollinger, 1995: 165). That is, there are no fixed group or community boundaries associated with the cosmopolitan model, instead individuals are free to “affiliate” with whichever group they choose, as individuals.

Kymlicka does not have any difficulty with the concept of minority nationalism, which he argues is not conceptualised in opposition to exclusion from a majority nationalism, but instead reflects the ongoing desire of minorities to retain their cultural identity and institutions (Kymlicka, 2000: 226). For Kymlicka, Hollinger's cosmopolitan model is best described as a "postethnic" model in that it is not based on "the primacy of blood and descent", but one that is based on more flexible group identities and membership (Kymlicka, 2000: 229, 231).

Despite liberalism's inherently negative disposition towards minority group rights, Kymlicka argues that in the twentieth century most Western liberal democracies have become more accommodating of minority nationalisms, even giving recognition to their right to self-government (Kymlicka, 2000: 225). He asserts that this has generally been achieved "through some system of reserved lands. Indigenous communities in several countries have been gaining (or more accurately, regaining) substantial powers over health, education, family law, policing, criminal justice and resource development in their reserved lands" (Kymlicka, 2000: 225). Kymlicka describes this accommodation as a form of "federacy" involving "a territorial division of powers" and "an ideal of shared sovereignty and a partnership of peoples" (Kymlicka, 2000: 225). Clearly, Australia's federated political system offers the potential for Indigenous people to have their cultural rights recognised in this way.

Kymlicka extends his argument adding that:

While the form of autonomy differs between stateless nations and indigenous peoples, the trend is the same. Throughout the west, the goal of eliminating minority national identities has been abandoned, and it is now accepted that both stateless nations and indigenous peoples will continue into the indefinite future to see themselves as distinct and self-governing nations within the larger state. (Kymlicka, 2000: 225)

As discussed in Chapter One Australia has followed this general international trend towards the accommodation of Indigenous rights. This has been demonstrated in the transition from an assimilation policy that rejected Indigenous cultural identity, to one, at least in rhetoric, of Indigenous self-determination that was ostensibly intended to re-empower them as a distinct cultural group within the Australian state. However, as will be argued later there has been only a marginal shift towards the idea of granting Indigenous people their right to self-determination. In regard to land rights, despite the overturning of the doctrine of *terra nullius* through the *Mabo* case, there has actually been a subsequent reduction in the ability of Indigenous people to secure rights to their traditional lands following the Howard government's legislative response to the 1996 *Wik* High Court decision (Howard, 1997: 4113). Nevertheless, Kymlicka asserts that:

attempts to suppress minority nationalism have been abandoned as unworkable and indeed counter-productive. But they have also been rejected as morally indefensible. After all, on what basis can liberal-democratic theory justify the suppression of minority nationalisms? National minorities typically want to regain powers and institutions that were unjustly taken from them, and they do so in order to be able to live and work in their own language and culture, something which the majority takes for granted.

For prudential and moral reasons, therefore, an increasing number of Western democracies that contain national minorities accept that they are 'multination' states rather than 'nation-states'. They accept that they contain two or more nations within their borders, and recognise that each constituent nation has an equally valid claim to the language rights and self-government powers necessary to maintain itself as a distinct societal culture. And this multinational character is often explicitly affirmed in the country's constitution. (Kymlicka, 2000: 226)

This is clearly not the case in Australia where there has been an explicit rejection of any recognition being given to the idea that there is more than one Australian nation.⁴

As discussed in Chapter One, Australia has also raised concerns over the wording of the United Nations' Draft Declaration on the Rights of Indigenous Peoples, arguing

because of fears of Indigenous secession, that the UN should not confer on Indigenous people the full right to self-determination as defined by international law (Iorns, 1992: 13). Kymlicka describes the United Nations' Declaration on Indigenous Peoples as a "striking development" (Kymlicka, 2000: 226). However, this Declaration has not been ratified by the United Nations General Assembly and current international law only allows for Indigenous self-determination in the context of the right to self-determination possessed by a nation-state's people as a whole, rather than as a separate and inherent Indigenous right (Iorns, 1992: 67). This international legal position clearly represents the narrow liberal perspective on extending rights only to individuals within a given state.

To defend his assertion that liberalism can accommodate Indigenous self-determination Kymlicka sets out to refute what he sees as the misconceptions of Hollinger and in general other American liberal theorists about the difficulties posed by minority nationalisms. The first of these misconceptions is that "the conflicts raised by minority nationalisms within western democracies are conflicts between a 'civic' (postethnic) nationalism promoted by the state, and an 'ethnic' (racialist) nationalism promoted by the national minority" (Kymlicka, 2000: 230). Kymlicka argues that most disputes between majority and minority nationalisms are between postethnic nationalisms "where membership is open to all regardless of race, ethnicity or religion" (Kymlicka, 2000: 280). Kymlicka's response is that "insofar as these are conflicts between two forms of postethnic nationalism, I can see no reason why liberals should automatically privilege majority or state nationalism over minority nationalism" (Kymlicka, 2000: 230). The implied rationalé being that both could successfully co-exist within the same state. However, despite Kymlicka's

optimistic view of the capacity of liberalism to be amenable to the co-existence of multiple nationalisms in the one state, this is not reflected in Australia. Instead the Australian situation fits more closely the first liberal position discussed above, where Indigenous and minority rights are assumed to be identical to those of all individuals within a given state.

The second misconception is “that if the majority nation is not defined in ethnic terms ... then minority nationalisms become inherently unnecessary and pointless” (Kymlicka, 2000: 230). To this, Kymlicka counters that national minorities “organise to defend their distinct society and culture whether or not they are eligible for inclusion in the dominant nation” (Kymlicka, 2000: 231). His argument here is that a priority of minority cultures is to always retain their unique cultural identity regardless of the political context in which they exist. This point emphasises the fundamental importance of culture to social existence, whether it is a minority or a majority culture. Inherent in this misconception is the assumption that culture is of no political consequence. When the arguments of Anderson and Gellner developed above are applied to the research in the following chapters it will be demonstrated that culture in Australia is of great political significance in the relationship between the majority and the Indigenous minority. In Australia it has been the majority Anglo-Celtic culture that has determined the form of the Australian nation and consequently how its intercultural relationships have been negotiated. This is something that has continued despite Australia’s ostensible shift in policy towards recognising the rights Indigenous people and migrant minorities in 1972.

The third of the misconceptions Kymlicka addresses is that minority nationalisms are based on an “exclusive conception of group identity” (Kymlicka, 2000: 231). He rejects the view that minority nationalisms are exclusive and argues that because of this they are entitled to be self-governing in the same way as a majority nation, both operating as postethnic nations with flexible membership (Kymlicka, 2000: 231). This he argues is also consistent with the notion of “liberal nationalism” which stipulates that “nations have rights of self-government” whether they are a “majority or minority” (Kymlicka, 2000: 231). Further, Kymlicka argues that “[i]nsofar as it is guided by a liberal conception of nationhood, minority nationalism does not reject cosmopolitan multiculturalism. Rather it is a doctrine about the unit within which cosmopolitan multiculturalism should operate”, that is, as more than one postethnic nations co-existing within a particular state (Kymlicka, 2000: 231). The misconception is also underpinned by the idea of the existence of culturally homogeneous societies, when in fact very few cultures are pure or exclude others from membership (Kukathas, 1993: 23-24).

The final misconception that Kymlicka seeks to refute in support of his position involves two claims. The first is, that in order for minority nationalisms to be consistent with liberal values they must be postethnic. Kymlicka agrees with this because membership of postethnic minority nations is not based on blood or descent (Kymlicka, 2000: 232). The second and related claim is that it is a theoretical contradiction for a postethnic nation-state to recognise an internal minority nationalism (Kymlicka, 2000: 232). Kymlicka dismisses such a claim arguing that it is “conceptually mistaken, and inconsistent with the practice of most western democracies” (Kymlicka, 2000: 232). For him most Western liberal democracies

portray themselves as nations whose membership is open and flexible, but which have nevertheless accommodated minority nationalisms within their national borders. While minority accommodation may be common practice across Western liberal democratic states, Kymlicka argues that a majority of American liberal theorists are committed to a postethnic model of nationalism in which the concept of minority nationalism is “inappropriate in principle” (Kymlicka, 2000: 233). He argues that it is wrong for such theorists “to defend one group’s claims by rendering invisible another group” without giving the issue the consideration it deserves as a matter of liberal justice (Kymlicka, 2000: 233). To the liberal theorists who hold to such a position he poses the following questions: “what does justice require for involuntarily incorporated national groups like the American Indians, Hispanics in Puerto Rico or Albanians in Kosovo? If minority nationalism is an unjustified response to such an involuntary incorporation, what is a legitimate response?” (Kymlicka, 2000: 233). This is a difficult question to answer. There is a certain logic to a resolution of the paradox, that is, if justice is to be achieved in accordance with the liberal notion of nationalism stated above, that “nations have rights of self-government” whether they are a “majority or minority”, the only alternative is that the legitimacy of their minority nationalism must be recognised. In short, rights of cultural determination must be extended to minorities.

The purpose of analysing these liberal debates is neatly summarised in Kymlicka’s final questions which serve to highlight the current Australian situation. Clearly, Indigenous people were involuntarily incorporated with, first, the Australian colonies and later the States and Commonwealth as discussed in Chapter One. Subsequently they have also been denied any status as distinct nations with substantial rights to

self-determination according to their own cultural norms, values and practices as will be confirmed later in the thesis. Despite the optimism of Kymlicka that western liberal democracies are embracing the concept of “multination” states, Australia is resisting any accommodation of this concept. In doing so Australia has in effect aligned itself with the narrow liberal notion of rights extended to all individuals regardless of culture as advocated by Kukathas above. This liberal position held by Australian governments complements and reinforces the dominant imagining of the Australian nation and as a consequence continues to deny Indigenous people their right to be self-determining.

Conclusion

This chapter has given close consideration to the factors that were instrumental in the development of the classical European nation, as well as the implications for minority cultures within the territories of those nations. The central arguments of both Gellner’s and Anderson’s work have been that a deeply internalised sense of culture creates the nation through the process of imagining. Further, a national political legitimacy is imputed, in conjunction with the imagining of the nation, through the creation of a narrative of the nation’s ‘cultural history’ which is characterised by both a ‘forgetting’ of inconvenient facts and the expedient ‘memory’ of past national glories. Equally, the dominant culture that emerges within a given territory seeks to impose its own particular values, norms, and practices on all former minority cultural differentiations within that territory through such means as language, print, education, and state bureaucratic structures and functions. The sum of these elements facilitates a sense of political legitimacy and cultural sovereignty for the dominant culture. It has also been argued that the classical

European modular form of nation has been adopted in Australia, and this has underpinned efforts to exclude Indigenous people from the nation, as well as to later assimilate them to the dominant Anglo-Celtic culture. Despite the utopian ‘universality’ of this European model, Anderson has indicated that it is possible to have a more inclusive form of imagined community, but that its inclusivity is dependent on the way in which the nation is imagined. Kymlicka reached similar conclusions concerning the capacity of western democratic nations to accommodate Indigenous self-determination within a liberal model of nation if they so choose. Nevertheless, in the following two chapters it will be demonstrated how Australia has followed the classical European pattern of imagining the nation by reinforcing its Anglo-Celtic cultural origins and creating a national historical narrative that excluded Indigenous people and their culture. Equally, the chapters that analyse the self-determination policies adopted by Commonwealth governments since 1972 will show that Australia has not embraced the kind of liberalism that Kymlicka argues can accommodate Indigenous self-determination.

¹ Drawing on the work of Hans Kohn, a liberal theorist of nation, the Indian political philosopher, Partha Chatterjee, characterised this kind of nation and nationalism as: “The normal is the classical, the orthodox, the pure type. This type of nationalism shares the same material and intellectual premises with the European Enlightenment, with industry and the idea of progress, and with modern democracy. Together they constitute a historical unity, defined with a fair degree of clarity in both geographical and chronological terms. This gives the liberal-rationalist his paradigmatic form in which nationalism goes hand-in-hand with reason, liberty and progress.” Chatterjee, Partha, (1986) *Nationalist Thought and the Colonial World*, Zed Books, London: 3.

² See Fitzgerald, Stephen, (1997) *Is Australia An Asian Country?*, Allen & Unwin, NSW, for an example of this debate.

³ Hollinger, David, (1995) *Postethnic America: Beyond Multiculturalism*, Basic Books, New York.

⁴ See for example: Holding, Clyde, (1983) Australia, House of Representatives, *Debates, Aboriginal Affairs*, Vol. 134. pp. 3486, 3489; Keating, Paul, (1992a) *One Nation Speech*, 26 February, AGPS, Canberra; Howard, John, (1995a) *The Role Of Government: A modern Liberal approach*, The Menzies Research Centre–1995 National Lecture Series, 6 June, and Howard, John, quoted in Kalantzis, Mary and Cope, Bill, (1997) “An opportunity to change the culture”, in Adams, Philip (ed.), *The Retreat From Tolerance: a snapshot of Australian society*, ABC Books, NSW, p.79.

4 The imagining of White Australia and its impact on Indigenous people

Introduction

This chapter will demonstrate that from its very beginnings Australia has taken little or no account of Indigenous people in its imagining and construction of the Australian nation. Australia's century of nationhood has for the most part been dominated by an immigration policy that determined that the nation should be a 'white nation', despite the undeniable presence of Indigenous people and other 'coloured', non-European minorities. The theorising of nation, as espoused by Gellner and Anderson, discussed in the previous chapter is characterised by "amnesias" and "oblivions". These characteristics are articulated in relation to Indigenous people in the anthropologist W.E.H. Stanner's 1968 Boyer lecture series, where he spoke of the "great Australian silence" regarding Indigenous people, of their absence from the history of Australia, and of white indifference towards them (Stanner, 1968). This view of the Australian nation is also acknowledged by political scientists Dean Jaensch and Max Teichmann, who argued in 1988 that:

For much of Australia's history, the aborigines were a forgotten people. When they were considered, it was in terms of 'how to solve the aboriginal problem'. Until recently, the official policy was that until aborigines showed themselves fit and able to be assimilated into the white community—to think, live and act like whites—they should be under restrictive laws and essentially be treated as wards of the state. (1988: 1)

Jaensch and Teichmann encapsulate the perceptions of and corresponding treatment that Indigenous people have been subjected to since settlement began, clearly placing

them outside the imagined community of the nation and reinforcing the 'need' to control them. The presence of Indigenous people has always been viewed by Australian governments as problematic for the nation, both in regard to appropriate Indigenous policies and for the imagined 'white nation'. Further, when it became obvious that Indigenous people would not 'die out' it was acknowledged that they would have to be assimilated into the national community. As Jaensch and Teichmann stated, they would need to "think, live and act like whites", that is, be subjected to and subsumed by white cultural norms and modes of living. To achieve the assimilation of Indigenous people within the nation required governments to exercise control over almost the whole of Indigenous existence.

This chapter will focus on the imagining of the white nation that began in the mid-eighteenth century, and on the imagined community that was to be embodied in the new federated Australian nation. The body of literature on the issues of national identity, the nation, and Australian nationalism is considerable. The debates highlight such issues as the Anglo-Celtic makeup of the nation; whether the national identity is predominantly British or Australian; whether Australia became a truly independent nation in 1901, 1942 or 1986, or perhaps will sometime in the future; the impact of multiculturalism on the national identity; issues of the monarchy versus republicanism; and many others. However, by comparison, very little attention is given to position of Indigenous people in relation to the nation. This chapter will argue that Indigenous people were excluded from the nation because Australia was considered to be *terra nullius*, and therefore the Indigenous 'problem' is fundamentally a problem of nation. Indigenous people were killed, dispossessed, and controlled because they were not imagined to be part of the nation. It is this

issue of national exclusion—the failure to recognise their sovereign rights—that must be resolved if Indigenous people are to achieve self-determination, and the cycle of Non-indigenous control is to cease. This may appear to be a radical argument, yet after almost 30 years of self-determination and self-management policies there has been no significant change in the position and status of Indigenous people, socially, economically, or politically. This is because the policies of self-determination and self-management have failed to deliver what was promised, and Non-indigenous control has remained a distinguishing feature in the self-determination era. The practice of this policy has not been consistent with its implied meaning, that Indigenous people would be free to determine their economic, social, and political future. This view will be supported in the following five government chapters.

Within the debates concerning the Australian nation is the perception that Indigenous people are simply an interest group that has a stake in defining the nation. Robert Birrell has argued that:

Images of a nation's past tend to arouse controversy, especially where they concern the 'foundation' years. Whatever an interest group's agenda, if it can claim that its program draws on ideas or symbols associated with the nation's birth then this is likely to enhance its legitimacy. As class, ethnic and gender balances change, so new interest groups emerge with new policy objectives. These often have a significant stake in whether the received images of the nation are consistent with their cause. If their program is neglected, or treated in disparaging terms, then the groups in question are likely to critically scrutinise the basis of these images. (1995: 2)

There is no disputing the validity of Birrell's argument, however, he went on to argue that "groups like feminists, Aborigines and some migrants ... believe their aspirations were restricted in the past by a national community reflecting their oppressors' interests" (1995: 3). Birrell portrayed Indigenous people as one

“interest” group among a number of others, including feminists and migrants. The validity of the causes of feminists and migrants is unquestionable. However, the cause of Indigenous people transcends and precedes all other causes; they are *not* an interest group. If Indigenous people are viewed only as an “interest” group, the Indigenous ‘problem’ can *never* be resolved. The Indigenous problem is inextricably linked to issues of sovereignty and national legitimacy. Interest groups have legitimate claims within the rubric of the nation, whereas for Indigenous people they transcend and precede the nation. This is something that needs to be recognised and accommodated by Australian governments and Non-indigenous Australians before the Indigenous problem can be effectively addressed. The overturning of *terra nullius* was only the beginning of the process of national change.

Owing to the constraints of thesis length, the material that is discussed in this and the following chapter will give only an overview of the prevailing ways in which the nation was imagined by the Anglo-Celtic majority and its subsequent implications for the lives of Indigenous people.

Origins of the Australian Nation

The nature of the relationship between Indigenous people and the Australian nation in the last three decades of the twentieth century cannot be considered in isolation from the almost two centuries that preceded them as it was founded upon the relationship that was formed in the earliest days of settlement. Stanner has argued that in “the first five years of Australian history ... there came into existence between the two races a basic structure of relations which ever since has formed a part of the continuing anatomy of Australian life” (1968: 7). Stanner also claimed that a theme

which developed in the early years of settlement was that, in opposition to their previous views, the colonists could survive without the help of Indigenous people, which resulted in a “history of indifference” towards them (1968: 9). He added that from the perspective of unnamed historians, “the native question sank into unimportance”, with Indigenous people becoming “a melancholy footnote to Australian history” (1968: 11). It is from this point in Australian history that the obfuscation of the distinction between ‘settlers’, ‘invaders’, and ‘colonisers’ began, and expansion across the continent appeared to no longer require agreement or consultation with Indigenous people, as Governor Philip had been instructed to do.¹ Thus the fiction of *terra nullius* became entrenched in the imagining and development of the Australian nation.

This attitude of the ‘settlers’ towards Indigenous people was soon translated into the early legal and political colonial government systems. Constitutional lawyer Margaret Kelly has stated that: “In 1828, all English statutes and common law in force in England were recognised as having been received into Australian colonial law” (Kelly, 2001: 15). Clearly no recognition was given to Indigenous sovereignty or law. Charles Rowley argued:

With the proclamation of sovereignty over all lands in a colony and the consequent definition of such lands as Crown lands, the resistance of the dwellers thereon to officials of the Crown such as the police ... cannot appear in the official reports as frontier war. If not rebellion, it becomes criminal activity of some convenient kind—for both black and white. The real problem for the colonial government then became one of keeping the peace between two kinds of British subjects—the whites and the blacks. (1970: 5-6)

Rowley’s insight demonstrates that from the earliest days of colonisation the resistance of Indigenous people to the theft of their land was not viewed as a clash between two distinct peoples. Rather, their inherent and sovereign right to defend

their land had been reduced to “criminal” acts against the colonial state, because Indigenous people had been made British subjects. Paradoxically, Indigenous people were included, but only in that they were expected to conform to the obligations of British law without the benefit of British legal rights; their own cultural rights were nullified and forfeited. Stephen Castles *et al.*, offer insight into why Indigenous people were treated in this way. They asked the question “Why did colonial policy centre on the destruction of the Aborigines, with very little effort to incorporate them even as unfree labour?” (Castles, 1992: 16). They suggested that in places where European colonisers found Indigenous peoples with “sedentary” agricultural economies, as opposed to hunter-gatherer societies, they were able to utilise their economies for profit whereas hunter-gatherers’ use of “extensive areas of land” was an obstacle to colonial agriculture (Castles, 1992: 17). The result was that the land was of much greater value than the people who had owned and occupied it.

A further implication of the concept of *terra nullius*, according to Patricia Grimshaw *et al.*, was that it “meant that the land was officially to be settled rather than conquered; no official treaties had to or could be negotiated with the indigenous peoples” (1994: 133-4). This is reflected in the 1835 case of John Batman, a settler in the Victorian colony, who attempted to recognise Indigenous land ownership. The transfer of ownership in his agreement with Indigenous people was overturned by the Secretary of State, Lord Glenelg, who would not allow the Indigenous people:

any right to alienate to private adventurers the land of the colony ... It is indeed enough to observe that such a concession would subvert the foundation on which all proprietary rights in New South Wales at present rest and defeat a large part of the most important regulations of the local government. (Stanner, 1968: 61)

In this instance it is clear that only the land rights of the colonisers would be recognised, thus depriving Indigenous people of their ability to be self-determining. In the following year this position was reinforced in the case *R. v. Jack Congo Murrell* (1836). Rowley argued that the court's decision was that "an Aboriginal was not a member of a 'free and independent' tribe [and] placed him in the category of British subject without qualification" (Rowley, 1970: 133). By 1836 Indigenous people were considered to be neither "free" nor "independent". In the same case Justice Burton ruled that "Aboriginal tribes had no sovereignty at the time of taking possession" (Rowley, 1970: 134). Thus began the overt control of Indigenous existence across the continent, and the loss of Indigenous people's inherent right of self-determination. The relationship between Indigenous people and the colonial state, as the anthropologist Jeremy Beckett has argued, become institutionalised as relations between the "conquerors and conquered" (Beckett, 1988b: 4). In fact little has changed to redefine the nature of that relationship; Indigenous existence remains subject to national and state governments on the basis of their inherent difference.

A major factor in the mistreatment of Indigenous people was that the colonisers understood neither Indigenous culture nor the concomitant European notion of 'civilisation'. However, Stanner argued that while this was true in the early years of the colonies, by the 1830s "sufficient good information was at hand to have made a difference if the compulsive structure of Australian interests had been open to it" (1968: 32). Regrettably "Australian interests" did not extend to Indigenous people, and as a consequence they continued to suffer at the hands of the colonisers. Stanner went on to argue that with increasingly more sophisticated research methods and the expansion of scientific knowledge the situation for Indigenous people deteriorated.

He further claimed that the portrayal of Indigenous people as “savages” by ethnographers Baldwin Spencer and E.J. Gillen, in their influential 1899 publication:

made nearly inevitable the identification of “contemporary aboriginal man” with “Stone Age man”, with “early man” in the sense of ancient and prehistoric man and, as Sir James Frazer was to put it, “mankind in the chrysalis stage”. This atrocious muddle appeared to give scientific warrant for the judgement of Australian practical experience that nothing could be done for the aborigines but to immure them in protective isolation within inviolable reserves. (1968: 35)

On the basis of this and other contemporary studies, as well as the influence of Social Darwinism, Indigenous people had no place in a ‘modern’ developing nation like Australia. Beckett has stated that:

With rare individual exceptions the six colonies had denied the Aborigines citizenship, and federation did nothing to change their situation. Membership of the new nation was reserved for whites, preferably of British descent. The Aborigines could not be deported as the Chinese and Pacific Islanders would be, but a “stone age people” had no place in a modern Australia, and it was confidently expected that those still living would soon follow the many ‘extinct tribes’ into the past where they belonged. Meanwhile they could be left in the care of the state governments who had already made provision for their management, insofar as it seemed necessary. The national government concerned itself with Aborigines only to the extent of excluding them from its provisions, and when it took charge of the Northern Territory in 1910, it did rather less than the state governments. (Beckett, 1988b: 6-7)

Clearly in the development of a ‘progressive’ and ‘civilised’ nation Indigenous people were thought to be a ‘temporary problem’, and the notion of any level of inclusion on the basis of human equality absurd. This situation did not change until it became obvious that Indigenous people would not ‘die out’.

The Federation Period

Despite the colonists’ indifference to Indigenous people, from the perspective of the twenty-first century it is difficult to imagine how the colonies and eventually the Commonwealth government could conceive of a White Australia policy, considering

the Indigenous presence throughout the continent. This point was also raised by one of Australia's first Senators, John Ferguson, who saw the incongruity between having a "White" Australia Policy and the presence of Indigenous people. D.B. Waterson argued that Ferguson could not reconcile the two, believing the policy to be "ridiculous" (2000: 91). In a contradictory stance, Martha Rutledge writes that Senator Richard O'Connor, the leader of the Barton government in the Senate, while a supporter of the White Australia policy, strongly argued during a debate on a Franchise Bill that:

we cannot take away the right to vote which aboriginals, or those other coloured persons who are naturalized subjects, possess. ... It would be a monstrous thing, an unheard of piece of savagery on our part, to treat the aboriginals, whose land we were occupying, in such a manner as to deprive them absolutely of any right to vote in their own country, simply on the ground of their colour, and because they were aboriginals. (2000: 29)

Despite O'Connor's impassioned support for the right of Indigenous people to vote and acknowledging that their country was being "occupied" by Non-Indigenous people, he was by implication unwilling to extend to Indigenous people a voice in determining how Australia would be defined as a nation through his support of a White Australia policy.

During the same Franchise debate another Senator, James Walker of New South Wales, willingly "acknowledged the prior occupation of Australia by the Aborigines", but was castigated for his views by fellow Senator Alexander Matheson who wanted to exclude Indigenous people from the Bill (de Garis, 2000: 346). These perspectives demonstrate that there were dissenting views among the members of the new Australian parliament, views that gave some recognition of their inherent rights.

However, in response to Walker's acknowledgement, Matheson equally demonstrated the view that Indigenous people were 'expendable':

'[Walker] fails to recognise that we have taken this country from the blacks, and made it a white man's country, and intend to keep it a white man's country' ... When Walker responded that there were still 100,000 Aborigines, Matheson replied: 'We are aware of that fact, and it is very regrettable, and the only consolation we have is that they are gradually dying out'. (de Garis, 2000: 346)

While O'Connor clearly held a different view in relation to the rights of Indigenous people, he nevertheless held similar views to Matheson's in that Australia should ultimately be defined in policy terms as white. Harry Evans, the Clerk of the Senate in 2000, commented that the "consolation is that such views (as Matheson's) were totally repudiated by others" (Evans, 2000: 10). However, Matheson's blunt statement of the reality of what had, and was happening, to, Indigenous lands as well as the impact of that loss on Indigenous people themselves, cannot and should not have been dismissed so easily. While Matheson's statements were overtly racist, they were also true. Indigenous people did lose their rights to their land and as a consequence suffered decimation of their numbers. The reality is that Indigenous people were never considered to be part of the nascent Australian nation-state, not from the beginning nor in its then foreseeable future. From the analysis of the White Australia policy it will become clear that Australia was in every way, as far as the colonisers were concerned, *terra nullius*—Indigenous people were of no consequence to the future of Australia in relation to nationhood. This, it will be argued, was because Indigenous cultural difference would be sufficient to exclude them from what the nation was imagined to be, and would require that they be controlled until they eventually 'died out'. It is worth considering the rationalé of the White Australia policy because it will demonstrate how entrenched the views remain, even

though they are not so explicit, and thus confirm the thesis' argument about the nature of the nation and the consequent resistance to Indigenous self-determination.

The Origin of the White Australia Policy

Myra Willard's insightful book *History Of The White Australia Policy to 1920* will be used to expose the rationalé of the policy's early development. Willard's 1923 text is significant in relation to the White Australia policy as it was written at a time when the reasons for the policy's development remained part of the public consciousness. Because of the policy's contemporary and accepted nature, the book is unapologetic. It is candid in its exposition of the policy's rationalé and gives clear insights into the imagined and developing nation. The text draws for the most part on a wide range of contemporary primary sources, including colonial, Commonwealth and British parliamentary debates and papers, political speeches, and documents. In 1947 the anthropologist Adolphus Elkin stated that "Miss Willard's book is essential for an understanding of the development of the White Australia Policy" (Elkin, 1947b: 221).

The issues surrounding the policy's development are crucial to the arguments of this chapter. Of particular significance is the almost total lack of references to Indigenous people within the text, notwithstanding that *prima facie* this might be hardly surprising considering the subject is the specific exclusion of 'coloured races' as immigrants. However, the omission is significant because Willard discusses in some detail the issues concerning the creation of the Australian nation as an integral part of the policy. This thesis argues that because Indigenous people were clearly excluded from the nation-building process there remains a continuing resistance and

ambivalence towards Indigenous self-determination on the part of Australian governments.

The White Australia policy was intended to address the issue of Chinese labourers competing with the colonial workforce. However, this was not a problem that was envisaged when Australia was first established as a penal colony. Willard, who contends the converse was true, argued that:

Nothing was farther from the thoughts of those who urged the British Government to form a settlement in New South Wales than the idea of the adoption of a White Australia policy by the future residents of the Southern Land. Indeed, the proximity of Australia to the millions of Asia was considered one of its peculiar advantages. (1967: 1)

Cheap labour did not become an issue until the transportation of convicts ceased in the mid-1800s. Indeed, as was stated, Australia's close proximity to Asia was seen as advantageous. However, from the middle of the nineteenth century opposition to the use of indentured Chinese labour began to grow. Willard argued that the development of the White Australia policy occurred in four stages:

(a) Isolated and temporary action with the object of checking Chinese immigration in the time of the gold rush; (b) attempted concerted action in the early eighties; (c) the adoption of fairly uniform restrictive measures by the Colonies in 1888; (d) the adoption of a White Australia policy by the Commonwealth. During the first three periods the colonists had to consider the question of Chinese immigration only. But within a decade thereafter, the policy had widened so as to include all peoples whose civilisation and standards of life at that time differed fundamentally from those of Australians. (1967: 17)

It is clear that there was shift in the latter period towards a racial and cultural exclusion of difference and a simultaneous defence of Australian "civilisation and standards of life". The national exclusion of difference coincided with the construction of the nation as a single racial hegemony, corresponding with the theories of Gellner and Anderson in the previous chapter. Willard argued that: "The

desire to guard themselves against the dangers of Asiatic immigration was one of the most powerful influences which drew the colonies together” (1967: 119). From this point the policy began to involve much more than a response to an issue of immigration and evolved into a characteristic of the Australian conception of nation. Willard went on to argue that: “An Australian spirit, feeble at first, but to grow steadily stronger, now began to animate the policy” (1967: 69). For ‘white Australians’ this period was formative for a sense of nation and nationalism. Richard White extended this idea, claiming that “For Europeans the term ‘Australian’ in 1800 still meant Aborigine; by 1900 they had successfully shifted the word to mean white residents in such a way as to exclude the original Australians” (1997: 13). Willard’s observation was that there was a developing Australian “spirit”, but it was one that clearly did not include Indigenous people. She candidly stated that the “British took this land from the native inhabitants because they could make it more valuable to human beings” (1967: 30). Whether this statement excludes Indigenous people from being viewed as human beings or is rather a judgement against their use of the land is ambiguous; if it is the former, it is a racial slur, if the latter it reflects a Social Darwinist view of ‘civilisation’. Regardless of her point, it firmly places Indigenous people outside the nation. It also indicates that Indigenous lands were not bought or acquired through agreement, merely that they were taken by a people who would ‘make better use of them’. Similar expressions of Indigenous inhumanity had been made earlier in the nineteenth century in Australian newspaper editorials. Donald Horne argued that:

When the editorial writers in Sydney’s newspapers wanted to commemorate the first fifty years of British occupation (since the dispossessed Aborigines were not human but ‘barbarians of the most wretched and degrading description’), they celebrated the beginning of Australian history. The *Sydney Gazette* described Australia before the British as ‘one great desert untrodden by the foot of man’. *The*

Australian boasted of how, 'instead of savages and beasts of the field, human beings now populate the land'. (1989: 16)

This popular view of the inhumanity of Indigenous people will be discussed below in relation to the influence of Social Darwinism on racially based policies.

Willard argued that the "fundamental reason for the adoption of the White Australia policy is the preservation of a British-Australian nationality" (1967: 188-9). The nascent Australian nation remained intimately linked to Britain and the Empire, but still developed its own unique identity, evidenced in particular by its development of the White Australia policy. A White Australia was seen to be a matter of urgency for a majority of the population and was a crucial issue in the formation of the Australian nation-state. However, Willard noted a degree of community division over the nature of the policy:

A large section of unofficial and therefore less responsible opinion was in favour of immediate drastic legislation, regardless, it would seem, of any international or Imperial complications that might follow as a result. The existence of this section can be seen from the speeches made at the various public meetings held in Sydney and in the capitals of the other Australian Colonies. After a large and very representative meeting in Sydney, for instance, there was sent to the Governor for transmission to the Home authorities, a memorial which called upon the British Government "to maintain the right of the Australian authorities to frame such laws as they may consider necessary to ensure on this continent the preponderance of the British race."

[Willard's footnote 35 reads] Lord Carrington to Secretary of State. No. 2307, Br. P.P. Cd. 5448 (1888). The deputation which presented this memorial included such representative men as Mr. (afterwards Sir) E. Barton, M.L.C., Mr. (afterwards Sir) G.R. Dibbs, M.L.A., leader of Opposition in N.S.W. Legislature at this time, and N. Melville, M.L.A., a consistent supporter of ideas which were soon to be upheld by the political Labor Party. (Willard, 1967: 80-1)

While Australia was responsible to Britain for the nature of its legislation, on the issue of the White Australia policy there was widespread support that was willing to ignore the wishes of the British parliament, and as acknowledged in the footnote,

Australia's first Prime Minister and the Australian Labor Party were among them. Australia was intent on controlling the makeup of its population in order to preserve the 'civilisation' of their developing nation.

It is clear that the idea of nation was articulated explicitly and imagined in the ways that were discussed in the preceding chapter. Willard argued that the term 'white' was not so much intended in its literal meaning, but rather that 'white' denoted 'civilisation', 'culture' and 'modes of living':

The development of the White Australia policy became complete during the ten years, 1891–1901. Hitherto the policy had been concerned only with the preservation of Australian society from what were believed to be the evils connected with a fairly large Chinese element in the community. Now it expanded to include immigrants from all peoples whose presence was, in the opinion of Australians, injurious to the general welfare. The young Australian nation, which found embodiment in the Commonwealth of Australia in 1901, asserted its Monroe Doctrine — the right of self-realisation unhindered by counteracting influences due, to the presence of immigrants of different traditions and ideals. "A White Australia" became the watchword—a phrase apt to convey a wrong idea of the reason why the policy was adopted.

[Willard's footnote 1 reads] One finds this phrase frequently used as early as 1896 to denote the Australian policy. (1967: 99)

It is apparent Australians at this time were keen to avoid the problems that the United States was facing after the abolition of slavery, and the resultant increasing 'black' population. Willard argued in relation to cultural diversity that the thinking was, that: "prevention was better than cure" (1967: 108). The belief was that 'civilisation' could only flourish in isolation, that is, to the exclusion of 'other' civilisations. This view was expressed by the first Attorney-General of the Federal government, Alfred Deakin, who argued:

No motive power ... operated more universally on this continent, or in the beautiful island of Tasmania, and certainly no motive power operated more powerfully in dissolving the technical and arbitrary political divisions which previously separated us than the desire that we should be

one people, and remain one people, without the admixture of other races.
(Willard, 1967: 119)

Deakin's speech explicitly asserted that *racial* exclusivity was "universally" and "powerfully" instrumental in the formation of the Australian nation. Willard further argued in reference to the importance of preserving Australian culture that:

In the fifties this primary reason for their policy found expression in the resolve to maintain the British character and institutions in the Australian Colonies; towards the end of the century, however, it was expressed in terms of Australian nationalism. Australians feared that non-European immigration—the only unsought immigration, except from Britain, that flowed with any strength—might radically alter, perhaps destroy, the British character of the community. They knew that racial unity, though not necessarily racial homogeneity, was essential for national unity, for true national life. The union of a people depends on common loyalty to common ideals, and on a common belief as to the best course in general to pursue to attain these ideals. (1967: 189)

While Willard rejected the notion of homogeneity in its strictest sense, the expressions of two of Australia's most prominent early politicians expressed explicit views concerning the Australian 'race'. However, Willard did implicitly state that there was to be a homogeneous set of beliefs and ideals that would lead to 'national unity'. The idea of an Australian race, nevertheless, was espoused by Deakin and Parkes. Deakin argued in relation the Immigration Restrictions Bill that:

'A united race ... means not only that its members can intermarry and associate without degradation on either side, but implies one inspired by the same ideals, and an aspiration towards the same ideals, of a people possessing the same general cast of character, tone of thought, the same constitutional training and traditions—a people qualified to live under this constitution, the broadest and most liberal perhaps the world has yet seen reduced to writing; a people qualified to use without abusing it, and to develop themselves under it to the full height and extent of their capacity'. (Willard, 1967: 189)

Deakin implicitly stated that it was in the interests of all races to maintain their character and ideals, and that mixture was anathema, thus justifying a White Australia policy on the basis of race. Sir Henry Parkes similarly argued that the policy was "of the first magnitude to cement society together by the same principles

of faith and jurisprudence, the same influence of language and religion, and the same national habits of life” (Willard, 1967: 190). There can be no doubt that the political intent was that the Australian nation was to be dominated by one culture.

Decades before assimilation was to become an expressed part of the official Australian immigration policy it was a prerequisite for acceptance within Australia, and it was believed that people other than Europeans were incapable of assimilating. The arguments of the time do not differ greatly from arguments used today by those who oppose multiculturalism. Willard argued that the opinion of the day was that:

To preserve the unity of their national life, a people can admit emigrants from alien races only if within a reasonable time they show a willingness and a capacity to amalgamate ideally as well as racially with them. Australians have formed their restrictive policy because, through their own experience and the experience of other countries, they believe that at present non-Europeans of the labouring classes have neither this willingness nor this capacity. The Chinese in Australia, for instance, tended to congregate into communities of their own, living their own life uninfluenced by the ideas and customs of the people amongst whom they had settled. In other words, they remained aliens. As a matter of experience and of fact, said Mr. (afterwards Sir) George Reid, speaking in 1896 on the Coloured Races Restriction and Regulation Bill then under discussion, there was no desire on the part either of “whites” or of “coloured races” to merge in a common citizenship. This was not so in the case of European aliens in Australia.

[Willard’s footnote 5 reads] Mr. G. Reid in Legislative Assembly of New South Wales, Parliamentary Debates, 1896, Vol. 80, 3946. (Willard, 1967: 190)

Again it is clear that there was to be only one set of Australian “ideas and customs” to which all others would have to conform. If there was a level of latitude in the White Australia policy it was only extended to people of European origin, in particular Northern European origin, as Southern Europeans were also discriminated against until the mid-twentieth century. Castles *et al.* have given evidence of “a

period of widespread and virulent racism against Southern Europeans” in the early and mid-twentieth century (1992: 20).

Wayne Hudson and Geoffrey Bolton have argued that Richard White’s book *Inventing Australia* “was a turning point in history-making in Australia. White broke with the Australian tradition of *social realist* historiography, and under the influence of poststructuralism laid unprecedented emphasis on *the idea that* ‘Australia’ was ‘invented’ and in many different ways” (Hudson, 1997: 11). White has offered significant insights into the formation of nationalism and an Australian national identity, insights that resonate with the ideas of Anderson and Gellner. White argued in relation to the Australian identity that:

national identities are invented within a framework of modern Western ideas about science, nature, race, society, nationality. Not only is the very idea of national identity a product of European history at a particular time, but each addition to the Australian identity has reflected changing intellectual needs and fashions in the West. In other words, not only is the idea of ‘Australia’ itself a European invention, but men like Charles Darwin and Rudyard Kipling have contributed as much to what it means to be Australian as Arthur Streeton or Henry Lawson. The national identity is not ‘Born of the lean loins of the country itself’, as one ardent nationalist put it, but is part of the ‘cultural baggage’, which Europeans have brought with them, and with which we continue to encumber ourselves. (1981: ix)

White showed here that the idea of nation and nationality is complex, drawing on a wide range of sources, science, literature, society, and even the natural world. While the influence of Social Darwinism has waned over time (although there are still those in extreme racist organisations who adhere to a hierarchy of race), it was particularly influential at the time of Federation and in the following decades as a basis for nation and nationalism. White has argued that it was used in conjunction with the ideas of progress, science, technology, and race to justify racial discrimination. Christine Bolt argued that: “By the middle of the century in Britain, race had become the

crucial feature in the national type: in 1855 it could be said 'Race is everything: literature, science, art—in a word, civilization depends on it'" (Bolt, 1971: 1). The idea of race based on Social Darwinism was a totalising concept.

The Australian Nation and Social Darwinism

In the period preceding the secular era of Social Darwinism, attitudes towards Indigenous people were predominantly based on religious views of humanity and their place in it. Rowley argued that the:

categorical imperative of the missionary allowed for little compromise; and the colonial administrators, at best tended to see themselves as extending the boundaries of the Kingdom of god as well as the power of the nation state. This quite fundamental intolerance, by discounting native systems of belief, paved the way for more debased ideologies of colonialism, such as the popularised pseudo-Darwinism of the late nineteenth century, with the doctrines of the 'survival of the fittest' and the 'white man's burden'. (1970: 10-11)

Here it is evident that missionaries and colonial administrators were complicit in their treatment of Indigenous people, with both rejecting the validity of Indigenous culture and practices. The transition from religious to scientific views in 'dealing' with Indigenous people corresponds with the conditions discussed in the previous chapter that facilitated the formation of the nation-state. White argued that Indigenous people were seen by some to be "remnants of ancient heathen nations', or 'as the men of Sodom, sinners exceedingly'" views that "became a simplistic justification for racism" (1981: 65). However, these religious views gave way, as Rowley argued, to "more debased ideologies of colonialism, such as the popularised pseudo-Darwinism". Such views were ultimately to inform ideas of the inevitability of the 'extinction' of Indigenous people. White stated in relation to Social Darwinism that:

Australia, like America, proved an attractive spawning ground for Social Darwinist ideas since it was an area of new Anglo-Saxon settlement where racial conflict needed to be explained away. Although it only gained real acceptance in Australian scientific circles towards the end of the century, at a more popular level his [Darwin's] ideas enjoyed a very wide currency. In the first place, they provided a comforting, seemingly scientific explanation for the actual destruction of Aboriginal society. Previously Europeans had been convinced of the inferiority of the Aborigines, but that did not justify their extinction. Social Darwinism did. Racial conflict was reduced to a question of the Struggle for Life and the Survival of the Fittest. (1981: 69)

White's point is of great significance as it explains the treatment that was inflicted on Indigenous people. 'Asians' were to be kept out of Australia because they had a form of civilisation that was incompatible with Australian civilisation. However, Indigenous people were seen as having no civilisation and as a consequence would 'die out' because of their evolutionary 'inferiority', based on 'scientific knowledge'.

Stanner's research showed that:

in the twenty years after the middle 1890s a large literature grew up about topics which took on a curious independence of the people to whose life they referred—the aboriginal family, clan and tribe; the systems of kinship, marriage and descent; exogamy, incest and promiscuity; totemism, ritual, magic and myth. Nowadays we do not take much of it seriously, although some of the subjects cling like old men of the sea. But we are ruefully aware of the extent to which the literature fastened on the aborigines a reputation of extraordinary primitivity.

They were made to appear a people just across, or still crossing, that momentous border which separates nature from culture, and trailing wisps of an animalian past in their human period. (1968: 36-7)

Social Darwinism proved to be catastrophic in its impact on Indigenous people, as they were seen to be a part of nature, as the flora and fauna of Australia, or at best a people at the very bottom of the evolutionary scale. While these views of Indigenous people have ceased to have currency, it will be made clear that Australia in the twenty-first century still has not recognised or attributed to Indigenous people their rights as a sovereign people, a people who were deprived of all their rights to self-

determination and even their humanity. White has stated that: “For most of the settlers they were pests, sometimes comic, sometimes vicious, but always standing in the way of a civilised Australian community” (1981: 15). It is clear that Indigenous people were viewed by many as a hindrance to the destiny of the developing Australian nation. Stanner argued that Australia was:

well into a secular phase of life in which the denigration of the aborigines deepened into a real vilification.

In most of Australia aboriginal affairs were now—that is by the 1880s—out of the urban sight and, for that among other reasons, out of the urban mind. A good half of the continent’s 600 and more tribes, including those within the 20-inch rainfall belt, had been more or less obliterated. (1968: 34)

Stanner exposed the devastating extent to which the ‘settlers’ had impacted on the Indigenous people. Nevertheless, he argued that attitudes towards them deteriorated significantly. This assertion is confirmed in Stanner’s argument that:

the depreciation of the aborigines—or to put the matter the other, and possibly the more correct way, the justification of what was being done to them—was more violent and moralistic than before or since. The correlation, I would say, was high and positive. This was the time of greatest talk about the law of progress and the survival of the fittest. What was happening in the remoter parts of the continent was at best peripheral to the great affairs—the trade union struggles, the debates over social justice, the industrial disturbances, the approaches to Federation—which so occupied the urban public mind of the time. (1968: 34-5)

The imagining and building of the Australian nation was clearly focused on the issues pertaining to the progress of the settlers, at the expense, and to the exclusion, of Indigenous people.

The above arguments will now be tested against the views of Australia’s founders in order to dispel any doubts about the racially prejudiced basis of the Australian nation. This is not to say that the views of Indigenous people did not improve, or the

treatment of them, but the origins of the nation have cast a long shadow over the lot of Indigenous people throughout the twentieth century.

As was discussed in the previous chapter, the institutions of the state and its laws reflect the culture out of which the nation develops. As Willard has argued, this principle was understood by those who were instrumental in the process of federation:

There can be no doubt that the coming of non-Europeans of the coolie class, even in comparatively small numbers, would within a fairly short time radically modify the character and institutions typical of the Australian people who are at present so few. A continued immigration of certain European peoples very dissimilar to Australians, would have the same effect, though in a modified form because of fundamental resemblances in their development. (1967: 206-7)

The fear held by Australians that their nation and society would be subjected to 'radical modifications' if entry were granted to those whose modes of living, inclusive of non-Europeans and "dissimilar" Europeans alike, corresponds to the classical form of nation-state expounded by Gellner and Anderson. That is, a nation that has cultural homogeneity as a primary goal. The uniqueness of Indigenous culture made any inclusion of Indigenous people within the nation even more remote than the kinds of people that the White Australia policy was intended to exclude, particularly as Social Darwinism led to the view that Indigenous people were 'extraordinarily primitive'. Willard argued: "A resident alien people, whose presence Australians regarded as a menace to their civilisation and nationality, would have a bad social effect on the community. Social distinctions based on race would be apt to arise, which would sap the very foundations of a democratic society" (1967: 195). Cultural diversity was viewed as a threat to Australian civilisation, nationality, and even democracy, again reinforcing the idea of the necessity of the cultural

homogeneity of the nation. Sir Henry Parkes, one of the ‘founding fathers’ of federation, argued:

‘I have maintained at all times that we should not encourage or admit amongst us any class of persons whatever whom we are not prepared to advance to all our franchises, to all our privileges as citizens, and to all our social rights, including the right of marriage ... I maintain that no class of persons should be admitted here, so far as we can reasonably exclude them, who cannot come amongst us, take up all our rights and perform on a ground of equality all our duties, and share in our august and lofty work of founding a free nation.’ (Willard, 1967: 195–196)

Parkes revealed here that there were two bases for restricted immigration, first the reluctance of Australians to extend rights to particular people, and second the perceived ‘inability’ of such people to fulfil their obligations to the nation. Both rationalisations suggest assumed superiority on the part of Australians and the kind of nation and society that they imagined. Willard went on to argue that: “to grant equality of social and political status to resident Asiatics, allowed to enter freely, would destroy the very conception that made such a society possible. It seemed to them, then, that there was only one course to pursue—the course laid down by Sir Henry Parkes” (1967: 196). The influence of Parkes is undoubted, and the same views were held also by Edmund Barton, Australia’s first Prime Minister, who argued explicitly concerning the superiority of Australian culture that: “I do not think that the doctrine of the equality of man was really ever intended to include racial equality” (Encel, 1971: 31). This statement is very revealing as it was Barton’s assumptions that underpinned the White Australia policy. Willard acknowledged that:

A restrictive policy seemed to conflict with the conception of the brotherhood of man, and with the democratic idea of the equality of all. But experience of immigration from China, and practical acquaintance with the circumstances of Australia made them realise that their patriotism and love of kindred were stronger than their cosmopolitanism. (1967: 205)

Clearly the White Australia policy and the nation it was 'protecting' were allowed to override any notion of racial equality. Again it must be remembered that the policy was aimed at the 'lesser' cultures of Asia and Eastern and Southern Europeans. The inclusion of Indigenous people within the nation on that basis, 'culture', would have been incomprehensible to those who supported the policy. Again in 1903 Deakin argued that:

the White Australia policy covers much more than the preservation of our own people here. It means the multiplication of our own people so that we may defend our country and our policy. It means the maintenance of social conditions under which men and women can live decently. It means equal laws and opportunities for all. ... it means social justice and fair wages. The White Australia policy goes down to the roots of our national existence, the roots from which the British social system has sprung.

[Willard's footnote 55 reads] Quoted on p. 5 of "Australia Futura", by W.T. Gill. (Willard, 1967: 204)

Deakin unequivocally equated the White Australia policy with the nation; for him they were inseparable concepts. However, the "equal laws" and "social justice" were not applicable to Indigenous people. Willard also confirmed their inseparable nature when she argued the "validity and the morality of Australia's policy seems to depend on the validity and the morality of the principle of nationalism" (1967: 206). The equating of the White Australia policy with the nation, Willard argued, was consistent with the:

trend of world ideas [that] seems to strengthen the position which Australians have taken up. The increasing recognition during the nineteenth and twentieth centuries of the principle of nationality, seems to afford ground for belief that Australia's claim will receive world recognition if it is understood. The demand of peoples for self-realisation, a demand inseparable from the claim for the preservation of their identity, has been more and more admitted. Thus, for instance, one finds this being accorded by almost universal consent to the Jugo-Slavs, to the Poles, to the Irish. (1967: 207)

In this statement there is no recognition of the Indigenous presence—they are not recognised as a people with a claim of “self-realisation” or even an “identity”, and appear to be nonentities within the national space. Instead, in this instance it is the Australian people who are articulating a claim for “self-realisation” and an “identity” in an Australian nationality, again to the exclusion of Indigenous people. There had been some resistance to this exclusive conception of nation by those who desired to have an immigration policy consistent with that of Britain, which would permit the entry of “coloured” British subjects from other colonies (Willard, 1967: 112). However, this was met with considerable resistance. Willard argued that: “The voices of “Young Australia,” becoming articulate in the cry of “Australia for the Australians,” completely drowned the feeble voice of the old cosmopolitanism that had struggled to uphold the immigration principles of the mother country” (1967: 70). This argument confirms Willard’s belief in the overwhelming desire of the colonies and the federation to make Australia a ‘white’ nation. Indeed, Willard argued that the policy found support in “most of the outstanding political leaders of the people in Australia during the last half of the nineteenth century [who] assisted in the embodiment of Australia’s policy in legislative form” (1967: 203). The list that Willard offers, too numerous to include here, is something of a ‘Who’s Who’ of early Australian political history. Further, she argued that it was evident that “all shades of political opinion—conservative, liberal and radical” supported the policy, dispelling the commonly held view that it was in origin a Labor Party policy based primarily on labour issues (1967: 203).

At face value today this appears as an overtly racist policy, however, this was not quite so clear-cut at the time of Federation. In *The Making of 'White Australia'*, D.M. Gibb argued that:

It is clearly tempting to apply the judgements of our own times on race ... to the late nineteenth century without first trying to recreate historically the period we are discussing. If we apply current definitions of racism, then practically all nineteenth century Australian colonists qualify because they showed 'an ethno-centric pride' in their 'own racial group and a preference for the distinctive characteristics of that group'. (1973: 3)

As Gibb argued, there is a historical context into which the policy needs to be placed. Note, however, that there is *no* attempt being made here to mount an argument in support of the White Australia policy. The point being made is that the policy in its time was not made without its own 'logic' or 'rationalé'. Undoubtedly there were those whose support for the policy was based on racial hatred. However, racial hatred was not the basis of the policy, even though the 'logic' and 'rationalé' were clearly racially discriminatory. It is important to understand that the point being made here is that the policy was not one that for the nation reflected racial hatred, but rather, racial exclusivity. Nevertheless, it is acknowledged without question that for those subjected to the policy it was racially discriminatory. However, the relevance of the argument that is being made is in reference to the imagined nation and the monocultural hegemony of that time. Australians by majority wanted an exclusively white nation, and it is the idea of *nation* embedded in the policy and its impact upon Indigenous people that is of relevance for this thesis.

Conclusion

In this chapter consideration has been given to the origins and development of the Australian nation, the predominance of the Anglo-Celtic composition, and the

development of its racially exclusive policy. The impact on Indigenous people was dispossession of their land, denial of self-determination without agreement, treaty, or compensation, and relegation to being a people outside the Australian nation. As Castles *et al.* have argued: "Few conquests have been so systematic and brutal as that of Aboriginal society. Here our quiet is deceptively a product of the very severity of the conquest and, consequently, an active silencing of historical guilt and possible arguments about reparations" (1992: 1). It is as Anderson argued that the nation is constructed not only through its accomplishments, but also by its amnesias, oblivions and, as Castles *et al.* argued, "active silencing". The invasion of Australia has never been historically recognised even though that is what it undoubtedly became; instead the euphemism "settlement" is used. Patricia Grimshaw *et al.* make a similar point in reference to Australia's first test of Australian troops at war. They argue that the battle at Gallipoli was "mythologised" as the "Landing at Gallipoli" when it was in fact an "invasion of Turkey" (1994: 218). The use of the word "landing" gives the impression of an adventure on a beach, whereas "invasion" clearly expresses a violation of sovereignty, as was the case for Indigenous people. For the developing nation the idea of an invasion of Australia, as White argued, had to be suppressed. Grimshaw *et al.* argued that "White Australians did not envisage a place for Aborigines in their new nation.... Aborigines were relegated to the past, to be displayed in museums, part of the history of the evolution of modern man but certainly not as part of the future nation" (1994: 150). The history of Australia therefore in many ways is a forgetting of Indigenous people, or a relegation of them to the past. Nevertheless, Donald Horne lamentably observed that the Indigenous presence did serve one purpose: "The Aborigines were useful, however, in telling the story of progress" (1989: 16). Social Darwinism was undoubtedly a major

contributing factor in the development of the White Australia policy and the treatment of Indigenous people.

In the following chapter it will be argued that since Federation the Australian nation has been progressing slowly along a path of recognising the humanity and rights of Indigenous people, through assimilation, integration, and on to the so-called 'self-determination' period. However, it will be argued that Australia still has a considerable distance to go before the full rights of Indigenous people are recognised—the overturning of *terra nullius* was only the beginning of that process.

¹ See Rowley, C.D., (1970) *The Destruction of Aboriginal Society*, Australian National University Press, Canberra: 19-20.

5 The rise and 'demise' of the white nation: controlling the Indigenous other

Introduction

This chapter will consider the changing imagined community of the Australian nation from Federation through to the abolition of the White Australia policy, and its impact upon the treatment of Indigenous people. In particular, attention will be given to the disparity between the rhetoric of a nation changing its approach to cultural difference and the practical implications of those policies. When at the turn of the twentieth century it was realised that Indigenous people would not 'die out', attitudes towards them slowly changed. However, while recognition was finally given to their humanity, their ability to become citizens was questioned. Essentially, Indigenous people would have to prove themselves responsive to and capable of undertaking the obligations of life in the modern Australian nation before they would be able to become a part of it, that is, on Non-indigenous terms.

As was argued in Chapter Two, control was to be the distinguishing feature of all Indigenous policy. This chapter will demonstrate that the exercise of control over Indigenous existence was directly related to the way in which the nation was imagined and this was underpinned by the White Australia policy. The policy of assimilation directed towards Indigenous people was also related to a particular imagining of the nation. The time period that the chapter covers extends from Federation to the early 1970s. It will be argued that the idea of a White Australian

nation and the accompanying rhetoric was moderated with the progression of time. However, despite the moderation and ultimate dismantling of the policy, the idea of a dominant Anglo-Celtic culture has remained. That is, the idea of a dominant culture under which the perceived 'threat' of cultural difference has been actively contained and minimised, and where conformity to the dominant cultural norms and modes of living have been both explicitly and implicitly expected as being in the 'national interest'.

The definition of Australia as a nation at Federation was inextricably linked to Britain and the Empire through cultural and relational connectedness. The exclusion of cultural and racial difference, principally through the White Australia policy, was also an act defining the nation, but in this instance one of difference to the 'Asiatic' and 'racial other'. Consequently, an inherent part of Australian identity is based on oppositional difference. This is not in itself an uncommon form of identity construction in any nation. However, in the Australian case it has been an explicit government policy over an extended period of time, and one that has been actively pursued over the greater part of the nation's history. Even with the official dismantling of the White Australia policy in the 1970s, it cannot be expected that such an oppositional construction so deeply embedded in the national identity and psyche can be eliminated merely through a change of official policy, despite being dismantled with some level of genuine political intent as well as a moderate degree of popular support. It also cannot be expected that one culture will not to a greater degree dominate a nation, considering the theories of Anderson and Gellner discussed in Chapter Three. However, the question being addressed is, should the national culture dominate to the exclusion or assimilation of all other cultures?

Concomitantly, should there be sufficient space within the nation for the co-existence of other cultures, and in particular Indigenous cultures where issues of original sovereignty pertain? This thesis is arguing that the need remains for Australia to adjust its conception of nation to the point that it can desist in the control that it has continually exercised over Indigenous existence and accommodate Indigenous self-determination. In the discussion that follows it will be argued that the 'cultural homogeneity' of the nation has been and continues to be a resilient trope that shapes the Australian nation to the detriment of Indigenous people and their aspirations for self-determination.

The Imagined White Nation: Federation to World War Two

To illustrate the construction of Australian identity in opposition to cultural difference, consideration will be given to the views of Australia's World War One Prime Minister, William Hughes. Hughes stated that Australia is situated "only a few days' steaming distance from countries inhabited by nearly 1000 million of coloured people" (Encel, 1971: 32). The sentiment of Hughes' statement would still resonate with many Australians in the twenty-first century—that of an isolated 'European' nation being in close proximity to 'Asia'. In line with this statement Hughes also stated in 1916 that "we have nailed the flag of White Australia to the topmost minarets of our national edifice" (Encel, 1971: 32). It is odd that Hughes, in his use of a mixed metaphor, would use a symbol of 'other' cultural and religious difference, "minarets", to describe the way in which Australia's White Australia policy would be displayed. Nevertheless, he portrayed White Australia as being at the top of the "national edifice". These statements leave no doubt concerning the

centrality of cultural homogeneity that he intended to preserve in the imagined Australian nation. Equally, Senator George Pearce, a contemporary of Hughes who later became a long-standing Minister for Defence, stated “our White Australian legislation is so much waste paper unless we have rifles to back it up” (Encel, 1971: 32). Pearce’s statement implies that Australia’s adherence to the policy was also characterised by a militant attitude, one that suggests a ‘white fortress’ under the threat of cultural difference. Such a stance was mitigated over time, but as will be argued below the determination to keep Australia ‘white’ remained undiminished for many decades. The White Australia policy was also seen as a universal national concept. The influential historian W.K. Hancock stated in 1930 that the White Australia policy “is the indispensable condition of every other Australian policy” (Elkin, 1947b: 215). Hancock portrayed a White Australia as an essential part of the imagined nation inherent in all government policy. These diverse sources share the view that the White Australia policy was synonymous with the idea of an Australian nation.

The impact of the imagined white nation on Indigenous people during the early years of Federation was directly related to the fervour with which the policy was advocated and its founding principles reinforced. That is, the ‘superiority’ of the emerging Australian culture and the corresponding perception of the cultural ‘inferiority’ of ‘coloured’ peoples, informed by the currency of Social Darwinist dogma. Because Indigenous people were viewed as inherently ‘inferior’ and not imagined as part of the Australian nation, Patricia Grimshaw *et al.* argue that the Indigenous activists William Barak and William Cooper fought not just for the rights of their people but for the recognition of their humanity (1994: 150). This sentiment gives a clue to the

basis on which Indigenous people were excluded from the nation; it was not simply their culture that was in question, but their humanity. Under these circumstances the possibility for the inclusion of Indigenous people within the nation was at best remote. Grimshaw *et al.* go on to add, quoting Cooper, add that “seeking justice was like trying to get ‘blood from a stone’” (1994: 150). The difficulties that Cooper faced demonstrated the low regard in which Indigenous people were held within the nascent nation, and that Indigenous justice was not a priority of the white majority. A further significant point that Grimshaw *et al.* make is that it was through their struggles at this time that Indigenous people “began to experience the beginnings of a sense of common identity arising” (1994: 150). Concurrently, therefore, there was a polarising of identities within Australia. The exclusive nature of the emerging Australian ‘settler’ identity created the need for a national sense of identity for Indigenous people if they were going to survive ‘white settlement’. This again gives weight to the argument that Indigenous people were not part of the nation.

In the early decades after Federation, Australia had strong links to Britain and the Empire, and this informed a common, Empire-wide identity. This identity was linked to Social Darwinism, and was based on the superiority of the white races. Australians “were confident that Australia had maintained the purity of the old stock by active discrimination against Aborigines and Chinese immigrants: indeed it was the fact that Australia was ‘98 per cent British’ that many saw as the most ‘distinctive’ thing about the place” (White, 1981: 71). However, by the 1940s White argued there was a transition from a “racial or national type” to a new concept, “the Australian way of life” (1981: 158). This shift in Australia’s national identification corresponded with a shift in policy towards Indigenous people, away from exclusion

and isolation to assimilation to “the Australian way of life”, and in relation to immigration, a more diverse range of European people. However, as the term assimilation suggests, it was to be a process of acceptance rather than an immediate conferral of status and rights for Indigenous people. Nevertheless, the White Australia policy remained entrenched as a national dogma, as did the ‘necessity’ of maintaining a white nation.

White Nation and the Policy of Assimilation

The move towards a policy of assimilation and an increased post-World War Two immigration intake was distinguished by a lessening of Britain’s importance to Australia and a greater sense of belief in what it meant to be an Australian. It also signalled a change of perception in what the composition of the Australian population could be and what would be required of the immigrants. Kathryn Manzo argued that: “Instead of a synonym for British, the White in Australia was to refer henceforth to people of European descent” (1998: 170). Thus there was a broadening of the concept of being an Australian, but nevertheless it remained a white category. Stephen Castles *et al.* have argued that assimilation represented a shift from:

an overt racist exclusivity based on the supposed superiority of certain racial biological features, substituted [by] a covert racism based on the proposed incompatibility of certain cultures; and it drew the limiting line at which this incompatibility began, namely where a culture ceased to be ‘European’. Thus the post-war years saw the joint operation of an immigration programme of unprecedented size and a White Australia Policy of unprecedented severity, bordering on fanaticism. The image of the ‘European’ as ‘self’ (or as capable of becoming such) and the ‘Asian’ as irrevocably ‘other’ was every day reinforced in public rhetoric and practice. (1992: 45)

Castles *et al.* argue that the racial eligibility of immigrants shifted from being British to being “European”. This broadening of the cultural ‘criteria’ for entry had the concomitant effect of reinforcing the ‘otherness’ of non-Europeans. The intended composition of the imagined nation was explicit and there was a clear correspondence between policy rhetoric and practice, something that would change in the transition to a ‘multicultural’ nation. Further, because of this change there was a new emphasis on the importance of maintaining a White Australia through a policy of assimilation. However, the historian John Hirst disputes this assertion:

assimilation, now criticized for its cultural arrogance, was a welcoming attitude. And it demanded less than its latter-day critics imagined. There was not a homogeneous society insisting on complete conformity. Migrants were not being asked to abandon everything; rather they were not to make a public display of difference; they were to ‘mix in’ and live among Australians and not in their own enclaves. (Hirst, 1992: 202)

Hirst is correct to argue that Australian society was not homogeneous. However, there was significant pressure to conform to “the Australian way of life”, a phrase that is code for cultural norms and practices. Hirst’s assertion that migrants “were not to make a public display of difference” confirms that “difference” and ‘otherness’ were policed as part of the normalising requirements of the imagined nation. Hirst’s statement is contestable considering the ample evidence that indicates the norm was policed, both for immigrants and for Indigenous people (Grimshaw, 1994: 293).

In a conference in 1947 that was to address the problem of Australia’s relatively small population, the influential anthropologist of the day, Adolphus Elkin, argued in reference to the White Australia policy that:

On the negative side, the idea, “non-white” has come to symbolize our fear and dislike of, our antipathy and prejudice towards, peoples, cultures and ideologies which are not Australian. For very many people colour denotes what they regard as objectionable in the international sphere, and has been extended to include “Mediterranean” [sic] peoples. On the

positive side, the term “white” symbolizes our aim to keep our country and nation Australian in culture and outlook, to maintain an unilineal culture development, and to eschew the “melting-pot type” of culture, with which the United States of America has experimented. (Elkin, 1947b: 231-2)

What Elkin described as the “positive side” is the attitude towards difference that Hirst attempted to refute. Elkin also asserted that the “colour” of immigrants remained an issue, including people from Mediterranean countries. Cultural difference in Australia remained in the post-war years an anathema to the sense of being Australian and to the idea of the Australian nation. Elkin explicitly argued that the Australian aim was to have “unilineal culture development” with an outright rejection of “the ‘melting-pot type’ of culture”. Elkin went on to explain that although such a position had a negative effect, it was justified:

It is possible that we lose much by thus narrowing our cultural stream, and that we are insular in outlook and self-satisfied, but our policy in this regard is related to our small and scattered population. As in the periods of the goldrushes, so now, unlike America, we feel unable either to absorb large minority groups or to find a place for them in our social, economic or political life, especially if their differences in culture are associated with differences in skin pigmentation or even in head-shape. Our attitude and our fears may be unwarranted [sic] but they are social and political phenomena which cannot be ignored. (Elkin, 1947b: 232)

Elkin not only rejects differences in culture but “especially” if cultural differences are “associated with differences in skin pigmentation or even in head-shape”. Further, he regarded Australia’s fear of difference as a “social and political - phenomena which cannot be ignored”. Under this theory Indigenous people could not be considered part of the nation, as will be supported below. It is worth noting that Elkin did not represent some rabid, nationalist minority, but was a noted professor of anthropology at the University of Sydney and also a clergyman, who is offering his considered opinions on Australia’s future welfare. However, Elkin

refuted Hirst's view and also his own about "colour" when he argued, under the subtitle "The Fundamental Factor Is Cultural Difference, Not Colour" that:

We Australians as a whole are on our guard against any people markedly different from ourselves. If, for example, a group coming from south-eastern Europe, settles in apparently useless country and, working long hours, denying themselves amenities and pleasures, make a success of their location, we become suspicious of them and are apt to resent their success. The situation is similar to that of the Australian-European and Chinese gold-miners last century. Fundamentally, every argument for excluding coloured people is equally cogent for excluding those whose way of life is different from ours, even ... differences in ways of eating and living, in religion, or in other behaviour patterns. Moreover, these differences are real. ... Such differences in culture, in ways of dealing with life's situations, are much more important than colour. The very attitude to colour is, indeed, one of these cultural mechanisms. It varies with different peoples, Australians, for example, exhibiting a strong colour prejudice.

We have to realize that the social factors are potent and effective, though they are often confused with physical differences, which then come to symbolize them. (Elkin, 1947b: 233-4)

Elkin made it unequivocally clear that cultural difference should not be tolerated within the Australian nation, to the point that even "differences in ways of eating" was viewed as problematic. Cultural difference, Elkin argued, was "much more important than colour" as the basis for exclusion, even though he emphasised that "colour" became the symbol of cultural difference. Thus it was necessary for immigrants to 'look' like the Anglo-Celtic majority and to adjust their modes of living and cultural practices to be accepted into the imagined Australian community.

So strong were these attitudes towards cultural difference that Australia ensured that their right to control the composition of their population was protected from interference by the United Nations. Elkin stated that:

No nation denies the right of other nations to control the make-up of its own population by immigration restrictions, and at the recent United Nations Conference at San Francisco, Australia's representatives saw to it that this right was preserved.²⁸

[Footnote 28 reads] Article 2, clause 7 of the World Charter, denies the United Nations authority “to intervene in matters which are essentially within the Jurisdiction of any State.” Correspondents stated that Australia’s insistence on this clause was designed to ensure the inviolability of the White Australia policy. (Elkin, 1947b: 235)

Again it is clear that the White Australia policy was a sacrosanct part of the imagined Australian nation, that was imagined only as white. Elkin related an incident in which E.S. Spooner, “a member of the Liberal Party suggested ... that some elasticity in the White Australia policy might remove distrust from stronger nations and give it a better chance for permanence without impairing its basic characteristics” (Elkin, 1947b: 216). The response of the Liberal Party was to state that “his views were in no way related to the policy of that party” (Elkin, 1947b: 216). In a similar response *The Daily Mirror* of July 9, 1945, added that “unless the Liberal Party denounced unequivocally the views put forward by him, it would be finished politically” (Elkin, 1947b: 216). The idea of any change to the White Australia policy was beyond question. In a final quote to demonstrate the fundamental link between the White Australia policy and the Australian nation, Elkin quoted J.A. Beasley, Commonwealth Vice-President of the Executive Council, who stated:

“We inherited the White Australia policy from our fathers and grandfathers. We have in large measure been saved by it during this war. It is our responsibility to see that it is there to be handed down by the great-grand-children of our great-grand-children.”⁶ In other words, this policy is a sacred trust, a dogma, which must not be questioned.

[Footnote 6 reads] Mr. Beasley, Vice-President of the Executive Council, quoted in the *Sydney Morning Herald*, July 10, 1945. (Elkin, 1947b: 217)

The idea that the policy was to be ‘inviolable’ confirms Castles *et al.*’s assertion that the operation of the policy bordered on “fanaticism”. Castles *et al.* cite the case of the Immigration Minister Arthur Calwell, who “ordered the deportation of another

non-European wife of an Australian citizen in 1949”, Calwell stating that ““if the White Australia Policy is to be enforced there must be no exceptions”” (Castles, 1992: 50). Elkin also offered a number of examples of resistance to proposed changes to the White Australia policy, arguing that the policy was “beyond question and above political party divisions” (Elkin, 1947b: 216). It is quite evident from the debates and Elkin’s views that the White Australia policy was synonymous with the imagined Australian nation; as described above, it was a “sacred trust” that was an essential part of the political vision of Australia’s past and future. The policy paralleled in value the heritage of the British legal system and parliamentary democracy as central pillars of the nation. It is thus not difficult to understand why Indigenous people were excluded from the nation and how little concern was displayed for their future well-being. It is understandable when such views are expressed that the historian Humphrey McQueen could argue that “racism is the most important single component of Australian nationalism” (1970: 42).

White Australia, Citizenship and Indigenous People

As was briefly discussed above, by the 1950s the idea of “the Australian way of life” displaced the notion of the “Australian type”. White argued the commonly held view was that assimilation to this “ideal” of a “common, homogeneous Australian way of life” would be under threat if migrants and Indigenous people did not conform to its requirements (1981: 160). He continued: “Cultural differences were an affront to a society which demanded social uniformity, if not equality. ‘The Australian Way of Life’ proved a useful tool of intolerance because it was so vague a notion, but it was rare for an Australian to point out how meaningless it was” (White, 1981: 160). White portrayed the ‘The Australian Way of Life’ as a “tool of intolerance”, but also

a means of control. As White stated, cultural difference was an “affront” to ““The Australian Way of Life””, therefore people of difference would be compelled out of self-interest to engage in policing themselves to avoid intolerance and discrimination. Despite its ambiguity of meaning, White argued, its fundamental importance was as a defence “against change, against cultural diversity; it could call forth a common emotional response to the Cold War and to immigration, in defence of stability and homogeneity” (1981: 161).

Similar to Hirst, Robert Birrell attempted to dismiss the culturally discriminatory nature of the policy:

White Australia was understood throughout Australia as embodying the essence of what Australians stood for and were prepared to defend. Though expressed in racial language, the White Australia doctrine embodied civic ideals in that it asserted that if Australia was to be composed of a community of citizens, all enjoying advanced social rights, it should not include persons thought incapable of living in accord with these rights. White Australia can be read as a national doctrine expressing a value system which was the antithesis of the hierarchical values predominating in Britain (or Asia) at the time. It represented a set of national ideas sharply differentiated from those of Britain. It is therefore incorrect to assert as do Castles, Horne and others that Australian nationalism was founded on ‘Anglocentric values’. (1995: 12)

Birrell correctly points out that the civic ideals inherent in the policy reject the “hierarchical values predominating in Britain (or Asia) at the time”, and thus, in this sense at least, are not “Anglocentric values”. However, he concedes, in reference to the inability of others to conform to these values, that he could not:

deny the racist aspect of White Australia. The notion that persons from Asia, as well as indigenous [sic] Aboriginal Australians, were incapable of living according to Australians’ citizenship ideals implied that Asians and Aborigines were inherently inferior. In these circumstances the civic ideals shaping White Australia were not much consolation to those believed to be inferior. (Birrell, 1995: 12)

Birrell asserted that Australia was a nation free of a hereditary class and cast hierarchies. However, what he also demonstrated, contrary to what he might have intended, was that in its place Australia developed a hierarchy of race and culture. This hierarchy relegated Indigenous people to the lowest end of the scale. Birrell grossly understated the impact of this discrimination towards 'other' cultures by saying that it was for them "not much consolation". For Indigenous people it meant rigorous and invasive methods of control, and at their worst the removal of Indigenous children from their parents for their 'own good'. Birrell's argument is misconceived, considering his book was written after the release of the *Aboriginal Deaths in Custody* and the *Bringing Them Home* reports that detailed the devastating impact on Indigenous communities of policies that were directly related to the values and principles inherent in the White Australia policy. What Birrell overlooks is that the whole purpose of assimilation was to make people conform to the cultural modes and practices inherent in 'The Australian Way of Life'.

According to Sol Encel, the connection between Indigenous policies and the White Australia policy was disputed, he argued: "For many years, it was possible to imagine that policy towards the Aborigines was a separate issue from the assimilation of non-British migrants or the exclusion of Asians. It is much easier now to see these as connected aspects of the one central question of racialism" (1971: 30). To demonstrate the 'racial' connection of the policies it is again useful to consider the views of Elkin, who apart from being an anthropologist and clergyman was also President of the Association for the Protection of Native Races and Vice-Chairman of the Aborigines' Welfare Board of New South Wales. His contemporary expertise in Indigenous affairs is widely acknowledged as being foremost in the field.

Nevertheless, despite his anthropological expertise, his approach to Indigenous people is founded on the values and principles inherent in the White Australia policy. While qualifying the problematic idea of a white Australia by placing it in parenthesis, Elkin stated:

In "White Australia" we still have over 50,000 pure blood chocolate-skinned Aborigines, and nearly 30,000 "mixed-blood" Aborigines. We failed in the past and we became pessemistic [sic]. But we believe now that there is ground for hope that the Aborigines, both full-blood and mixed-blood, can attain the stature of full citizenship and make a valuable contribution to the development of Australia especially in the northern regions. It is a matter of our own intelligence, sincerity and determination. (Elkin, 1947b: 251)

Elkin implicitly placed Indigenous people outside of the nation by acknowledging the presence of 'non-white' people, who were clearly not citizens. He further expressed the idea of there being "hope" of their attaining "full citizenship", but if it was going to be achieved it would be through white "intelligence, sincerity and determination". The advancing of the idea of a 'white' solution to a "chocolate-skinned" problem was also done in conjunction with other white cultural markers. Elkin invoked the concomitant ideas of "a valuable contribution" and "development", two elements of the larger idea of 'progress'.

Donald Horne has argued that because "Aborigines don't accept the habits of a modern-industrial society ... they are despised and feared" (1989: 191). What Horne was rightly implying is that for some white Australians Indigenous 'otherness' is perceived as a threat. The Indigenous people's view of the world and their place in it is misunderstood and rejected as being 'primitive' or 'backward', when it is instead a wholly different set of values and practices in which the ideas of 'progress' and material development have no currency.

As was discussed in Chapter Three, the idea of 'progress' is deeply embedded in the process of nation building. The requirement of citizens, consciously or unconsciously on their part, was that they would be valuable economic contributors and assist in the development of the imagined nation, and their existence not be contrary to that purpose (Willard, 1967: 198-9). There can be no doubt that in Elkin's view if Indigenous people were to ever be a part of the nation, they would inevitably have to become 'white' in their mode of existence. This was not a subtext to assisting Indigenous people to adjust to a new set of circumstances, it was an explicit and primary goal, for which control would be the means to the necessary and inevitable end of the 'civilising' process.

The following analysis will draw on Elkin's book, *Citizenship For The Aborigines: A National Aboriginal Policy*, which was "designed to be a contribution to our thinking and planning on the matter" (1944: 7). Under the sub-title "Reserves as Preparation Bases" [for citizenship], Elkin sets out his view of the Indigenous problem and the solution:

The preservation of Aboriginal culture in its pre-European form, even in the isolated regions, is impossible, and policies which emphasize segregation with this end in view are one hundred and fifty-six years out of date. The Aborigines will not be segregated, that is, insulated, from the white man and his culture. ... But the provision of reserves ... as a temporary phase in a positive plan for controlling the rate of contact and change and for educating the Aborigines for inevitable changes, is another matter, and an essential one. That is, Reserves must not only be places of protection; they must also be training and preparation bases, from which the Aborigines will go forth equipped to meet civilization and able to accommodate themselves successfully to modern conditions. ... This implies education in its widest range, and demands the co-operation of specially trained educationalists, administrators and missionaries. (1944: 37-8)

Elkin is correct to point out that it is not possible for the two cultures to exist in isolation; to think otherwise would be delusory. However, no consideration is given

to the future or validity of Indigenous culture, and the perspective of the problem is entirely one-sided. The solution is also entirely one-sided: Indigenous people will have to be 'civilised' towards 'white culture' through "a positive plan for controlling the rate of contact and change" under the education and direction of "educationalists, administrators and missionaries". It is from this time in Australian history that a more 'sophisticated' and unified national 'civilising' process is directed relentlessly towards Indigenous people. In the previous chapter Stanner was quoted as saying that Indigenous people had been "more or less obliterated" in the south and east of the continent, the areas where the land was most useful to the settlers (1968: 34). For this reason Elkin focused on the Indigenous people of the centre and north of Australia. It is necessary to give them considerable attention as they reveal much about the Australian nation's attitude towards Indigenous people. Elkin argued that:

we have in the Aborigines a valuable human instrument already within our shores for the development of the tropical north and inland. Our main industry in that region is pastoral, and it could not be maintained without Aboriginal labour. But we have mused the depopulation of the Aborigines by interfering with, and eventually destroying, their native food supply, on which they had previously maintained their numbers. In its stead we have given them white flour and a little tea and sugar, some meat and little else. An adequate diet for their expectant and nursing mothers on the cattle stations has not been considered, and so the mothers frequently die in childbirth and the infant mortality rate is high. Moreover, the women practise abortion, not seeing the point of giving birth to children merely to be used by the white man.

We talk almost glibly of the "Passing of the Aborigines," instead of reproaching ourselves for letting this occur. In my opinion, it need not happen. Let us look after their diet and health, especially in the case of the mothers and infants; let us see to their community life, education and conditions of employment, and not only will they not die out, but will be an almost irreplaceable asset. (Elkin, 1947a: 196-7)

If Elkin was indeed an advocate of Indigenous rights, his views reflect a sense of indifference towards Indigenous people, and also a sense of ambivalent paternalism. His indifference is implicit in his description of them as "a valuable human instrument" and "an almost irreplaceable asset", as though their humanity had no

inherent value in itself. Further, his ambivalent paternalism is reflected in his acknowledgement of the almost 'glib' attitude towards the euphemistic "Passing of the Aborigines". His response that "In my opinion it need not happen" implies that if it did occur it would be 'unfortunate', but Australia would survive. However, he then added that if they were to be looked after they would become an "asset", and by implication, thus have some inherent value. His view also demonstrated the state to which Indigenous people had been reduced, where mothers would prefer to abort their babies rather than have them subjected to the treatment that they had come to expect.

If white Australians had decided not to develop the north and centre, Indigenous people would not have become an "almost irreplaceable asset". Elkin confirms this assertion:

If we take all the necessary administrative methods for giving them a rightful place as citizens and a positive share in whatever development our north and centre are capable of, we will not only save them, but will gain prestige in the eyes of the world in general, and of the coloured peoples in particular. This is a great opportunity, let us seize it. The result may not be a 100 per cent white skin colour; but Australia is not all-white now. It will, however, be an Australia which has compensated the remnant of its original owners for the fate of the majority. (Elkin, 1947a: 197)

'Saving' Indigenous people was not the single objective in and for themselves. It appeared to have required broader objectives and justifications, again reinforcing a perception of their peripheral importance. Elkin linked the proposed extension of citizenship to Indigenous people to the nation-building project, one that will assist in regional development and gain the nation international "prestige". This reflects an ambivalent paternalistic attitude towards the humanity of Indigenous people. In a statement that is difficult to comprehend, Elkin added that "The result may not be a

100 per cent white skin colour; but Australia is not all-white now". Whether Elkin was suggesting that "colour" should be 'bred out' of Indigenous people, or that 'colour difference' would just be something Australia would have to endure is difficult to ascertain. Whatever his view, it resonated with a Social Darwinist perception of Indigenous people. Then in a statement that was even more difficult to understand, Elkin suggested that compensation for the injustice suffered by the majority of Indigenous people that had 'passed on', *would* be achieved by addressing the needs of the "remnant". This statement is incomprehensible in its audacity and inhumanity. It portrays the "passing of the Aborigines" as an unfortunate part of national development, rather than a national shame. It is again necessary to restate that Elkin was an advocate for the rights of Indigenous people. The imagining of a white Australian nation and their proposed citizenship was not benign; its implications for Indigenous people were harsh and accompanied by an overwhelming 'need' to control them as evidenced by the following quote:

No one with experience in Aboriginal administration will doubt the necessity for such powers of removal from institution to institution, from free-choice residence (in undesirable conditions) to a controlled settlement, and even of children from parents for the well-being of the former. Moreover, in those State Administrations where complete discretionary power resides in the Administrative head or his Minister, the actual implementation is benevolent in intention. But Aborigines, and, in particular, mixed-bloods, are perturbed by this method of action, and indeed are often very resentful and fearful. (Especially do they object to their children being taken from them.) It is apt to make the work of the Administrative head and his subordinates more difficult than is necessary. (Elkin, 1944: 35-6)

Elkin was explicit in his emphasis of the *need* for the "powers of removal" of Indigenous people. This is undoubtedly the expression of the level of control that could and would be exercised over Indigenous people. If the humanity of Indigenous people was truly recognised, it would not be necessary to note their 'objection' to the removal of their children, or that such a response would make the "benevolent" work

of administrators “more difficult than is necessary”. The subtext to such an observation suggests a Social Darwinist notion that their ‘inferior civilisation’ precluded them from possessing a full complement of human understandings and emotions.

The disposition towards Indigenous people on the part of the nation is one of paternalism, where they were clearly not viewed as equals. Discrimination was also directed towards the ‘colour’ differences between ‘full-bloods’ and ‘half-castes’, with the latter viewed as “‘coloured’ citizens”. In relation to this Elkin argued that the:

provision of all Commonwealth social service benefits ... for half and lighter castes not living on Government Reserves or Settlements, provides a useful degree of economic security, and, in addition, is a positive step towards assimilation. These people are being treated as citizens; it is good for them to realize this, but the rest of us need to remember that we are not, in the social benefits scheme, showing our benevolence to ‘coloured’ folk, but recognizing them as fellow citizens, with a right to the same social services as ourselves. If we do this, a better attitude will be adopted on both sides. On the one hand, the ‘coloured’ citizens will lose their sense of inferiority and their all too-common semi-defiant and “bush-lawyer” attitude, that the Government has depressed them and robbed them of their country and the results of their work, and should give them this or that. On the other hand, we will drop our attitude of superiority and condescension, and while recognizing them as different from us in some ways, if such is the case, will make no more of that fact than we do of the differences which exist between the various social and economic groups in the general community. (1944: 39)

Clearly, citizenship for Indigenous people was based on ‘colour’ and the level of assimilation displayed, and was not extended to ‘half-castes’ living on reserves and settlements. Elkin also negated the validity of any claims by Indigenous people to land rights, the loss of their traditional economy, or even recognition of the poor treatment they had suffered at the hands of the government. Instead he condemned them for any display of defiance and their feelings of injustice. Thus, Indigenous

people were being subjected to a 'civilising' process designed to bring them into the nation on Non-indigenous terms. It was made clear that their traditional ways would have to be abandoned if they were to be accepted. Elkin also acknowledged the white attitudes of assumed superiority and condescension.

On the parallel issue of migrant citizenship, political scientist Pal Ahluwalia has argued that: "In Australia, while the boundaries of citizenship have been extended in order to accommodate waves of migration, it does not mean that citizenship is equal" (2001: 66). Ahluwalia's argument supports the assertion of this chapter that Australian citizenship has been a conditional status when cultural difference is involved. The motivation for this approach is as Castles *et al.* have argued, that the policy of assimilation and the criteria for citizenship that predominated in this period "in many important ways took the form of a classical nationalism" (1992: 113). As the arguments of Anderson and Gellner demonstrated in Chapter Three, a central aim of classical nationalism is to achieve cultural homogeneity.

From the 1940s the imagining of the Australian nation was represented in the concept of 'the Australian way of life', but at the beginning of the 1960s a shift towards a more culturally diverse society began to occur. The analysis will now focus on this period as it leads into the implementation of the Commonwealth Multicultural policy. In parallel with this change was a change in Indigenous policy, represented in the self-determination and self-management policies. These policies will be considered in detail in the following five chapters, while the remainder of this chapter will concentrate on the change in the imagining of the nation in the intervening period.

The 'Demise' of the White Australia policy 1960–1972

A significant indicator of the change in attitudes towards cultural difference is reflected in the position of the *Bulletin*. This publication, which had its origins in the late nineteenth century, was one of Australia's most nationalistic publications. Political analysts J.D. Miller and Brian Jinks state that the *Bulletin's* attitude to the imagined nation and the issue of cultural diversity was reflected in what: "was typical of radical Australian nationalism of the time: ... 'A United Australia, and Protection against the World. Australia for the Australians—the cheap Chinaman, the cheap nigger, and the cheap European pauper to be absolutely excluded'" (Miller and Jinks, 1971: 37). Its position was unequivocally that a White Australia was not negotiable, echoed in Calwell's later position that there should be no exceptions. However, when Donald Horne became the new editor in 1961 "and removed from its masthead the triumphant slogan 'Australia for the White Man', as well as receiving a large haul of contemptuous letters (including personally signed pieces of lavatory paper), I found myself also being accused by milder-mannered people of assaulting tradition" (1989: 186). Obviously, the *Bulletin's* change also signalled a significant change of national policy, but it did not occur without opposition. Similarly Gavin Jones suggested that the end of the White Australia policy "did not represent a victory in a closely argued debate" (1997: 12). Katharine Betts believed that: "White Australia supporters were not persuaded by reason and evidence. It was a political victory that left the racist parochial unconverted but outmaneuvered" (1988: 105).

Betts indicated that the change was a political initiative rather than a popularly supported move. It demonstrated some level of political leadership, even though, as

will be argued, it also reflected ambivalence towards the people it would ostensibly include within the nation. It also reflected the deep-seated nature of opposition to cultural diversity that was inherent in Australian society; for such people it represented a 'threatening' and significant change to the imagined Australian nation. Horne also confirmed the entrenched discrimination towards other cultures: "this was the country in which open boasting of race bigotry was, for most of its existence, a patriotic duty" (1989: 187). These attitudes to both Indigenous people and immigrants continue to simmer below the surface of the Australian 'multicultural' nation decades after the abolition of the White Australia policy.

During the 1960s both Australia's major political parties moved to overturn the White Australia policy, even though they did not have widespread public support. Castles *et al.* have argued that:

On the face of it, this might seem to represent a substantial departure from the past. Radically exclusionist policies had been observed for over eighty years with more or less severity, and they had formed an essential ingredient of the dominant national self concept. Abandoning these practices might seem to indicate fundamental changes in Australian society; but on closer examination the reality is far from impressive. (1992: 51)

The implication was that the changes were more superficial than substantial, as well as acknowledging that the "national self concept" was fundamentally linked with racial and immigration policy. What is being argued here is that there was a significant degree of ambivalence towards policy change, and that it was inextricably linked to the imagining of the nation. In an Australian Labor Party conference in 1965 there was discussion concerning the proposal to remove the reference to a "White Australia" from their immigration policy. An editorial in the *Australian*, however, cast doubt on the implications of their proposal. It reported that delegates

had indicated that it would not translate into “Asian” immigration. The editorial went on to suggest it may have only been an “exercise in wordsmanship”, although at least the offensive use of the term “White Australia” had ended (Castles, 1992: 51).

Castles *et al.* pointed out that the alleged change in policy was reflected across the Australian political spectrum:

debates on policy changes in Parliament were characterized by a high-level, of bipartisan agreement about the desirable limits of policy reform and these limits were set fairly close to existing practice. Essentially, people of non-European origin would be permitted to enter Australia but on the basis of much stricter entry criteria than Europeans; and the numbers permitted to enter would be restricted so as to preserve the ‘homogeneity’ of the population. (1992: 51-2)

However, it is apparent that those involved in changes to immigration policy were opposed to any substantial change to the composition of Australia’s population, and that the nation’s cultural homogeneity remained a priority. Hubert Opperman, the Minister for Immigration at that time, was explicit in his view of what the change of policy meant:

No annual quota is contemplated. The numbers of people entering though limited relative to our total population—will be somewhat greater than, but will be controlled by careful assessment of the individuals’ qualifications and the basic aim of preserving a homogeneous population will be maintained. The changes are of course, not intended to meet general labour shortages or to permit the large-scale admission of workers from Asia. (Jakubowicz, 1984: 40)

The aim of the ‘new’ policy did not differ from that defended by Calwell in the 1940s, or Deakin at the time of Federation; Australia would clearly be maintaining a ‘white’ population. This stance also confirms the argument in the following chapters concerning the aims of Labor and the Coalition’s Indigenous policies, that any change was manifest more in name than in practice.

Again confirming doubts about the proposed changes to the policy, Billy Snedden, the Minister responsible for the change of policy for assimilation to integration, argued that:

Australia has no history of social pluralism ... it may develop gradually and to a limited extent but that is not something to be forced on any nation or any people, including Australians. That would not be social pluralism but social masochism ... no nation in history has set out to develop a multi-racial society. ... We ask particularly of migrants that they be substantially Australians in the first generation and completely Australians in the second generation. (Jakubowicz, 1984: 40)

Snedden was unequivocal that cultural diversity would not result from the abolition of the White Australia policy, or that the shift to an integration policy would mean the end of assimilation. The intent of integration was apparently to remove the overtly racist elements of the policy while maintaining the aim of assimilation. The same view was 'legitimately' expressed by Blainey in the 1980s. He agreed that the assimilation policy's rhetoric was offensive but its aims—the expectation that assimilation should occur—were sound (Blainey, 1994: 233). Castles *et al.* further argued that: "the cultural goal was exactly that of the late 1940s indicative of only minor changes in the attitudes of the political elite towards questions of race, ethnicity and national identity. Still less were they likely to represent (or cause) changes in wider public attitudes" (1992: 52-3). Clearly, there remained an entrenched imagining of Australia as a white nation, for both politicians and the public, and the policy change was a facade to avert accusations of overt racism. Writing in 1971, Encel saw as problematic the change from a "mono-cultural" to a culturally plural society, arguing that "Australian society now has to face the internal challenges of ethnic pluralism", and adding "the problems we have to solve look much more complicated" in comparison to Australia of the 1940s (1971: 17).

Cultural diversity was undoubtedly viewed as something that posed a 'threat' to the nation and was a 'problem' that needed to be resolved.

The disparity evident between the rhetoric of policy change and the reality was also apparent in the attitudes towards Indigenous people at this transitional stage away from the White Australia and assimilation policies. To demonstrate that 'colour' was still an issue despite the apparent demise of the White Australia policy, it is worth quoting Clyde Cameron's support for Turkish immigration, and his view that they were not "a dark-skinned people who have nothing in common with the Australian people" (Castles, 1992: 55). However, where did that leave Indigenous people? For Cameron, "dark-skin" was not consistent with what it meant to be an Australian. Grimshaw *et al.* argued that because of the exclusion of Indigenous people from citizenship, the census, voting rights, and Commonwealth legislation, they were "not only in a special position of oppression but also one of danger to the national interest" on the basis of their differing interests and history (1994: 279). Almost 30 years later Blainey expressed a sentiment similar to Cameron's, which confirms the observation of Grimshaw *et al.* of the perceived 'threat' to the national interest of Indigenous people. Blainey argued that there was a "threat of separatism" because Indigenous people "form the only race and culture that diverge widely from the dominant culture in Australia" (Manzo, 1998: 205). In part Blainey's fear is based on the argument of Grimshaw *et al.* that if Australia was to explicitly acknowledge the different interests of Indigenous people it "would reveal the extent to which Australia's white settlement was premised on colonial takeover and domination" (1994: 279).

Writing in 1970 Charles Rowley asserted that “When this volume was commenced, there were laws which restrained Aboriginal movements, controlled their places of residence, and placed restraints on their civil rights” (1970: 1). While in the 1960s there was ostensibly a change in attitudes and policy towards Indigenous people with the passing of the Constitutional referendum, *control* remained an essential part of policy practice. Rowley further added that Australia had “a history of intensive interference and paternal control. The Aborigine can do little more than play out his role in relation to this administrative tradition” (1970: 4). This again reinforced the idea of control, where Indigenous people had little choice but to comply with the assimilationist agenda of government policy. Castles *et al.* argued two decades later that “Despite rhetoric on participation and equal opportunity, official responses to the situation of the Aboriginal population are still defined in terms of welfare and policing” (1992: 23). The Australian nation remains locked into classical nationalism, where the dominant culture brings pressure to bear on minorities to conform to its cultural practices and modes of living. In 1968 Stanner proposed that through the policy of assimilation, which required Indigenous people to function in roles assigned by governments, “We are asking them to become a new people but this means in human terms that we are asking them to un-be what they now are” (1968: 56-7). Stanner’s observation summarised the views of the White Australia and assimilation policies, that there was no place in the imagined nation for a people whose culture differs from that of the dominant Anglo-Celtic culture. The conclusion is that Indigenous people have to “un-be” who they are. This it will be argued in the following chapters continues to be the basis on which Indigenous policy is formulated. Indigenous people are not empowered under the ‘self-determination’ policy to formulate their own policies according to their cultural

aspirations, but have policies formulated for them that aim to bring Indigenous people into the 'mainstream' culture and practices of the nation.

Conclusion

As stated in the introduction, there has been a gradual progression and improvement in the ways that Indigenous people have been treated since Federation, even though it did start from a nadir with the belated recognition of their humanity. Nevertheless, Indigenous people were still subjected to a severe regimen of control, which was the direct consequence of a white nationalism that sought to impose cultural homogeneity on all minorities. This was done according to a classical conception of the nation-state. Towards the end of the period considered in this chapter Indigenous people were finally beginning to be recognised as being a part of the nation. However, as will be discussed in the following chapters they remain subjected to policies formulated by Non-indigenous governments that, despite the rhetoric of self-determination and self-management, continued to exercise control over Indigenous existence. While the exercise of control is no longer so overt, as Peter Read has argued, Indigenous people are “‘at the mercy of the nonindigenous accountant, lawyer and politician’” (1997: 69). This situation remains unchanged because the imagining of the nation remains locked into its classical conception. As Castles *et al.* have argued, “the nation-state is still the most effective agency of social control” (1992: 141). However, as has also been argued, because the nation is an imagined community it can be re-imagined as an entity that is more inclusive, and can accommodate Indigenous self-determination without ‘threatening’ the integrity of the nation. Ann Curthoys has reached a similar conclusion:

Calls for Aboriginal sovereignty are growing, and with them arguments for new conceptions of the relationship between state and nation. Some non-Aboriginal Australians are starting to think that perhaps there are, after all, ways to recognise Aboriginal nationhood and self-determination within a single nation-state, though it would need to be one very different from that we have now. (1997: 32)

The circumstances of Indigenous people can be changed only when the dominant national culture changes its disposition towards them. The analysis of this chapter has shown that such changes have occurred slowly since Federation, and in the following chapters it will be demonstrated that further changes have occurred since the end of the assimilation policy. However, a considerable distance remains before Indigenous people can exercise self-determination according to their own cultural aspirations.

6 The Whitlam Government's policy of Indigenous self-determination: the continuation of control

Introduction

In 1972 the incoming Whitlam Labor government finally dismantled the policy of assimilation for Indigenous people and introduced a new policy of Indigenous self-determination. However, despite Prime Minister Gough Whitlam's emphatic commitment to empowering Indigenous people, simultaneously there were two contradictory policies in operation, one promoted by the government and another by the Department of Aboriginal Affairs. The policy of assimilation was moderated to one of integration in the final years of the 1960s and the early 1970s, yet there is evidence that the integration policy remained in operation until 1976. In fact, control remained the distinguishing feature of the relationship between Indigenous people and the Non-indigenous Whitlam government and people, despite the ostensible radical shift in Indigenous policy nomenclature. The overarching emphasis on control produced policy ambiguity both in relation to its formulation and its implementation. Moreover, the desire for control was apparent in government ambivalence towards the subjects of those policies, which became evident in the contradictory policy agendas. The first section of this chapter will focus on the continuation of the integration policy, and the second section will analyse the Whitlam government's self-determination policy.

PART I
CONTINUING CONTROL THROUGH THE POLICY OF
INTEGRATION

The demarcation between the end of one Indigenous policy era and the commencement of another has never been precise. Instead there has been a gradual transition from one to the other, as had occurred in the shift from protection to assimilation. Indeed, there is clear evidence that the policy of integration had been formulated as early as 1964, eight years before the end of the assimilation period. Assimilation had required that Indigenous people adopt the nation's Anglo-Celtic practices, values and modes of living, whereas integration was intended to give some recognition to their right to choose how they would live.¹ Adolphus Elkin, confirmed this new approach when he argued that integration allowed Indigenous people to "remain a group apart, to be integrated with the white or European group of citizens in a plural social and political system" (Reay, 1964: 69). Henry Reynolds has argued that the policy change from assimilation to integration occurred because it had become apparent that Indigenous people were not being assimilated, and that they actively resisted assimilation (1996: xi). However, while some recognition was given to the need for Indigenous people to be allowed to culturally co-exist with the nation's Anglo-Celtic culture, there was resistance to this change. James Bell has pointed out that there was some criticism of the proposed shift in emphasis between the two policies because: "assimilation and welfare offered more hope for improvement; [while] integration would only preserve Aboriginal people as an obtrusive and impoverished minority" (Reay, 1964: 70). This argument is based on a view of Indigenous cultures as 'inferior' and strongly suggests the need for Indigenous people to be assimilated into a 'superior' culture where "improvement" and 'progress' would ostensibly be more of a certainty. Bell's use of the word

“obtrusive” to describe the ‘Aboriginal minority’ also suggests an objection on the part of some to the noticeable presence of Indigenous difference within the nation. This attitude towards Indigenous culture resonates with the ideas developed in Chapter Three concerning the classical conception of the nation-state and its inherent resistance to cultural diversity and difference. In line with the ideas of the classically imagined Australian nation, integration was held by some government agencies and academics to be “a temporary phase, and the final goal was still assimilation and absorption into the wider community” (Johnston, 1991a: 515). Again, these attitudes are based on cultural superiority and reveal resistance to the idea of allowing Indigenous cultures to coexist with the dominant Anglo-Celtic culture.

Following the election of the Whitlam government in December 1972, the Commonwealth Department of Aboriginal Affairs revealed the following policy position in May 1973:

Policy statements in Aboriginal affairs in recent years, at the Commonwealth level and generally at the State level, have indicated a clear change from what can be called an “assimilation” approach to an “integration” approach. The basic assumption in the 1950s and early 1960s was that the Aboriginal minority in Australia must and should adapt to and adopt the manner of life of the majority of Australian society. Aboriginal affairs administration and programs were directed towards helping or seducing or coercing Aboriginals—the words used in the official documentation were that Aboriginals “will choose”—to make this adaptation to the wider Australian society. Recent statements, on the other hand, have indicated an increasing consciousness of the right of Aboriginals to choose their own future. (Gale, 1975: 71-2)

Clearly, in 1973 the Department of Aboriginal Affairs formulated and implemented Indigenous policy according to an integrationist approach that recognised the “increasing consciousness” of the rights of Indigenous people to choose how they should live. Despite the alleged differences between assimilation and the aims of the integration policy, Scott Bennett argued that “it was difficult to detect the differences

between ‘assimilation’ and ‘integration’” (1989: 23). Keith McConnochie *et al.* echo this criticism:

integration permitted individual Aborigines to choose their style of living or at least the pace at which the desired changes are implemented. ...

It is possible to interpret these changes as only cosmetic, merely a semantic shift designed to accommodate pressure for real change as well as placate those in the various welfare branches committed to a more liberal approach to social change. (1988: 120)

This “semantic shift” reflects ambivalence on the part of the Department of Aboriginal Affairs, which simultaneously gave rhetorical support for the extension of Indigenous rights while making little change to the ways in which the assimilation policy has been implemented. This assertion was supported by the officer in charge of the Department of Aboriginal Affairs in Alice Springs, who stated: “Integration is really the same thing as assimilation; they’re just words” (Mullard, 1976: 9). As far as this particular bureaucrat was concerned, there had been no substantial change in policy. Johnston held the same view, claiming that throughout the period of transition to a policy of integration a “commitment to assimilation remained strong” (Johnston, 1991a: 519). This reflects intransigence on the part of the Department of Aboriginal Affairs to a change in policy. This view is also supported by Jon Altman and S. Sanders, who asserted that the new policy “continued to operate through the established structures and organizations of Aboriginal policy, rather than in any way directly challenging them” (Dixon, 1995: 211). What is most significant concerning this issue is that the Department of Aboriginal Affairs was implementing the integration policy when the government was simultaneously advocating a policy that ostensibly offered much greater control on the part of Indigenous people to determine their future lives. In the Commonwealth parliament Victorian Labor MP Gordon Bryant, Whitlam’s first Minister for Aboriginal Affairs, had argued that:

We on the Labor side of the House have never believed that Aboriginal communities should be treated as anything else but communities in themselves. There is just no reason why they should not be of the same standard and character as any other Australian community. So, we are taking steps to establish—with the Aboriginals and by consultation with them—community centres or municipalities in which they will conduct their own affairs. We are taking steps to hand the responsibilities for their programs and for the direction of their lives back to the Aboriginal communities. Therefore, the Government has embarked upon a total change of direction in regard to the Aboriginal people. (Bryant, 1973a: 295)

Bryant's emphatic assertion that the government had made a "total change of direction" in how Indigenous people were to be treated does not stand up against the evidence given above.

PART II

THE WHITLAM GOVERNMENT'S INDIGENOUS POLICY

Before considering the nature and implications of Whitlam's policy of self-determination it is necessary to understand how the Indigenous 'problem' was constructed. Policy is not formulated or implemented in a vacuum; strategic policy plans are based on particular views of a problem. Problem and policy construction are always representative of particular values, practices, historical perspectives, and political and social imperatives inherent in the dominant national culture. It will be argued that ambiguity and ambivalence to Indigenous existence is evident in the process of Labor's problem and policy construction.

The Whitlam Government's Construction of the Indigenous 'Problem'

The Minister for Aboriginal Affairs, Gordon Bryant, gave his assessment of the problem that the policy was to address: "I do not believe that the Minister—in this

case, myself, for the time being—is able to solve these problems alone. I do not believe that the Department is able to solve the problem by its own unaided efforts. It will take a total mobilisation of the intellectual, political and social resources of the people of Australia” (Bryant, 1973a: 296). Bryant acknowledged that resolution of the Indigenous problem demanded a national approach that would involve the “mobilisation” of the widest possible spectrum of expertise because of the implied complexity. He also later conceded that: “For the 2 centuries in which we have occupied this continent nearly everything we have done has failed. The last thing I, my colleagues on this side of the House or members of standing committees concerned with Aborigines would say is that we know what the answers are” (Bryant, 1973b: 1469). Bryant had no illusions concerning the ability of his department to address the problem, acknowledging the failures of past governments and their policies and the difficult nature of the task. It is relevant that Bryant used the phrase “we have occupied this continent”, because whether it was meant literally or not, it does reflect the reality of Indigenous people’s experience, and it is for this reason that self-determination needs to be restored to them. It is clear that the difficulty and complexity of the problem has arisen because of the way in which the Australian nation has been imagined to the exclusion of Indigenous people and that this led to the high levels of control that have been exercised over them.

In 1973 the Queensland Labor Senator, James Keeffe, a major contributor to Indigenous debates in the Senate, argued that:

For 200 years plus [sic] the indigenous people of this country have suffered the degradation, the poverty and all the other inconsistencies of their white masters. ... They are not problems which were initiated by the Aborigines or Torres Strait Islanders but problems initiated by generations of white people, and the onus is on generations of white people to solve them. (Keeffe, 1973: 1307)

In 1974 Keffe reiterated his argument in a more explicit way: "as far as I am concerned the so-called Aboriginal problem is a white man's problem. We created it in the first instance. We perpetuated it" (Keffe, 1974: 2413). These statements appear to represent an accurate assessment of what constitutes both the problem and the solution. It is beyond dispute that 'white-people' have been the direct and indirect cause of the vast majority of post-1788 Indigenous problems. However, to suggest that 'white-people' can in the same manner, that is in the role of the hegemonic "white masters" of the Indigenous situation, resolve the Indigenous problem is a simplistic and flawed assessment. Despite the apparent just and logical validity of Keffe's statement, there are numerous difficulties that this position presents. These difficulties need to be investigated in order to first reveal the full implications of what Keffe is asserting, and second, to show how the policies are, nevertheless, subsequently formulated from this position as a means of solving the problem.

The most important point in these statements is that Indigenous people are portrayed as the disempowered subjects of either malevolent or benevolent Non-indigenous action, rather than as sovereign peoples who have been deprived of their self-determination. As a consequence, from the position of policy formulation, they are to be subjected to a Non-indigenous project of 'restoration' or 'rectification'. However, if effective self-determination is to be realised, the basis of the relationship between Indigenous people and government needs to be one of equality rather than paternalism, where there can be a transfer of power and responsibilities that allow Indigenous people to determine their own futures free from Non-indigenous control. If this does not occur, then Indigenous people will remain subject to a Non-

indigenous agenda. This was to be the case under the Whitlam government, because the process of finding solutions involved only consultation with Indigenous people through the National Aboriginal Consultative Committee (NACC). As a result, it was inevitable that the solutions would be determined and influenced, in the main by, Anglo-Celtic values, norms, and practices.

This is precisely the kind of thinking that underpinned the assimilation policy, and negates the possibility of Indigenous people being granted effective self-determination. It also exposes what has been argued in the previous two chapters, that policy is formulated from a classical European perspective of nation, with the Non-indigenous government maintaining its position of dominance and reinforcing the values, norms, and practices of the dominant culture. The reinforcement of the central position of Anglo-Celtic practices and values are reflected in Bryant's argument that: "One of the most interesting exercises upon which we have embarked has been to consult the Aboriginal people themselves. We have done this because we believe that for too long the Aboriginal people have been placed in the situation where people have done things for and to them but never with them by consultation" (Bryant, 1973a: 295). Bryant describes consultation as an "interesting" exercise. While his choice of words may not have been intended to portray "consultation" as a 'novel' or 'curious' idea, they nevertheless reinforce the idea that the government is in a superior position in such an exercise. Consultation from Bryant's perspective appears to be a paternalistic act, something the government was not compelled to engage in on the basis of the seriousness of the problem, but a benevolent act that had never before been considered in Aboriginal Affairs.

Despite the commitment to consult, Bryant argued a week later that: “We hope that we will have the full support of the Aboriginal people for the programs that we are developing at the present time for them” (Bryant, 1973a: 295). This directly contradicts his previous views on consultation. In the first quote he stated that policy will be formulated “with” Indigenous people, but in the second he proposed that policy will be formulated “for” them. Here Indigenous people are again expected to be the subjected recipients of imposed policies. In short, ambiguity and ambivalence are recurring themes in Indigenous policy formulation. Also these policies reflect the dominant Anglo-Celtic imagining of the nation, in which Indigenous people are viewed as a disadvantaged minority that need to be assimilated to its values, norms, and practices, rather than being a people with legitimate rights to be self-determining.

It may be argued that too much is being read into the words of politicians, and that verbal ambiguity is simply an unfortunate characteristic of the process of communicating a policy. However, considering the seriousness of the injustices suffered by Indigenous people, it could be assumed that consistency in the articulation of policy should be a priority, particularly when the Minister acknowledged the negative results of past policy approaches. Nevertheless, Indigenous people are portrayed as being subject to whatever policies the government chooses to produce. The reluctance to empower Indigenous people is a characteristic of all Commonwealth governments, based on a fear of separatism and the perceived threat to their sovereign power. Victorian Labor MP David McKenzie articulated this fear: “This House ought to recognise, and I believe it does, the right of Aborigines to be a distinctive but not a separate people” (McKenzie, 1973: 652-3).

Labor's refusal to recognise "separate" rights for Indigenous people based on their original and inherent rights as a colonised sovereign people reflects the assimilationist agenda of the classically imagined nation as expounded in the works of Anderson and Gellner. The implication of McKenzie's suggestion is that Indigenous people can only be "distinctive" in ways that pose no threat, real or imagined, to the sovereignty of the dominant culture.

The subordinate role of Indigenous people is imposed on them, which not only negates their empowerment but reinforces their disempowerment. Control, despite the positive rhetoric of self-determination and the admission of the Non-indigenous cause of many Indigenous problems, remains a constant practice within relations between Indigenous people and Commonwealth governments. The use in both Commonwealth houses of parliament of the term "our" Indigenous people across the period 1972–1998 reinforces the assertion that their role in the nation is not one of empowered equals, but one of imposed subjectivity to the dominant culture.² Keeffe's term "white masters", while used in an ironic sense, is not incongruous with the term "our" Indigenous people, which speaks of 'ownership'. While the term "white masters" does not reflect the actual nature of the relationship, it does, nevertheless, have an uneasy resonance with the constant theme of control evident in the history of Indigenous policy.

The point of this discussion is to establish that governments assume dominance and formulate policy from that position. That is, the government is inevitably representative of the dominant culture in their role as agenda setters, problem constructors, and solution formulators, which resonates with the assimilationist and

controlling agendas of the imagined nation developed in Chapter Three. As Keeffe stated, “the onus is on ... white people to solve” the Indigenous problem.

The Queensland Labor MP Manfred Cross, was even more explicit in expressing this attitude, arguing that: “The Australian Government has a clear mandate to change the way of life of the Aboriginal people in Australia” (Cross, 1973: 1464-5). Cross’s use of the term “mandate”, usually used in relation to electoral victories, again exemplifies the controlling agenda of the classically imagined nation over internal minority cultures, where the national government reinforces the position of the dominant culture with ‘the nation’. In addition, claiming a mandate to “change the way of life of Aboriginal people” allows no room for Indigenous people to be self-determining. As discussed in Chapter One, national governments do not see divisions within the national space in terms of the people—the national space is their sovereign domain in which they assess and act; it is not a shared space. For this reason, from the government’s dominant position of responsibility, Indigenous people are seen as subordinate participants. From this perspective, it is not possible to produce solutions that will actually resolve the Indigenous problem. ‘White solutions’ can only ever be the cause of more alienation and disempowerment because they are not Indigenous solutions and negate the basis of self-determination.

By accepting the responsibility of having been problem causers and moving on to becoming problem solvers, the government continues its domination and control. The idea of allowing Indigenous people to determine their own existence and to ‘pick up the pieces’ from the problems that have been imposed upon them, free from government interference, would appear to be a dereliction of government

responsibility. However, in many ways this is what is required. From 1788 Indigenous people became progressively more subjected to Non-indigenous government domination and control as colonial expansion occurred, and the problem has continued to compound. Indigenous people problematise the hegemonic role of government as representatives of the dominant culture because of their inherent cultural difference. Their difference cannot be equated with migrant difference. Indigenous people possess a 'latent' sovereign difference that in the view of governments requires constant monitoring and control because of its perceived threat to the integrity of nation. As has been previously argued the integrity of the nation is culturally based. Migrant difference does not challenge national sovereignty in the same way as Indigenous sovereignty because migrants possess no historical connection to the land. There is nevertheless the imperative for migrants to assimilate to Anglo-Celtic values, norms and practices. The resolution of the Indigenous problem requires the withdrawal of government interference and control of the decision-making processes affecting Indigenous existence. All Indigenous policies formulated since 1788 have involved government control, when in fact it is government control, creating a consequent position of dependence for Indigenous people, which is the source of most Indigenous problems.

The role of government in Indigenous issues is inherently problematic. In many ways the Whitlam government attempted to overcome this difficult relationship through the implementation of a policy of Indigenous self-determination. However, the complexities in the construction of the 'problem' that are discussed above are made more apparent in the formulation and implementation of the self-determination policy.

The Whitlam Government's Policy Of Indigenous Self-determination

Following the election of the Labor Party in December 1972 the Whitlam government implemented what Bryant claimed would be “a total change of direction” for Indigenous policy, which would reject the control philosophies of past Indigenous policies. On 6 April 1973 Prime Minister Whitlam made a landmark speech concerning the future of Indigenous policy in which he outlined the rationale and aims of his government's new policy. The means of facilitating these changes had been made possible through the referendum of 1967 that had transformed the powers to legislate on behalf of Indigenous people from those held exclusively by States to concurrent powers held jointly between the Commonwealth and the States. Whitlam intended to utilise this Constitutional change to create Commonwealth Indigenous legislation that the States, in conjunction with the Commonwealth, would implement through established authorities and organisations (*Aboriginal News*, 1973: 2). In his speech outlining the Whitlam government's agenda to the new parliament in 1973 the Governor General stated that:

My Government recognises that the worst social inequalities, the worst poverty and the worst health problems bear upon the Australian Aboriginal people. In attempting to remove the national shame, my advisers seek the co-operation of the State Governments. They will not, however, permit any State Government or State agency to frustrate the clear will of the Australian people recorded so overwhelmingly in the 1967 Referendum that the national Government should assume constitutional responsibility for Aborigines and Torres Strait Islanders. My advisers will not hesitate to use these full constitutional powers granted by the Australian people in asserting and establishing the national will on this issue. (Hasluck, 1973: 14)

Whitlam was adamant that changes would be effected on behalf of Indigenous people because it was the “national will”. The overwhelming majority ‘Yes’ vote in

the 1967 referendum appeared to have created an impetus for changing the situation of Indigenous people. However, in the above statement Whitlam refers to areas of inequality and disadvantage without raising the issue of Indigenous empowerment. As will be shown below, there may have been a “national will” to resolve Indigenous disadvantage but there appeared to be no government will to empower Indigenous people. Whitlam’s assumption of the “national will” to resolve the Indigenous problem echoes Cross’s idea of a “mandate to change the way of life” of Indigenous people. Nevertheless, both statements imply that it is the Non-indigenous that will bring change for the Indigenous, instead of Indigenous people being empowered to resolve the issues that impact upon them.

A speech made by Bryant also reflects the subjected nature of Indigenous existence:

The Government, of course, accepts the fact that it has a direct responsibility for every Australian. I know that my colleagues opposite will call out about centralism, bureaucratic control and so on. But it is not that. The referendum of 1967, in our view, gave the Australian Government absolute and unchallenged constitutional authority to deal with the Aboriginal people as it should, and directly at that. There is no need for us to allow any intermediate administrative authority to prevent the carrying out of our programs. (Bryant, 1973a: 294)

Bryant here emphasised that the “programs” for change would be the government’s and that they would occur by the “constitutional authority” of the Commonwealth government, rather than being formulated and implemented by Indigenous people for Indigenous people, as the idea of a self-determination policy suggests. Bryant later argued that: “There is only one objective, and that is to remove the disabilities which the Aboriginal people of Australia suffer” (Bryant, 1973a: 296). Again there is no reference to empowerment through self-determination, the emphasis was on Indigenous disadvantage. Such an emphasis was of course necessary and commendable, but if there was no commitment to empowerment, then Indigenous

people remained under similar circumstances of disempowerment and control as had existed under the assimilation policy.

Unfortunately, the Whitlam government's plan to use its Constitutional power to bring about change did not work as well as had been anticipated. Charles Perkins argued that during the period of Whitlam's government there were many hostile "public servants who were skilled at frustrating government policy" (1975: 196). Although by 1975 most States had complied with the Commonwealth policy (Hollinsworth, 1998: 176), at the state level the Queensland government remained "determinedly assimilationist in its approach until well into the 1980s" (Bennett, 1999: 60). This is despite the fact that under the Constitution, State legislation is overruled if it is inconsistent with Commonwealth legislation (Commonwealth of Australia Constitution Act 1900 s109). Consequently, regardless of the rhetoric and best intentions of Whitlam, his government and his Ministers for Aboriginal Affairs, his government's "constitutional authority" to implement his policy was not "absolute" or "unchallenged". Nor was he able to assert or establish "the national will on this issue" to the extent that he envisaged. Bennett further argued that the Whitlam government had glossed over "the governmental difficulties posed by federalism ... promising more than it could or would deliver once in power" (1999: 61). While federalism presented problems for the Whitlam government in implementing its policies, it was not the primary obstacle to them delivering self-determination for Indigenous people.

Outlined below are three significant aspects to the rationalé that underpinned Whitlam's change in the direction of Indigenous policy. The first was his implied

belief that if the Indigenous problem was to be resolved it must not be addressed through a fragmented policy approach via the States, but by the Commonwealth: "It is my Government's belief that Aboriginal affairs is a matter of national concern, [sic] requires the exercise of the fullest range of legislative, executive and financial powers" (*Aboriginal News*, 1973: 2). Thus, for the first time it was treated effectively as a national 'problem'. This shift to a national approach was significant. Even though there had been numerous national conferences of State Ministers responsible for Indigenous policies, they had not been addressed through a policy formulated by a national government.

The shift of focus on Indigenous issues from State governments to the Commonwealth contrasted with previous views that informed policy. For example, as discussed in Chapter Two, the rationalé under the assimilation policy was to absorb the Indigenous people into 'white society' to the point where they would no longer be a 'visible problem'. The drafting of the Constitution illustrates that the Indigenous 'problem' was perceived as one that could be addressed by State governments. However, by 1972 it had come to be seen as a problem of national significance, moving from being a peripheral and 'temporary' State issue, in the sense that Indigenous people would eventually conform to Non-indigenous norms and practices, to being a continuing issue of national significance. Under the self-determination policy Indigenous people were to remain a minority culture within the nation. However, their cultural difference would prove to be problematic for the rationalé of Whitlam's policy.

In another and unforeseen way the 1967 Referendum contributed to Whitlam's development of a national policy:

With the removal of Section 127 of the Constitution in the referendum of 1967, the 1971 Census was the first to officially include Aboriginal people. It produced an astonishing result. The previous unofficial count, taken in 1966, had estimated there were 80000 Aborigines and 5000 Torres Strait Islanders in Australia, a total of 85000 people. The 1971 Census recorded 106000 Aborigines and 10000 Torres Strait Islanders, a total of 116000 people. In the space of five years, the recorded number of Aboriginal and Torres Strait Islanders had risen by 35 per cent! (Griffiths, 1995: 113)

The significance to policy makers of a greater than one-third increase in the Indigenous population cannot be underestimated as a contributing factor for advocating a national approach. Thus the change in policy occurred, in part, as a result of the increase in national consciousness of the Indigenous problem, even though there was a four-year hiatus between the referendum and the census in which successive Coalition governments did not utilise the capacity for change that the referendum had provided. This may be attributable to the prevailing disposition and commitment of Coalition governments to the principles of the federation, as opposed to the more centralist government views of the Labor party. Amongst the majority Anglo-Celtic population, the census figures on the surprising size of the Indigenous population also contributed to the unprecedented national consciousness of their presence within the nation.

The second issue raised in the speech was also one of consciousness. This involved the nation reflecting under the gaze of the international community on its treatment of Indigenous people. Speaking of his endeavour to initiate such significant policy change, Whitlam claimed that it "represents in the eyes of the world a test of the integrity and humanity of the whole people of Australia" (*Aboriginal News*, 1973: 2).

Whether this statement was merely rhetorical or the reflection of a genuine concern for Indigenous people, or a means by which Whitlam could out manoeuvre the opposition is difficult to assess. While awareness of international scrutiny is usually sufficient to make governments sensitive to criticism from the global community if it does not match its rhetoric with action, the statement framed the resolution of the Indigenous 'problem' in the context of a national Non-indigenous interest designed to protect an international reputation. Whether this was a primary or a secondary motive is also difficult to assess, but it remained firmly a matter of national interest and therefore it was this point that was raised before any explicit mention of the most important issue, the Indigenous interest. However, it will become evident that, in keeping with the Anglo-Celtic cultural domination, the national interest was a priority in the way in which the self-determination policy was formulated.

A contemporary international context also informed Whitlam's policy change: the general focus in the West on the racial and civil rights of national minorities, and in particular the civil rights movement of the late 1960s in the US which aimed to establish equal rights for African Americans. In addition, in the early 1970s there was increasing international pressure on South Africa concerning its apartheid policies. As well, the United Nations declared 1971 as the international year in which racial discrimination was to be dealt with as a serious issue (Tatz, 1979: 100). Whitlam was noted for his commitment to the internationalisation of law and the adoption of United Nations initiatives (Griffiths, 1995: 121), thus within this general international context he may have genuinely desired to improve the position of Indigenous people, but it is questionable whether there was any real commitment to granting them effective self-determination.

After addressing issues of the national interest in regard to Indigenous self-determination, Whitlam's speech finally focused on the position of Indigenous people themselves. He argued that: "More generally, my Government is concerned that 200 years of despoliation, injustice and discrimination have seriously damaged and demoralised the once proud Aboriginal people. The Government, on behalf of the Australian people, accepts responsibility for their active and progressive rehabilitation" (*Aboriginal News*, 1973: 2). It is worth noting that Whitlam's choice of words "more generally ... concerned" about Indigenous people implies that his government was 'specifically' concerned with the previous issues of the national interest. Indigenous people appear not to be the primary concern of his government. While this may be reading too much into his speech, perceptions of the national interest always prove to be a primary focus of governments. Whitlam went on to add that the "opportunity for self-determination and independent action would serve little purpose if Aboriginals continued to be economically and socially deprived" (*Aboriginal News*, 1973: 2), which implicitly acknowledged the legacy of continued injustice and control that has resulted in Indigenous disadvantage and deprivation. He also recognised that it is a two-fold problem: the need for empowerment through self-determination, and the need to rectify social and economic injustice. Therefore, the third emphasis of his *rationalé* was for his government to break away from the unjust policies of the past and restore to Indigenous people their lost dignity and ability to control their own lives. However commendable this policy *rationalé* appears to be, it is necessary to also note his use of the word "rehabilitation". Clearly, Whitlam did not anticipate the restoration of Indigenous people to a pre-colonial position, but rather to raise them to an equitable position within the nation.

Excluding their restoration to a pre-colonial state, it must be asked to what position they would be rehabilitated and on whose terms?

Whitlam was unambiguous about the aim of his self-determination policy: “The basic object of my Government’s policy is to restore to the Aboriginal people of Australia their lost power of self-determination in economic, social and political affairs” (*Aboriginal News*, 1973: 2). This is one of the most significant statements made concerning Indigenous people by a colonial Governor, State Premier or Prime Minister since colonisation in 1788. The express purpose of Whitlam’s self-determination policy was to restore power to Indigenous people to enable them to decide their own economic, social, and political future. As defined in Chapter One, self-determination “is an expression ... of the aspiration to rule one’s self and not be ruled by others”; that is, “not just to be ‘free’, but to be ‘free from’ what [is] perceive[ed] as ‘others’” (Ronen, 1979: 23). Implicitly Whitlam was advocating the ceding of governmental power over a section of the Australian community and allowing them to effectively be self-determining economically, socially, and politically. Whitlam further stated that Indigenous self-determination was to be achieved at the local level through legislating:

to enable Aboriginal groups and communities to incorporate for the conduct of their own affairs. We see these incorporated societies, set up for purposes chosen by their Aboriginal members, determining their own decision-making processes, choosing their own leaders and executives in ways they will themselves decide as the primary instruments of Aboriginal authority at the local and community level. (*Aboriginal News*, 1973: 2)

Again the stated aim of the policy was unambiguous for those Indigenous people who desire to be self-determining—the means to become “incorporated societies”, established, developed, organised and run according to their own cultural values,

norms, and practices. However, despite this unambiguous promise of self-determination, Whitlam made contradictory qualifications to this statement that reflect the maintenance of Anglo-Celtic domination and of the continued subjected existence of Indigenous people.

The Ambivalence of the Whitlam Government's Self-determination Policy

Whitlam's purpose was to establish a Commonwealth department that would facilitate changes to Indigenous policy in co-operation with State Indigenous departments and other relevant organisations. However, it is clear that governmental authorities would not be implementing policy determined by Indigenous people, as the above statement of a restoration of power would suggest. Speaking of his government, Whitlam declared:

It will not therefore aim to establish an omnibus Commonwealth Department of Aboriginal Affairs. It will instead seek to devolve upon a wide range of Commonwealth, State and local authorities, as well as upon organisations of Aboriginals themselves, responsibility for carrying out the policies decided upon by my Government. These authorities would be responsible for Aboriginals in the same matters and in the same way as they now are functionally responsible for the community generally.

In matters of State constitutional responsibility such as health, education and so on, my Government will be seeking the help of all State Ministers and their Departments both in assisting the Commonwealth Minister and Department of Aboriginal Affairs to formulate appropriate policies and in giving effect to them within their State jurisdiction. (*Aboriginal News*, 1973: 2)

Whitlam contradicted his own principles of self-determination to "restore to the Aboriginal people of Australia their lost power of self-determination". Whitlam then proposed that it would be his government and the Department of Aboriginal Affairs that would formulate policy and would make the appropriate decisions, and echoing

past paternalistic policies, be responsible for Indigenous people. Apart from the unambiguous rhetorical promise of self-determination, there was no substantial difference between the formulation and implementation of the assimilation policy and the aim of Whitlam's policy of self-determination. In both cases the government was responsible for making and implementing policy decisions. Any government formulating policy for a minority cultural group cannot do so free from the influence of their own culture. Thus effectively Indigenous people were to be "rehabilitated" to and through Non-indigenous values, norms, and practices. Thus:

Despite some transfer of resources and responsibilities to Aboriginal communities, there was no real autonomy; despite the enthusiasm, goodwill and considerable increase, in expenditure, moneys were controlled by white bureaucrats acting on behalf of a white society to make certain that white norms and values were being upheld. (Lippmann, 1979: 187)

It was again clear that it was the classical idea of the nation that informed government policy, where control maintained by the dominant culture prevented the extension of self-determination to Indigenous people. Inevitably, as a minority culture, Indigenous people were not viewed as having a legitimate independent existence within the nation, as was shown in the arguments of Anderson and Gellner in Chapter Three.

Whitlam stated that: "The Government will also set up, on the advice of Aboriginals, procedures for the election of freely-chosen Aboriginal representatives from the various regions of Aboriginal population to form a consultative council with which the Government will confer on matters affecting Aboriginals" (*Aboriginal News*, 1973: 2). Whitlam's government imposed a Non-indigenous model of a representative body on Indigenous people, rather than allowing them to organise according to their own cultural practices. For Indigenous people anticipating the

restoration of “their lost power of self-determination”, this could be viewed as merely a token gesture of establishing a Commonwealth Indigenous body with which the government would ‘consult’ and “confer”. Consult and confer are not words that are consistent with the meaning of ‘self’-determination. Self-determination means possessing the power to decide and implement rather than to be consulted and conferred with. Labor eventually established the NACC as the peak Indigenous representative body with which they would confer and consult. However, it had “no powers” and “was to have essentially the same relationship with government as had earlier consultative bodies” (Bennett, 1989: 37), and did not satisfy Indigenous leaders.

In the same period, Charles Perkins, then the most senior Indigenous person within the Department of Aboriginal Affairs (DAA), suggested that the DAA should be replaced by a “statutory authority with an Aboriginal majority” (Lippmann, 1979: 178). Perkins’ suggestion “was to meet with a resounding refusal from government and bureaucrats alike, who feared that it would carry the self-determination idea beyond their control” (Lippmann, 1979: 178). This expression of fear on the part of “government and bureaucrats” sums up the Whitlam government’s meaning of Indigenous ‘self-determination’—that it would unambiguously remain a policy under the firm control of the government rather than being a restoration of power to Indigenous people over their social, economic, and political futures. This reinforces the argument that it is the dominant Anglo-Celtic culture of the Australian nation that is protected by government and which refuses to cede to an Indigenous minority the power to be self-determining.

Nevertheless, the Whitlam government did recognise the inherent problems of setting up the NACC. In 1975 the new Minister of Aboriginal Affairs, New South Wales Labor MP Les Johnson, argued concerning the NACC that:

It represents the Aboriginal people of this country in the best possible way that we as non-Aboriginal people can contrive. That does not mean of course that the Committee represents everything that is desirable because our system of selecting representatives is entirely different from the Aboriginal traditional system. But we are making the best of a difficult situation. (Johnson, 1975: 1258)

This again demonstrated government control; even though the difficulties and limitations of Indigenous representation under the NACC were recognised, the government declined to grant Indigenous people their own representative and self-determining body. Fundamentally, there would be no re-imagining of the nation that would allow, even in limited terms, the accommodation of Indigenous self-determination. Johnson confirmed this when he stated that the NACC was the best solution that Non-indigenous people could “contrive” for Indigenous people. It is absolutely clear that Indigenous people would not be allowed to “contrive” the “best possible” form of representation for themselves.

In a surprising response to the establishing of the NACC, Indigenous Liberal Senator, Neville Bonner, argued that:

I am finding Aborigines are confused and that they have been brainwashed into what I believe can be only termed living separately and being separate from the rest of the Australian community. This is a kind of auto-apartheid as I see it. The Aboriginal people have been told and have been brainwashed into believing that the National Aboriginal Consultative Committee will be a separate Aboriginal parliament. How ludicrous it is to suggest that there will be an Aboriginal parliament within Australia. I firmly believe that there is room and need for consultation with Aboriginal people. But I believe that to have a separate parliament and a separate electoral roll on which only Aboriginal people will be listed will divide the Aboriginal people not only among themselves but also from the rest of the Australian community. I give a

warning here and now that this will cause a lot more trouble than people seem to realise at the moment. (Bonner, 1973: 2016)

Although Bonner misunderstood the limited nature of the NACC, he rejected any notion of Indigenous separation and believed that Indigenous people should be part of the Anglo-Celtic community. However, he did concede that consultation was a necessary part of the process towards the resolution of the Indigenous problem. Whether Bonner was expressing his party's line in this statement or his own personal view is unclear. In a similar way, the fear of Indigenous separation was also expressed by Northern Territory Country Liberal Party MP Stephen Calder:

I know that a policy of self-determination has swept into this sphere. A Fabian-Socialist and those under him have embarked on a policy of what appears to many others and me as a policy of separatism. Separatism in South Africa is called apartheid, although I would say that the policy might be working in reverse in Australia. The policy being espoused in Australia for Aborigines is quite separate and distinct from that followed with respect to European Australians. (Calder, 1973a: 1457)

Calder, like Bonner, appeared to have misunderstood what in fact the Whitlam government was delivering—that the Indigenous self-determination policy would unambiguously remain under the control of the Non-indigenous government. But for Bonner and Calder even the rhetoric of Indigenous self-determination appeared to be an anathema to their political views. Calder clearly would not contemplate an Australian nation in which Indigenous people could live according to their own cultural practices and values.

This view was also emotively expressed by B.G. Dexter, secretary of the Department of Aboriginal Affairs:

What we mean by self-determination is the assisted self-development of Aboriginal communities within the social, political, and economic context of the overall Australian society. This will obviously mean certain controls. We cannot tolerate certain tribal or traditional practices like infanticide or tribal killings self-determination really means the

freedom of the individual to self-determine his own life. (Mullard, 1976: 10)

Dexter was explicit in declaring that the “self-determination” policy would only be within the “social, political, and economic context of the overall Australian society”; that is, within the cultural values and practices of the dominant Anglo-Celtic culture. Further, and echoing the international legal definition of national self-determination as discussed in Chapter One, it would be applicable only to those individuals that make up the “whole people” of the nation, and not to a minority cultural group within the nation. In effect Dexter was advocating an agenda that sought to avoid any idea of separatism within the nation. Reflecting a similar opinion Calder later argued that:

We (Territorians) have lived there peaceably with the Aborigines for 20, 30 or 40 years, but the present Government's policy is pulling us apart. It is causing apartheid or separatism. We have heard a lot of nonsense talked by Labor men about apartheid in other countries. But they are practising it here in their own country. Apartheid is being bred very fast in the north of Australia. (Calder, 1973b: 1832-3)

Calder appeared to envisage the Australian nation being torn apart by the self-determination policy.

Despite the ostensible empowering rhetoric of Whitlam's self-determination policy, the fears of Bonner and Calder of separation and “apartheid” were completely unfounded. Clearly the power of self-determination was effectively withheld from Indigenous people. However, not only was the ‘reality’ of self-determination feared, so too was the rhetoric. This reinforces the argument that control was so entrenched in Indigenous policy that even the rhetoric of a self-determination policy was attacked and rejected, despite there being no evidence to suggest that Indigenous

people would ever be granted effective self-determination under the Whitlam government.

Conclusion

This chapter has argued that despite the radical shift in Indigenous policy from assimilation to self-determination, which was brought about by changes in the international perception of minority cultures at the beginning of the 1970s and following the election of a reformist Labor government under the leadership of Gough Whitlam, there was little commitment to implementing the changes that had been declared. In fact, during the Whitlam administration there continued to be a bureaucratic commitment to a policy of integration, a policy that was an antithesis to the concept of self-determination. The failure to effect a bureaucratic change towards their proclaimed policy of self-determination demonstrated an ambivalence on the part of the Whitlam government. Nevertheless, the primary obstacle to the realising of Indigenous self-determination was the way in which the Australian nation was imagined by the Whitlam government. This was evident in the way in which the solution to the Indigenous 'problem' was constructed, despite the recognition of past injustices and the need for Indigenous people to control their own futures. It was also evident in the way in which the Whitlam government refused to break with the past. By continuing to formulate and implement policies that reinforced the position of the dominant Anglo-Celtic culture of the Australian nation, it perpetuated the subjected position of Indigenous people and sustained the culture of control. This was the case in spite of the clear understanding of past treatment of Indigenous people through failed policies, and also with an unambiguous commitment to "restore to the Aboriginal people of Australia their lost power of self-

determination” (Whitlam in *Aboriginal News*, 1973: 2). Under Whitlam, Anglo-Celtic power and cultural values, norms, and practices continued to be imposed on Indigenous existence with only the marginal improvement of Indigenous people being able, under the NACC, to be consulted and conferred with in relation to *their* future.

This chapter makes clear that the classically imagined nation remained a powerful influence in the Whitlam government’s dealings with Indigenous people. As both Anderson and Gellner argued, the dominant national culture cedes no governmental ground to a minority culture within its national territory, and in fact actively seeks to assimilate it to its own cultural values, norms, and practices. Despite the proclaimed reformist reputation of the Whitlam government, it has been demonstrated that little was achieved towards the realisation of Indigenous self-determination.

¹ See Dexter, B.G., (1973) “The Commonwealth Department of Aboriginal Affairs—its function and underlying principles”, address given at Monash Centre for Research into Aboriginal Affairs, 9 May: 1, cited in Gale, F., Brookman, A., (1975) *Race Relations in Australia: The Aborigines*, McGraw Hill Book Co., Australia: 72.

² See for example: Ruddock, P. (Liberal), (1977) Australia, House of Representatives, *Appropriation Bill (No. 1)*, Vol. 107: 1865; Senator Robertson, E.A. (Labor), (1980) Australia, Senate, *Aboriginal Land Rights (NT) Amendment Bill*, Vol. 85: 1774; Scott, L. (Labor), (1994) Australia, House of Representatives, *ATSIC Amendment Bill 1994*, Vol. 195: 2003; Nehl, G.B. (Coalition), (1994) Australia, House of Representatives, *Aboriginal Reconciliation*, Vol. 196: 1002; Senator Evans, C. (Labor), (1998) Australia, Senate, *Native Title Amendment Bill 1997 [No. 2]*, Vol. 190: 1927; Keating, P. (Labor), (1995) Australia, House of Representatives, *Land Fund And Indigenous Land Corporation (ATSIC Amendment) Bill 1994*, Vol. 199: 1108.

7 The Fraser Government's policy of Indigenous self-management: the retreat from 'self-determination'

Introduction

On 13 December 1975 the Whitlam government was defeated at the Federal election, following its controversial dismissal by the Governor-General on 11 November. The election of the Fraser Liberal and National Country Party Coalition brought with it a change in Indigenous policy. However, the new government was compelled by Labor's precedent to change their policy and be more accommodating of the need to recognise Indigenous rights and to break with the overtly controlling policies of the past. As with Labor, though, the policy change was more rhetoric than substance, and was again characterised by continuing control over Indigenous people and an ambivalence to their inherent right to self-determination. The following analysis of the Fraser government's position reinforces the argument that the influence of the dominant Anglo-Celtic conception of the Australian nation prevented the government from granting Indigenous people the right to determine their own future according to their own cultural values and practices.

In February 1976 the new Aboriginal Affairs Minister, Western Australian Liberal MP Ian Viner, announced the government's Indigenous policy as one of Indigenous self-management (*Aboriginal News*, 1976: 2). Self-management, Viner argued, was "the key to the implementation of its policies" (Department of Aboriginal Affairs, 1979: 1). By this Viner meant that all Indigenous policies would be determined by

the over-arching concept of self-management. This concept is of primary importance to the analysis as it defines the extent of Indigenous rights and also the limitations that are placed upon them, as it had done with Whitlam's concept of self-determination. It demonstrated the government's understanding of the Indigenous problem and how they believed it should be resolved through some level of Indigenous empowerment. Their policy also revealed how the values and practices of the nation's dominant culture influenced the formulation and implementation of their Indigenous policy.

As has been previously argued, if Indigenous people are to genuinely and effectively determine their own futures, they need to be in control of their own policy formulation and implementation that reflect their own cultural values and practices. If this is not the case, Indigenous people remain subject to a process of assimilation, even if a covert one.

The Fraser Government's Construction of the Indigenous 'Problem'

It is clear that the Fraser government had no illusions concerning the complexity and difficulties in the situation of Indigenous people. This understanding was summed up by Queensland Liberal MP Donald Cameron, a contributor to parliamentary debates on Indigenous issues, who argued in criticism of the Whitlam government's spending on Aboriginal Affairs, that:

The Leader of the Opposition looks upon the amount of money expended as being the only gauge of the contribution that a government makes to the Aboriginal people. We cannot undo the neglect of 200 years in 200 days or 200 months and we cannot undo it by spending \$200m, or \$2,000m. What needs to be done will take many years to do. I have grave doubts that any honourable member who presently sits in this

Parliament will live to see the day when Aboriginal people are on their feet completely and are no longer in need of supportive services. (Cameron, 1977: 1868)

Cameron contended that a financial solution would not be the sole means of resolving the complexities and extent of the Indigenous 'problem'; rather, it required a solution that would address the entrenched dependency of Indigenous people. He implied the necessity to empower Indigenous people to the point where they could function independently of specific government support. Also recognized was the fact that the problem was not a recent phenomenon, but one that had developed since colonisation and had compounded over time. As a consequence, it would require a considerable amount of time and effort to resolve. Like Bryant, Cameron acknowledged that to a large extent the Indigenous problem had been caused by the neglect and failure of Non-indigenous governments and people. However, despite Cameron and Viner's appreciation of the need to empower Indigenous people through a policy of self-management, some members of the government expressed serious misgivings on this approach to Aboriginal Affairs.

In his criticism of the former Whitlam government's rhetoric of empowering Indigenous people, Northern Territory Liberal Senator Bernard Kilgariff, a regular contributor to debates on Indigenous issues, argued that:

the Government, the Australian people, decided that the Aboriginal people must be given self-determination; that they must be given the right to decide what they want to do and where they want to go. But the Aboriginal people had no experience or training to enable them to work out where they were going in our rather sophisticated society. They were in a void and they were unable to cope with the situation. (Kilgariff, 1979: 1944)

Kilgariff presented a paternalistic attitude in his portrayal of Indigenous people as 'helpless' and 'incapable' of determining their own future. His view of the

Indigenous problem assumed that Indigenous people would inevitably need to be assimilated into “our rather sophisticated society”. Kilgariff’s views were informed by a classical notion of the Australian nation, where the national culture had produced a “sophisticated society” that Indigenous people were “unable to work out” or “cope with”, without the appropriate “training”. This perspective strongly resonates with the views inherent in the assimilation policy discussed in Chapter Five.

In an even more critical attack on the Whitlam self-determination policy, a fellow Northern Territory Country Liberal Party member and spokesperson on Indigenous issues, MP Stephen Calder, argued in relation to a parliamentary Standing Committee on Aboriginal and Torres Strait Islander people that:

I hope that this Committee will work towards giving the Aborigines a greater say and greater responsibility. But I do not think that we should be trying to force it on them, to thrust it on them. That is one of the problems which have occurred as a result of the self-determination policy. If we are to serve Aborigines to any extent we have to reverse that policy and we have to be rid of the people who espouse it. (Calder, 1976: 750)

Calder clearly believed that Indigenous people had been deprived of the right to make decisions on their own behalf, yet was damning of the way in which the Labor government’s policy of self-determination had supposedly forced responsibility onto Indigenous people who were, according to his understanding, not ready or even willing to take control of their lives. He argued that Indigenous people should be disempowered through the reversal of the self-determination policy until they were prepared to take responsibility for themselves. Further, Calder argued that those politicians and bureaucrats who supported self-determination should not be allowed any connection with Aboriginal Affairs. While Kilgariff and Calder may have been

correct in relation to the unpreparedness of a minority of Indigenous people for self-determination, to assume that all Indigenous people were unwilling or incapable of taking responsibility for their lives was an unjustified assertion. It was also an overtly paternalistic view that assumed that Indigenous people had no ability to control their own lives or communities. Their positions ignored the high-profile political campaigns led by Indigenous people to establish their right to control their lives, particularly in the lead-up to the 1967 referendum. Cameron, Calder, and Kilgariff implicitly portrayed Indigenous people as 'helpless' and in a entrenched state of dependency, and it will be established that such paternalistic views formed the basis of the Coalition's Indigenous policy, a policy that was ostensibly aimed at empowering Indigenous people through the principle of self-management to overcome the problems that had been created from Non-indigenous control over and interference in their lives.

The Fraser Government's Self-management Policy

In a statement to the parliament in 1978 Viner argued in relation to their policy of self-management that:

The Government sees this policy as offering to Aboriginals a means of breaking out from the state of dependence which has for so long enchained them. In any society, decision-making and responsibility are essential to the restoration of self-respect and to the removal of social maladies of despondency, inertia and resignation. This policy is generally recognised as appropriate for application to groups of people in a state of dependency as a minority in countries dominated by other cultures. (Viner, 1978: 3443)

Viner acknowledged that a significant part of the Indigenous problem was the issue of dependency, and was more explicit than many Ministers of Aboriginal Affairs have been in his recognition that Indigenous dependency had resulted from

domination by the Non-indigenous Anglo-Celtic culture. His understanding of the problem relates directly to the concept of the monoculturally dominated nation expounded in Chapter Three. However, through this perspective of the nation and in keeping with its principle interests, Viner reinforced the subordinate position of Indigenous people to the dominant culture rather than challenging it. Despite his acknowledgement of their need to be empowered through the right to make decisions and be responsible for their future, he argued that the government's policy was "appropriate" for them as a dependent minority.

Viner had expressed his position as early as February 1976, when in a speech to Indigenous leaders he had said:

Throughout the Government's policy on Aboriginal affairs, the involvement of Aboriginal people is vital. Consultation is the most effective means of involvement and this is one reason our policy statement provides for an inquiry to be held into the National Aboriginal Consultative Committee to determine what role the N.A.C.C. should have in relation to the Government, and how best that role can be fulfilled. (*Aboriginal News*, 1976: 3)

He argued explicitly that Indigenous self-management was the "Government's policy", but implicitly that the Indigenous role was a subordinate level of "involvement". With the government in control of policy formulation and implementation the involvement of Indigenous people was one of "consultation" rather than empowerment. Thus the rationale of the policy was that Indigenous people had the right to be consulted over policy, but were denied the right to control the policy process. This reinforced Viner's view that Indigenous people lived within a nation dominated by another culture, and further confirmed that the role of the committee designed to represent Indigenous people would be decided upon by his government rather than Indigenous people. Thus, the relationship of power between

the Non-indigenous government and Indigenous people was one in which Indigenous people remained subject to government determination. Self-management in this context was a limited extension of power that could be exercised by Indigenous people managing themselves through policies that were ultimately determined by the government. Viner's assertion that Indigenous involvement was "vital" meant that if the government was to formulate and implement effective policy it must be done with Indigenous input. However, this suggests that Indigenous people were so dependent that they were incapable of resolving their problems or controlling their own lives through their own means and processes. Paternalism was therefore a foundational premise of the self-management policy, as it was with Whitlam's self-determination policy.

Nevertheless, despite the paternalistic overtones of the policy, in a statement to the parliament later in 1976 Viner argued that paternalism was to be a thing of the past:

whatever is done now in terms of reappraisal of current programs, of planning future programs, there is one single objective, and that is the advancement of Aboriginal people, not in the way of the past through the paternalism of governments but in the way of the future—through opportunity to individual Aboriginals and communities of Aboriginals to have a sense of self-determination, a motivation for self-management and a realisation of self-sufficiency and self-reliance. We ask no more of the people of Australia who are not Aboriginals. Therefore we should set our sights, set our goals at providing the Aboriginal people who have been disadvantaged for so long with the same goals as all Australians set for themselves. (Viner, 1976b: 2987)

In relation to Indigenous people being able to determine their own futures, Viner argued that in keeping with "the way of the future" the government would give them a "sense of self-determination", but it appeared this was not to be actual self-determination. The latter part of Viner's statement directly contradicted his stance against paternalism. When speaking of the government he argued that, "we" will

“set our goals” aimed at “providing” Aboriginal people “with the same goals as all Australians set for themselves”. This could be given as a definition of paternalism and assimilation: Non-indigenous authorities setting the same goals for Indigenous people as those which Non-indigenous Australians set for “themselves”. This again reinforced the position of the dominant culture in determining the extent of control that Indigenous people would be allowed to have over their own lives.

In a statement made earlier that year Viner had demonstrated an even greater degree of paternalism: “The present Government has acknowledged its responsibility to give new and refreshed meaning to the lives of the Aboriginal people of this country as well as a new sense of involvement in their future” (Viner, 1976a: 642). This assertion of the government’s responsibility to give “meaning” to the lives of Indigenous people is again paternalistic suggesting a continuation of control over Indigenous lives. Equally, the notion that the government can give a “sense of involvement in their future” suggests that actual involvement is something that will not be extended. Perhaps these statements can be dismissed as merely a conversational expression of the government’s intention of facilitating change for Indigenous people. Nevertheless, this kind of patronising expression by a Minister for Aboriginal Affairs in the national parliament, as well as being on the public record, displays a misunderstanding of the inherent dignity and status of Indigenous people. It also implies a hierarchy of power, culture, and standing within the Australian nation. Again ambivalence towards Indigenous people was exposed, the government reinforcing and restating its position of power while simultaneously using the rhetoric of empowerment for Indigenous people.

Anthropologists Robert Tonkinson and Michael Howard have argued that when the direction and philosophy of Indigenous policy changed in 1972, it was “hailed ... as a step in the right direction, away from the paternalistic and implicit racism of the assimilationist policies that preceded them” (Tonkinson, 1990: 67-68). Nevertheless, paternalism and assimilation remained an integral part of the new policies, as confirmed in the argument of Senator Kilgariff:

I would suggest to the Government that it should introduce paternalism—to me that is not a nasty word—to some degree. I believe in paternalism because I am the head of a family. I assist and direct my children towards their future. There is nothing to worry about in relation to paternalism. The Opposition is getting a little edgy about what I call paternalism. All I am saying is that one practises paternalism within one’s family and there is no reason why some kindness should not be shown to the Aboriginal people. If paternalism is the word for that, let us start to introduce some paternalism to help the Aboriginal people. (Kilgariff, 1979: 1944)

Kilgariff’s view was that there was “nothing to worry about in relation to paternalism”, claiming that it was “kindness” that had underpinned the overtly controlling and destructive practices of the assimilation policy. Kilgariff also implied the idea of Indigenous people being a “child” race, as had occurred under the influence of Social Darwinism in the late nineteenth and early twentieth centuries. Such a suggestion reinforces the idea of a racial and cultural hierarchy within the nation. Kilgariff implied that the Non-indigenous government should “assist and direct” the “children” of an ‘inferior’ culture in the practices and values of the superior and dominant Anglo-Celtic culture. While the Coalition government through the Aboriginal Affairs Minister Ian Viner claimed to reject paternalism, this was clearly not the position of Kilgariff. Moreover, the government’s policy was founded on principles of control of policy formulation and implementation, and the limitation of Indigenous participation to one of consultation.

The primary aim of the Coalition's self-management policy as expressed by Prime Minister Malcolm Fraser was that his government was "committed to the principle that all Aboriginals and Islanders should be as free as other Australians to determine their own varied futures" (Fraser, 1977: 1694). At face value this appears to be a statement that supports Indigenous people determining their own future. However, the freedom to make decisions about their future was not *carte blanche*. Viner argued in the 1978–79 Department of Aboriginal Affairs Report that the self-management policy "requires that Aboriginals, as individuals and communities, be in a position to make the same kinds of decisions about their future as other Australians customarily make" (Viner, 1978: 3443). This can be taken to imply the notion of equality of opportunity to make such decisions with Non-indigenous individuals and communities. This is a just and equitable provision, but not if it excludes Indigenous people from making decisions that are *not* of the "same kind" as those "customarily" made by Non-indigenous people and communities. What appears to be a confirmation of Indigenous rights in fact operates as a system of assimilation by allowing only decisions to be made that fit within the culturally specified parameters of the nation. From the position of the opposition, Western Australian Labor MP Kim Beazley Sr. viewed the government's policy as paternalistic, and rejected the idea of Indigenous people "having imposed on them our ideas and our values about what they should be and what should happen to them" (Beazley Sr., 1976: 435).

The issue of the exercise of containment and control in the extension of decision-making rights is also evident in relation to the National Aboriginal Consultative Committee (NACC), which in 1977 Ian Viner replaced with the National Aboriginal Conference (NAC). The NAC was similarly to be "a forum for the expression of

Aboriginal views” (Bennett, 1989: 39). Again this exposes the limited notion of the extent of Indigenous involvement in the decision-making processes that impacted upon their lives. Inevitably the Indigenous people involved in the NAC became frustrated by their lack of authority to make real decisions (Lippmann, 1979: 178). Indeed, to Lippmann, the “government, holding the purse strings and therefore the real power, reaffirmed its view of the Council as an advisory and consultative body only” (1979: 178). The policy statement promised the right to Indigenous people to make their own decisions, but where this should have had the greatest force—the peak Indigenous representative body—that right was denied. This was based on the fact that granting the NAC decision-making authority would be outside rights extended to the Non-indigenous community, that is a minority group would have ‘extraordinary’ rights extended to it on the basis of cultural difference. Consequently, the limited extension of decision-making rights and the denial of the broader right of self-determination to Indigenous people were to maintain the dominant position of the Non-indigenous culture. The ‘freedom’ to make decisions or be consulted with lies only within the parameters set by Non-indigenous values, norms, and practices. Therefore, inherently, the principle of being able to make the “same kinds of decisions” is an assimilationist principle that excludes decisions made from a perspective of Indigenous cultural difference.

Further, bodies like the NACC and the NAC are “established by ministerial action rather than by legislation, so that what was decided by a Minister could easily be reversed by a Minister” (Bennett, 1989: 38). On this basis the Minister was the arbiter of the circumstances under which Indigenous people would be able to express their views. From this perspective the Minister is also in effect the protector of the

values and practices of the dominant culture, unwilling to extend the rights of a cultural minority to act beyond the parameters set by the dominant Anglo-Celtic culture. This assertion is echoed by Victorian Labor MP Barry Jones who, when reflecting on a long standing dispute between the Commonwealth and State governments, argued concerning the *Aboriginal and Torres Strait Islanders (Queensland Reserves and Self-management) Bill* that:

there never was a piece of legislation with such a deceptive long title. The purpose of the Bill is to 'empower' Aborigines and Torres Strait Islanders, who live on reserves in Queensland, to manage and control their own affairs. There is very little in this Bill and certainly nothing in clause 5 about management or control. It might have been more effective perhaps to have called this Bill the Aboriginal and Torres Strait Islanders (Commonwealth Ministerial Control) Bill because, whenever the question of the distribution of power is mentioned, one finds that the strength of the Aboriginal reserve councils is very small and the power of the Minister is very strong. (Jones, 1978: 1045)

Jones' contended that the supposed power of self-management in this Bill lay not with the Indigenous communities, but rather with the Minister for Aboriginal Affairs. This situation also compared with the power relations inherent in the ministerial establishment of the NAC. When the NAC was established Viner explicitly emphasised the nature of its role:

The NAC will meet annually at the national level and that meeting will draw together and express Aboriginal opinion on the basis of views put forward and considered at local and State levels. The belief that the National Aboriginal Consultative Committee was an 'Aboriginal parliament' contributed to its failure to provide constructive advice to the Government, and to its failure to attract widespread support among the Aboriginal and non-Aboriginal communities. It is not the Government's intention to set up a quasi-parliamentary body outside the constitutional parliamentary system, and the National Aboriginal Conference will be a non-legislative forum in which elected members will be free to debate and express, among other things, an Australia-wide Aboriginal view on long term goals which the Government should pursue, programs which it should adopt and priorities for expenditure. (Viner, 1977: 2108)

Clearly the NAC was not intended to be a means of Indigenous empowerment, merely a forum for the expression of Indigenous "opinion" and "views", with power

retained by the Minister. The establishment of a legislative forum of Indigenous empowerment is implicitly viewed as being ‘unconstitutional’ by being “outside the constitutional parliamentary system”. This reinforces a major argument of the thesis of the need to re-imagine the Indigenous position within the nation, as any policy or piece of legislation that fails to deliver actual and effective Indigenous empowerment reproduces the dominant cultural norm of a single Anglo-Celtic cultural nation. Power within the Australian nation is clearly culturally based, and this reaffirms the ideas developed in Chapter Three concerning the controlling and assimilating processes that are exercised over minority cultures within the classically imagined nation.

The inferior status of the NACC and NAC as Indigenous representative bodies is indicative of the questionable commitment by both Labor and the Coalition to anything more than a mere consultative process of Indigenous representation. Therefore, the claim that Indigenous people were entitled to the same range of decision-making processes as Non-indigenous people is contestable because Indigenous people were denied the right to make decisions in a representative body set up as a forum in which they would be able only to express their views and opinions. The ability of the government to control and contain cultural difference within the nation constitutes a sovereign cultural act. However, it is problematic because it impinges on the basic human rights of a cultural minority to be self-determining according to their own values and practices. Rights within the Australian liberal democratic nation are not acultural or universal, but are inherently culturally specific and are designed to protect and perpetuate Anglo-Celtic cultural values, norms, and practices.

The resulting effect of the Coalition's self-management policy according to anthropologist John Stanton was that the: "Notions of self-management enunciated by Federal politicians, despite their overt intentions, have led to the creation and imposition of alien decision-making structures and a perpetuation of patterns of dependency and clientship established during the earlier protectionist and assimilationist periods of Aboriginal administration" (Tonkinson, 1990: 219-20). Stanton here confirmed the assimilationist subtext of the self-management policy, arguing that it was a culturally specific ("alien") extension of rights that results in the restriction of Indigenous people's ability to determine their futures, resulting not in freedom but "dependency and clientship". Stanton also noted that this occurred despite the intention to facilitate an improved position for Indigenous people within the nation. Thus, as discussed above, the source of the problem was not one of intentional or overt racism, even though this may have been the case in some instances, but rather was a problem of how the nation was imagined and constituted. That is, national institutions, the Constitution, historical discourses of identity and the rationalés of action and order within the nation are monocultural in nature.

There was a sense in which Indigenous people were viewed and treated like 'disadvantaged white people' by the Fraser government, when in fact their status was much more complex and had many more implications that challenged the way that the Australian nation was imagined. Indigenous people had in fact been distinctive peoples within Australia since colonisation, and through the *Mabo* case had had their inherent sovereign rights to land recognised. However, in relation to social, political, and economic rights, Indigenous people were treated unproblematically as Australian

citizens, a generic status that failed to recognise their cultural uniqueness within the Australian nation. The act of trying to conform Indigenous people to Non-indigenous values, norms, and practices with the intention of creating equality amongst citizens was inherently a racial and cultural act because it was not enacted with any accommodation of their Indigenous cultural difference.

The argument about the imposition of culturally specific rights within the nation was echoed by a former Whitlam Labor Minister for Aboriginal Affairs, Gordon Bryant, who stated in reference to criticisms of Viner's approach to Aboriginal Affairs that:

I put it to the Minister that he should not let himself be deterred in any way by those criticisms. Many of them will flow from people whose approach, unfortunately, is racist. I am not going to suggest that the people of Australia are racist in the sense that I think that the people in southern Africa are but I do know that Australians place a heavy premium upon behaviour. People who do not behave according to the norms are likely to come under heavy fire. (Bryant, 1977: 1934)

Bryant suggested that there is a national 'need' for normative patterns of behaviour and cultural conformity and that there is pressure on Ministers to reinforce these "norms". This provides evidence of resistance to the philosophy of empowering Indigenous people because of the belief this was unacceptable to the Australian population, a belief that was accepted by some within the ranks of both the former Labor government as well as Fraser's Coalition government. Bryant stated that Aboriginal Affairs was "under constant attack when the Labor government was in office. It would be incorrect to say that we had absolute support in Cabinet and in Caucus" (Bryant, 1976: 2979). Despite Bryant's suggestion that he had resisted these pressures, these normative cultural values and practices were reflected and reinforced in the Indigenous self-determination policy of the Whitlam Labor government. Overt assimilationist attitudes were still prevalent within the parliament

even though there had been a shift in the rhetoric of the major parties towards Indigenous empowerment.

It is worth noting that the change in direction of the Coalition's Indigenous policy did not occur until 1975, confirming the pressure on the Fraser government to comply with the policy precedent set by the previous Labor government three years earlier. H.C. (Nugget) Coombs stated that in that year the Federal Coalition "formally abandoned assimilation as an objective and acknowledged the fundamental rights of Aborigines to retain their racial identity and their traditional lifestyle where they wished to do so" (1978: 7). This demonstrated reluctance on the part of Australia's Coalition parties to abandon assimilation, as Labor had done in 1972 in response to the 1967 referendum. For the Fraser government to have retained their overtly assimilationist policy would have attracted severe criticism as a regressive and racist policy, nationally and internationally, by those who actively supported Indigenous rights.

The Fraser government did change the nomenclature of their new policy to distinguish it from Labor's, the change indicating a reduction of rights from "determination" to "management". Tonkinson and Howard argue that conservative politicians found the term "self-determination" offensive "because it smacked too much of real autonomy, and so was softened to 'self-management'" (Tonkinson, 1990: 68). The change to self-management represented a compromise by giving the appearance of policy change while continuing to deny Indigenous people the right to determine their future. Lippmann argued that not only was self-management a "softer" term but was "a more limited version of self-determination" operating

“within a framework laid down by government” (Lippmann, 1979: 181). The government “framework” Lippmann referred to was designed to contain and control Indigenous existence on Non-indigenous cultural terms, indicating an underlying fear of potential Indigenous self-determination and sovereignty as a threat to the national interest. Not only was the implication of the offending policy nomenclature reduced, but also what the policy meant in practical terms, from what was already a minimal level of Indigenous involvement. Confirming this assertion, Coombs further argued that despite the Coalition’s policy shift to self-management, “many programmes, including those of the Federal Government, continue[d] consciously or unconsciously to be directed to assimilationist purposes or at least to put pressure on Aborigines to seek to be assimilated” (1978: 7).

The argument concerning the need for a shift in the position of Indigenous people within the nation was supported in a speech given by Kim Beazley Sr. in 1976, who as a member of the opposition argued that:

our doctrine of assimilation is impertinence; our doctrine of integration is impertinence; every doctrine that we have imposed on the Aborigines is a piece of impertinence. We have assumed that Aborigines ought to be our subjects or our citizens. Who gave us the right to make that assumption? I believe that things will come straight when we begin to look at them for what they are entitled to be—a distinctive nation. They never asked to be absorbed into our system. They are getting a taste from the Queensland Government of what they always have had at the hands of Australians—the assumption that if we want something they happen to be occupying they can move on, and if there is any agreement they are not parties to the agreement. We act all the time on the assumption that they are a conquered people. We have never acted on any other assumption than that they are a conquered people. We [Labor] began to reverse some of that. ... It may well be that, irritating as it was, the principle of having an Aboriginal embassy right outside our doors was the expression of something which, as far as people of genuinely Aboriginal culture are concerned, was valid—that they are a distinctive nation and have the right to approach us from their own assumptions and on their own basis instead of eternally having imposed on them our ideas and our values

about what they should be and what should happen to them. (Beazley Sr., 1976: 434-5)

Beazley's statements concerning the position of Indigenous people in Australia strongly support the central argument of this thesis that Indigenous people have been subjected to continual Non-indigenous control. Further, and by implication, if Indigenous people are to receive the justice they deserve they need to be recognised as a "distinctive nation", controlling their own lives according to their own cultural values and practices. Many politicians, past and present, would consider Beazley's position to be radical and extreme. Nevertheless, it is the *only* position that recognizes the full extent of the Indigenous 'problem' and the means of its resolution, that is, the restoration of their right to self-determination. It is important to note that the following discussion is to be understood within this broader context and not simply as an analysis and critique of policy.

The Ambivalence of the Fraser Government's Self-management Policy

In 1981, during an address to the NAC, Prime Minister Malcolm Fraser stated that a:

major task on which I think we are in agreement is the need to be aware of what Aboriginal people and individuals think. We encourage self management because we believe that Aboriginal people know their own priorities and needs better than government, and we are concerned that our policies should be responsive to Aboriginal wishes. (Fraser, 1981: 2)

Fraser again reinforced the fact that Indigenous policy was the government's policy, that is, the government set and controlled Indigenous policy processes, despite the declaration that it was to be an Indigenous self-management policy. The level of participation of Indigenous people was limited to informing the government about what their 'thoughts' and "wishes" were. The government's offered commitment to this acquired knowledge was to be "responsive", suggesting the willingness merely

to listen, but with no guarantee of action, even though Fraser acknowledged that “Aboriginal people know their own priorities and needs better than government”. This ambivalence to the plight of Indigenous people simultaneously recognises their disempowerment and demonstrates a lack of political will to empower them, and reflects the paternalistic nature of the government’s Indigenous self-management policy. As Stanton argued above, the self-management policy perpetuated “patterns of dependency and clientship”, attitudes and practices that were supposedly abandoned in the transition from the assimilation policy to the policies of self-determination and self-management.

Ambivalence towards Indigenous people was further exposed in the Fraser government’s fear of Indigenous difference and the notion of separateness. In 1978 a New South Wales Liberal MP, Philip Ruddock, in a rare Coalition reference, argued that the purpose of the government’s *Aboriginal and Torres Strait Islanders Bill* was “to give to the Aborigines the right of self-determination—an ability of the people themselves to be able to make decisions in their own communities” (Ruddock, 1978: 1028). Again, the Fraser government gave rhetorical commitment to Indigenous empowerment. However, Ruddock’s statement contrasts with the fear of Indigenous difference and separateness expressed by Queensland National Country Party Senator Charles Maunsell, who stated, in a debate on Indigenous land rights with Queensland Labor Senator George Georges, that:

I have always regarded Aboriginals as being Australians with all the rights and privileges of Australians, and with the responsibilities that go with the citizenship of this country. I do not regard them as something separate, as the Labor Party obviously does. (Maunsell, 1979: 1298)

Senator Georges—We do not regard them as something separate. We regard them as something special. (Georges, 1979: 1298)

Senator Maunsell—Of course you do. Your statement with regard to the Aboriginals is that they are something different from the rest of us. That is not what most good thinking Australians believe. (Maunsell, 1979: 1298)

Again a member of the Fraser government revealed contradictory attitudes towards Indigenous people. While Ruddock argued that they were entitled to the “right of self-determination”, that is, to make decisions within “their own communities,” Maunsell claimed that they were no different to Non-indigenous people and should not in any way be considered a separate or different people. Further, he stated that to consider Indigenous people as separate and different is contrary to the normative view of “good thinking Australians”. This reinforced the idea of national normative cultural values and practices inherent in the classical conception of the nation.

It was the failure to recognise and deal with Indigenous people on the basis of their inherent cultural difference and separateness that made the paternalistic and assimilationist nature of Indigenous policy inevitable. Instead, Indigenous people, because of their cultural difference, were viewed as a ‘threat’ to national sovereignty and unity, and consequently must be continually policed and denied substantive self-determination. This approach was confirmed in the views expressed by Calder, who argued concerning the proposed *Aboriginal Land Rights (N.T.) Act* and the *Aboriginal Councils and Associations Act* that they:

have the effect of introducing separatism. Apartheid is separatism, although it is not acting in quite the same way, it is separatism. If that legislation as it is now drafted were pursued to its ultimate conclusion it could produce a black state in the Northern Territory. I am not certain that the Labor Party did not have that idea in mind when it drafted the legislation originally. If the legislation does not create a black state, it certainly will result in separate development. (Calder, 1977: 274)

The fear of separatism was reinforced through Calder’s criticism of legislation that was intended to give Indigenous people a measure of input into the ways in which

legislation concerning their land and their communities was formulated and implemented. Instead, for Calder the legislation constituted an attack on the nation in the form of a potential "black state". While Calder's position may be a dissenting view within his government, he nevertheless freely made his views known without party censure.

Beyond Calder's views the same attitudes towards Indigenous people are revealed in the Fraser government's approach to the "Treaty of Commitment" that was first proposed in 1976 (Bennett, 1989: 155). In reply to a question from Victorian Labor Senator Austin Lewis concerning the government's response to the proposed Treaty, the second Fraser government Minister for Aboriginal Affairs, Western Australian Liberal Senator Fred Chaney, argued that:

There is something of very great value in the proposition that there should be agreement between Aboriginals and the governments that concern them so much about what are appropriate measures which are to be taken on their behalf. Some concern has been expressed about the concept of a treaty because of the implication that one is in some way talking about more than one Australia or more than one nation within Australia. I would share that concern if the proposal meant that. The honourable senator may not know that last week the executive of the National Aboriginal Conference, which is the elected body representing Aboriginal opinion around Australia, dealt with the proposal for a treaty. It preferred to deal with it on the basis of an Aboriginal word 'makarrata'. The word suggests an agreement between people after a dispute.

The executive is dealing with it on the basis that Aboriginal people are Australian citizens with respect to whom the Commonwealth Government plays a very important role. The executive has established a sub-committee which will look at this proposition in more detail. It will consult with Aboriginal people and Aboriginal groups around Australia with a view to coming forward with some definite proposals. It has been made clear to me by members of the NAC that they do that as Australians within the Australian nation. I think that removes one of the fears that some people have had about the proposal. (Chaney, 1979: 2427)

The Aboriginal Affairs Minister emphasised his fears concerning the implications of a treaty, that is, of an Indigenous nation within the nation. Nevertheless, his fears were allayed by the NAC, which viewed the Treaty as an agreement between citizens within one Australian nation. This was an important point made by the NAC, also demonstrating indirectly that Indigenous people were seeking self-determination, not in the context of their own independent nation-state, but rather as citizens who are inherently different culturally. The Minister conceded that this was a more acceptable position. However, in his statement Senator Chaney reinforced the hegemonic role of the government concerning Indigenous existence when he stated that it was the government that would take “appropriate measures ... on their behalf”, and additionally that the role which the government played in Indigenous lives was different to that played in Non-indigenous lives. Implicitly he argued that the government needed to take a different role in Indigenous lives because of the potential for Indigenous people to assert ‘nationhood’ on the basis of their cultural difference. He also implied that Indigenous people occupied an inferior position in the nation as governments have the sovereign right to make decisions “on their behalf”. Essentially Chaney was arguing that it is legitimate for Indigenous people to formulate an agreement with the Australian government, but not one that alters the nature of the nation.

The problem that arises from Chaney’s position was that inevitably Indigenous people, whether considered to be inside or outside the nation, remain firmly under the control of the Non-indigenous government. The NAC’s decision on the idea of a treaty demonstrated their commitment to remain within the nation, but as Lippmann argued above, they also wanted to be able to make decisions about their own

communities on the basis of their own cultural values and practices. Clearly the self-management policy of the Fraser government would not deliver the empowerment that Indigenous people needed and desired.

Conclusion

Under the Fraser governments' policy of self-management Indigenous people could only occupy a position within the nation that was subject to government containment and control. This position precluded a resolution to the Indigenous problem that had arisen as the result of their loss of self-determination and sovereignty since colonisation. This was despite an understanding on the part of the government of the need for Indigenous people to be empowered to make their own decisions on the basis of their own cultural values, norms, and practices. Instead, the government demonstrated its ambivalence towards Indigenous people by maintaining as its preserve the power to make decisions on their behalf, underpinned by its fear of national division. The Fraser government was undoubtedly intent on maintaining the values, norms, and practices of the dominant Anglo-Celtic culture within the nation when it refused to extend any notion of 'special' rights for Indigenous people, or to treat them differently from any other Non-indigenous Australian citizen, as the uniqueness of the Indigenous problem demanded.

This chapter has reinforced the notion that control continued to be the defining characteristic of Indigenous policy in the post-1972 era, and that this occurred as a direct result of the position that Indigenous people occupy within the Anglo-Celtic imagining of the Australian nation. The disposition and attitude of the Australian

nation towards the Indigenous minority has been shown to correspond with the ideas of the classically imagined nation developed in Chapter Three.

After the defeat of the Fraser government at the 1983 Federal election the incoming Hawke Labor government reinstated self-determination as the national Indigenous policy. However, as will be shown in the following chapter, its policy was also characterised by the same level of control exercised over Indigenous people as had been those of the preceding Whitlam and Fraser governments.

8 The Hawke Government's policy of Indigenous self-determination: ATSIC the vehicle for 'self-determination'

Introduction

The return of a Labor government to the Commonwealth Parliament in May 1983 saw the reinstatement of a policy of Indigenous self-determination, in keeping with the Labor policy precedent that had been established by the Whitlam government. This position was confirmed on 8 December 1983 when the Hawke government stated its commitment to the principle of Indigenous self-determination during an address to the parliament that outlined its Indigenous policy agenda (Holding, 1983: 3487). The election of the Hawke government brought with it a renewed and positive rhetoric to the resolution of the Indigenous 'problem'. Its proposals, if carried out, would contribute to a repositioning of Indigenous people within the nation. The Hawke Labor government demonstrated a sound understanding of the Indigenous 'problem', in relation to how it had originated and what was required if it was to be resolved.

This chapter will analyse a number of important issues that, however, reveal the ambiguous and ambivalent nature of the position of the Hawke government in relation to the Indigenous 'problem' and the need for Indigenous self-determination. These issues included the preparations for Australia's bicentennial celebrations, the establishing of the new national Indigenous representative body ATSIC as a vehicle

for self-determination, and the renewed interest in the formation of a treaty with Indigenous people.

Despite the pro-active stance of the Hawke government, Max Griffiths argued that when it came to power “Aboriginal affairs was not high on the list of its priorities” (1995: 205). This was principally because of the state of the national economy, as Australia was experiencing record high interest rates and high unemployment figures. As is often the case in difficult economic circumstances, Indigenous issues take second place because Indigenous people represent such a small percentage of the national population. Nevertheless, the government did engage in wide-ranging analyses of the Indigenous situation before introducing its first policies late in 1983 (Griffiths, 1995: 205).

The extensive range of Labor’s investigations did demonstrate a commitment to understanding the problem, as well as revealing the appalling conditions under which many Indigenous people lived. However, the Labor government did not respond entirely on the basis of Indigenous need; it was also sensitive to public perceptions of the Indigenous problem, which it monitored through opinion polls. Through such actions the Hawke government demonstrated ambivalence towards Indigenous people, primarily because it was ultimately committed to the classical European idea of nation and sought to maintain the monocultural hegemony of the Anglo-Celtic majority. As a consequence the Hawke government was unwilling to accommodate a substantive level of Indigenous self-determination within the nation.

The Hawke Government's Construction of the Indigenous 'Problem'

The perception of the Indigenous 'problem' by government in relation to the formulation and implementation of its policy is an important factor in the process of policy analysis as it reveals the basis from which the government works in relation to Indigenous issues. The Hawke government understood the direct link between the Indigenous problem and Australia's post-1788 history, and the Australian nation that had subsequently developed. The government's understanding of the problem also exposed the disparity between its rhetorical support for Indigenous self-determination and its actual policy practices.

A number of statements made by two of the Labor government's Ministers for Aboriginal Affairs reveal their understandings of the problem. Its first Minister for Aboriginal Affairs, Victorian Labor MP Clyde Holding, in an address to the parliament relating to the celebration of Australia's bicentennial, argued that:

It provides an opportunity for this Parliament and our people not merely to contemplate our achievements as a nation but also to come to terms with our own history. The origins of Australia as the Western nation we know today are seen by indigenous people here as the end of the Dreaming, not the birth of the nation. For those who had been the custodians of this land for so long it was the beginning of dispossession, disease and death; in short, of the destruction of Aboriginal society. (Holding, 1983: 3486)

Holding identified the parliament, the nation, and Australian history with "our people", that is the Non-indigenous people, and portrayed "indigenous people" as being outside of the "Western nation". Again this understanding of the problem reflects the ideas of nation discussed in Chapter Three, where it was established that the dominant national culture marginalises a minority culture within its national space. Holding added that for the Non-indigenous the "birth of the nation" and its

subsequent “achievements” had resulted in the “destruction of Aboriginal society”. This represented a particularly clear understanding of the central issues of the Indigenous problem on the part of Labor, as there was a recognition that the presence of Indigenous people problematised the imagined Australian nation of the dominant culture. It also created the possibility for Indigenous people to be recognised as a separate people with a right to have their self-determination restored. Such a perspective of the Indigenous problem offered a sound basis for the repositioning of Indigenous people within the imagined nation.

Further emphasising this point, in a statement that reflects a central argument of the thesis, Holding commented that the “European vision of Australia’s future had no place in it for the Aboriginal people for their values and their traditions” (Holding, 1983: 3486). Holding correctly acknowledged that Indigenous people had been excluded from the nation, nevertheless, this was expressed in the past tense. However, the consequences of their exclusion remained a contemporary problem. As was argued in Chapter Five, it was not until the end of the assimilation period that Indigenous people’s “values and traditions” had been viewed as having any validity. As has also been argued, the consequence of the rejection of Indigenous people and their cultural values and practices was made evident in the level of control that was exercised over their lives because of their inherent difference from the dominant Anglo-Celtic culture. This was something that had continued throughout the terms of the Whitlam and Fraser governments and would continue under Hawke. Implicit in Holding’s statement was the fact that Indigenous people needed to have their values and traditions respected and recognised as valid, something that would be essential if Indigenous people were to achieve self-determination. The recognition that Australia

remained dominated by a “European vision” of the nation in the lead-up to the bicentennial confirmed the idea of it being a classical European nation.

The Hawke government also understood that the resolution of the problem involved the whole of Indigenous existence. Holding argued in a ministerial statement that:

Aboriginal needs are complex and far reaching, and secure tenure to land, important though it undoubtedly is, meets only one facet of these needs. The Government has been most active in developing programs aimed at overcoming the poverty, disease and disadvantage that remains the lot of far too many Aborigines and Islanders. (Holding, 1986: 1476)

Holding acknowledged that his ministry was faced with difficult and extensive issues that were impacting on the whole of Indigenous existence, although it was significant that he did not raise the issue of Indigenous empowerment as part of a solution to these difficulties. Later in the same address he added, in relation to the resolution of the difficulties that Indigenous people faced, that:

No one should imagine that that is something easy or simple to achieve. The legacy of the past, and prejudices and misrepresentations of the present, still confront us. The Aboriginal people of Australia face life with a handicap—one which, over time, we are determined to reduce and eventually to remove”. (Holding, 1986: 1477)

Holding understood that the problem was not only a matter of overcoming the compounded injustices of the past, but that Indigenous people faced contemporary obstacles that placed them at a distinct disadvantage within the nation.

The fact that responsibility for causing the Indigenous ‘problem’ lay predominantly with Non-indigenous people was also acknowledged by the second Minister for Aboriginal Affairs, Victorian Labor MP Gerry Hand, who in 1989 argued that: “the history of Aboriginal affairs is littered with mistakes. But by golly, I have to say that most of those mistakes were not made by Aboriginal people. They were made by

people who thought they knew best and inflicted ideas and programs on them. Those days have to change” (Hand, 1989a: 1146). Hand recognised that it was the Non-indigenous exercise of control over Indigenous existence that was a major cause of the problem, through a history of “inflicted ideas and programs”. Equally, he argued that the exercise of such controls would have to end, indicating the government’s commitment to self-determination. However, despite this frank acknowledgement by Hand, the Hawke government’s position concerning the resolution of the problem remained characterised by ambivalence, and resulted in continued control.

This assertion is confirmed by Scott Bennett, who argued in relation to Holding that he sought: “to interfere in many aspects of Aboriginal matters in contradiction of his party’s self-determination ideal, and Aboriginal leaders eventually began to call for his removal from office” (Bennett, 1989: 25). The call by Indigenous leaders demonstrated that despite the government’s apparent sound understanding of the Indigenous problem, government control remained a distinguishing characteristic of its policy practice. Further, there was a reluctance to cede substantive self-determination to Indigenous people because of the over-riding need to protect the political hegemony of the dominant Anglo-Celtic culture within the nation. Bennett went on to observe that: “The logical aim of ‘self-determination’ must surely be for the Minister for Aboriginal Affairs and his department to work themselves out of a job, but no Minister, and least of all Holding, has seemed at all keen to see this occur” (1989: 25). Bennett confirmed the ambivalence inherent in government attitudes and practices towards the self-determination of Indigenous people. As he asserted, if Labor had been truly committed to a policy of self-determination there would have been a transfer of power to Indigenous people to control their own lives.

However, this did not occur, because contrary to what Holding had argued above, the nation, in the present and not simply in the past, remained locked into a “European vision of Australia’s future”, one that would not accommodate Indigenous self-determination. Thus, despite the depth of understanding expressed by the Labor Ministers for Aboriginal Affairs concerning the nature of the Indigenous problem, progress was not made because of the lack of will to re-imagine the nation in a way that control over Indigenous existence could be relinquished.

The 1988 Bicentennial Celebrations and the Indigenous ‘Problem’

The extent of the ambiguity and ambivalence of Labor’s commitment to Indigenous self-determination was also made evident in their preparations for the 1988 bicentennial celebrations, during which the world’s media attention would be focused on Australia. While there appeared to be a genuine desire to bring about significant change by 1988, there was also a concerted effort to ensure that Indigenous people were ‘on side’ during this period. This was to prevent any international embarrassment for Australia concerning its attitudes and practices towards Indigenous people, which Holding made explicit in a motion to the parliament during the first year of the Labor administration:

This motion seeks to provide the Parliament and the nation with a set of principles which will guide the attitudes of the majority of Australians to Aboriginal Australians and of them to us. In doing so, it will provide the foundations for policies that governments can apply in the future. What has happened in this country between black and white has often been ignoble and we have only recently begun to admit to ourselves that the widely accepted version of our national beginnings, of white men bringing the benefits of civilization to benighted heathens, is rather less than the whole truth. Even more so, the comfortable assumption that the Aborigines accepted, perhaps even welcomed, this civilizing mission without putting up a real fight is a view of the past which no longer stands up to examination.

The bicentennial year of 1988 provides a focus for us to think seriously about our national beginnings. (Holding, 1983: 3486)

It was significant that Holding again identified the parliament and the nation with the majority Non-indigenous people, and further, linked them to the policies that governments had formulated and implemented for Indigenous people. This position echoes the arguments developed in Chapter Three concerning the hegemony of the dominant national culture and its ability to establish the “principles” and “guide the attitudes” concerning how cultural difference will be ‘managed’ within the national space. Nevertheless, the thrust of Holding’s motion was indicative of a shift in Australia’s understanding of its history and the prevailing idea of the nation. He admitted that the imagined Australian nation was based on “rather less than the whole truth” of what had actually transpired since 1788, alluding to the need for a re-imagining of the nation as one that would finally recognise the right of Indigenous people to determine their own lives free from the imposed ‘civilising’ cultural values and practices of the Non-indigenous majority. Implicitly there was also an acknowledgement that Australia had been invaded rather than settled, and that it was something that Indigenous people had actively resisted.

However, it remained clear that the prerogative and ability to effect the necessary changes lay with the government, that is, as the representative body of the “majority of Australians”. For Holding it would be the government that would set the parameters in which the anticipated changes would occur, and it would be the government that would “guide” the attitudes of Indigenous people to the Non-indigenous majority. As Holding explained, the representatives of the Anglo-Celtic majority were in the hegemonic position that enabled them to establish their own principles as the basis for future Indigenous policies rather than, as self-

determination implies, Indigenous people themselves being able to determine their own policy principles according to their own cultural values and practices.

It was necessary, and commendable, that this shift in the Non-indigenous understanding of Australian history and the idea of nation would be promoted, nevertheless, it was also clear that there would be no substantial change in the distribution of power. For Holding it was the government that would be setting the agenda and controlling the process, which would subsequently lay the foundations for “governments” future Indigenous policies. Government ambiguity and ambivalence towards the right of Indigenous people to determine their own futures was evident in its approach. Consistent with the idea of the classical European nation, the dominant position of the majority culture within the nation remained intact. This was an idea that Holding acknowledged as applicable to the Australian situation when he referred to Australia as a “Western nation”. As an inevitable consequence Indigenous people were subjected to the agenda set by the government representing the “majority of Australians”, that is, the Non-indigenous Australians.

While the Hawke government’s acknowledgement of the origin of the Indigenous problem represented a significant improvement in government attitudes towards Indigenous people, it remained locked into a pattern of Non-indigenous domination because there was no substantive empowerment of Indigenous people to determine their own futures. In short, it was the Non-indigenous majority that owned and controlled the process, and determined the extent of change that would be implemented *for* Indigenous people. This, it must be noted, was occurring in the context of preparations for the international scrutiny which Australia would be

subjected to during the bicentennial celebrations, a point that was not lost on Holding. Irrespective of whether substantive changes would ultimately be realised for Indigenous people, it was imperative that Australia should not be embarrassed during the bicentennial year.

Holding appreciated that Indigenous people would see the potential for hypocrisy on the part of the government in relation to the bicentennial; that is, the government placating Indigenous aspirations until the celebrations had ended and then reverting to the previous status quo. To prevent this, he sought to place the event in a broader historical context for achieving justice for Indigenous people. Continuing the presentation of his motion to the house, he added that:

We expect Aboriginal people to forget the past and not be bitter, but they do not forget the past, of course, because for them the past is always present. To be able to remember a time immemorial sounds to us an irony and we either do not believe it or try to dismiss it. But the Aboriginal people dare not forget the past or allow their children to forget it, for people who have survived a holocaust will teach their children the hard lessons of that survival. (Holding, 1983: 3486-7)

Holding portrayed the treatment that had been inflicted on Indigenous people as a “holocaust”, a term that in the mid to late twentieth century tended to be reserved in the main to describe Hitler’s campaign against the European Jews. It described the very worst treatment that human beings could inflict on one another—a highly organised national extermination of a minority people. While it could not be denied that Indigenous people were at times, and to varying degrees, subjected to brutal treatment, it was not committed on the same scale or with the same intent as that inflicted on the European Jews. Without wanting to diminish in any way what has been suffered by Indigenous people in contrast to the Jewish holocaust, Holding’s use of the historical and emotively charged term “holocaust” in the Australian

context was perhaps inappropriate. Nevertheless, it did confirm his understanding of the position of Indigenous people within the nation and the depth of suffering that they had endured at the hands of the Non-indigenous majority.

In his capacity as Minister for Aboriginal Affairs, his statement about the nation's treatment of Indigenous people could not easily be dismissed or retracted without damaging his relationship with them. Having created the above context Holding then went on to add:

Now we are concerned that they might not be inclined to join in our bicentennial celebrations in 1988 and we entertain, even with some resentment, the thought that we could stand, therefore, to be embarrassed in the eyes of the world. We would, of course, feel it most unreasonable of them not to come to the party when we have, for so long, allowed them to see only the worst of us. The European vision of Australia's future had no place in it for the Aboriginal people for their values and their traditions, so we have allowed them to have a small share of the wealth of their own country and so few rights and privileges. It is now clear that we must make some amends, we must allow them some redress, albeit at some cost to the rest of us and with some sacrifice. We must understand the past, which we cannot change, in order to build the future. But we must not repeat the hypocrisy. We must not make only cosmetic changes merely for the sake of the bicentennial celebrations. (Holding, 1983: 3486-7)

Holding expressed his desire for Indigenous people to see themselves as an integral part of the nation and for them to participate in the celebrations. There was also a certain sense of national vulnerability, with the potential for Indigenous people to instead respond according to the unjust treatment that they had been subjected to in the past. To counter this, Holding acknowledged that Indigenous people had received little benefit from the Non-indigenous domination of "their own country". To rectify the situation, he argued, would require a substantive "cost" and "sacrifice" on the part of Non-indigenous Australians rather than a "cosmetic" remedy. Holding had implicitly argued that there was the need to re-imagine the nation, to be realised

in a 'new' and inclusive "vision of Australia's future," that would significantly extend their minimal rights and privileges on the basis of their own cultural values and traditions. Nevertheless, the "sacrifice" that Holding had anticipated in 1983 obviously did not extend to ceding the power of self-determination to Indigenous people. Instead, as anticipated at the introduction of his motion to the parliament, it would be the government that would provide the principles that would form the foundations of *its* future Indigenous policies (Holding, 1983: 3486).

Evidence of the lack of willingness to make a national "sacrifice" was also clear in relation to Indigenous land rights. In March 1986 Prime Minister Bob Hawke conceded that a "hardening of community attitudes had led to his government's change of view" concerning national strategies on land rights (Bennett, 1999: 70). Thus the formulation and implementation of the Hawke government's Indigenous policies became subject to public opinion polls rather than to the pressing matters of social and political justice.

This argument will be reinforced in the analysis of other issues below and will demonstrate that the Hawke Labor government, like the Whitlam and Fraser governments before it, would continue to exercise control over Indigenous existence. Further, that despite the rhetoric of Indigenous empowerment, it would also continue to protect the position of the dominant Anglo-Celtic culture at their expense. The motivations for including Indigenous people in the bicentennial celebrations proved to be a hollow exercise in containment and the protection of the government's international interests, thus exposing again the ambiguity and ambivalence inherent in governmental attitudes towards Indigenous empowerment.

The Hawke Government's Indigenous Self-determination Policy v. National Sovereignty

Throughout the Hawke government's terms of office the question of national sovereignty was raised on a number of occasions in relation to its Indigenous self-determination policy. In December 1983 Holding made an emphatic statement to the parliament concerning sovereignty, arguing in relation to Indigenous policy and the status of Indigenous people within the nation that:

there is no issue of sovereignty and I have made it clear to Aboriginal people that neither the grant of land rights, nor the recognition of Aboriginal prior occupation and ownership, in any way puts Australian sovereignty in question. Given the opportunity, Aboriginal people will make their own future as citizens of the Australian nation, as we all will. Sovereignty is vested in the Crown and parliaments, for a single people united in the Commonwealth. The people who are so united under the Crown are all Australians. These matters are not in question. (Holding, 1983: 3489)

Holding's statement was not unreasonable within the internationally recognised understanding of national sovereignty. However, his statement on sovereignty did not acknowledge the hegemonic position of a Non-indigenous culture within the nation, that privileged and imposed Non-indigenous norms, values, and practices on Indigenous people. He argued that Australia consisted of "a single people united in the Commonwealth" in contradiction of his above statement concerning the bicentennial where he recognised Indigenous people as being distinct from the Non-indigenous majority.

Holding's understanding of sovereignty would not have been discriminatory or exclusive if there had been a commitment to accommodate Indigenous people and their cultural values and practices within the nation. This point was discussed in

Chapter One, where consideration was given to the arguments of the United Nations Indigenous Working Group in relation to this matter. Politically, the notion of national sovereignty is closely linked to nationalism and national culture, particularly where there is any perception of an external national threat or a potential internal challenge from a minority culture. In support of this idea, Australia is not identified in Asia or throughout the world as an Indigenous Australian nation, rather it is identified as a 'European' or 'Western' nation. Therefore, the idea of a "single people" is not unproblematic, but instead reinforced the idea of a monocultural nation. Sovereignty is a discourse about power, and nationalism is a discourse about who wields that power. Discourses concerning a national culture inherently promote and protect the norms, values, and practices that constitute 'the national culture'.

A further point that was made implicitly by Holding was that national sovereignty was in fact divided between the Commonwealth and State "parliaments". So in practice there is no single national sovereignty, rather it is the sum of a number of lesser sovereignties unified in the Crown and articulated through the Constitution. In relation to the position of Indigenous people within the nation, this point is particularly relevant. A central argument in Chapter One was that notions of Indigenous sovereignty and self-determination do not necessarily pose a threat to national sovereignty, therefore it is possible for them to be accommodated within the already divided national sovereignty. Notwithstanding the Constitutional division of Australia's sovereignty between the Commonwealth and the States on the basis of divided responsibilities, the notion of national sovereignty divided on the basis of 'race' is considered anathema to the concept of national unity. Holding's emphatic

denial of any implication of Indigenous sovereignty reinforced the argument that sovereignty is culturally specific in nature.

Despite Holding's denial of any implication of Indigenous sovereignty in Labor's self-determination policy, he acknowledged that Indigenous people needed to be recognised as Australia's original owners. In rejecting the ambiguous status that was imposed on Indigenous people historically through the legal doctrine of *terra nullius*, Holding argued:

Australia was unique in that no contract between the colonisers and the colonised was ever negotiated. In other countries, the indigenous people were offered some kind of deal. Although the consideration was often derisory, those deals at least proceeded on the basis that the indigenous inhabitants were the original owners of the land. No such recognition was accorded to the Aboriginal people. The legal doctrine of 'terra nullius' was applied on the presumption that the Aboriginal people were not people at all; that their presence in Australia was of no more significance than the flora and fauna. We can no longer live with such a naive and arrogant concept of our beginnings as a nation, and the prior ownership of Australia by the Aboriginal and Torres Strait Islander people must be acknowledged by this Parliament and understood by all Australians. (Holding, 1983: 3490)

The recognition by Holding of the great injustice that was inflicted on Indigenous people through *terra nullius* represented a significant step in Australia's treatment of them. Here Holding refuted the validity of the concept almost a decade before it was overturned by the High Court in the Mabo case. Nevertheless, despite Holding's clear understanding of what the consequences of colonisation were for Indigenous people, that is, their 'irrelevance' to the creation of the nation, he perpetuated the 'arrogance' of Australia's development as a nation through his refusal to deliver self-determination to them. His refusal to grant self-determination implied the need for Indigenous people to be subsumed into the Australian nation, with the resultant loss

of their inherent and original rights. However, the opposition was even more emphatic in their rejection of any notion of Indigenous sovereignty.

In response to Labor's policy of Indigenous self-determination and the perceived implication of sovereignty the opposition's shadow Minister for Aboriginal Affairs, South Australian Liberal MP James Porter argued that: "When the Minister refers to 'control over all aspects of their lives', I assume that he is referring to the desirability of the Aboriginal people having control over and responsibility for their own affairs. To give control literally over all aspects of their lives infers the setting up of a separate sovereign state" (Porter, 1983: 3497). The opposition conflated the intention to grant Indigenous people control over their "own affairs" with the establishment of an Indigenous state. Porter's statement also suggested the need for continued control by the government over Indigenous lives. In a similar way another opposition spokesperson on Aboriginal Affairs, New South Wales Liberal MP David Connolly, asserted that the self-determination policy gave the "perception of a state within a state", and that it represented "a form of administrative apartheid" (Connolly, 1985: 2228). This assertion implicitly suggested the need for assimilation through his rejection of any notion of 'racial' division or separation within the nation.

Both objections failed to take account of the extent of control that had been imposed on Indigenous people since colonisation. However, while their positions appeared to signify differences between the government and the opposition in their understanding of the Indigenous problem, they both remained locked into the classical idea of the

nation where there would be no accommodation of sovereignty or self-determination for a minority Indigenous culture.

The rhetoric, at least, of Labor's self-determination policy was intended to improve the position of Indigenous people within the nation and give some recognition to their original ownership of the land, free from any implication of separation or national division. Nevertheless, the sovereignty debate intensified when Labor established the Aboriginal and Torres Strait Islander Commission (ATSIC) as a replacement body for the National Aboriginal Conference established under the Fraser government (Hand, 1987a: 3152).

'Self-determination' through ATSIC v. Control

In 1987 the Minister for Aboriginal Affairs, Gerry Hand, announced the proposal to establish ATSIC in his policy statement entitled *Foundations for the Future*.

Introducing the concept of ATSIC to the parliament, Hand stated:

It is with immense pride on behalf of this Labor Government that I am able to present to the Parliament today proposals of great and historic importance for all Australians. The proposals fulfil the commitment by the Prime Minister (Mr Hawke) that an Aboriginal Affairs Commission be established; the Commission will be known as the Aboriginal and Torres Strait Islander Commission (ATSIC). These proposals address issues of considerable magnitude. It is time that these important issues be dealt with in a constructive manner.

For more than 40,000 years Aboriginal and Islander people have considered themselves the custodians of this land. Aboriginal and Islander people have maintained their pride, their dignity and their integrity despite the impact of European settlement just 200 years ago. The impact of this settlement is still being felt by Aboriginal and Islander people today. ...

In the light of this history, it is proposed by this Government to acknowledge that 'the Aboriginal and Torres Strait Islander peoples were the prior occupiers and original owners of this land'. It is envisaged that

such an acknowledge [sic] would be included in the preamble to legislation introduced to achieve the aims outlined in this statement. (Hand, 1987b: 3152)

Hand indicated that it was Labor's intention that significant and "historic" changes to the relationship between the nation and Indigenous people would be achieved through the new representative body. Labor's proposals were given in recognition of the fact that the colonisation of Australia had a continuing impact on the lives of Indigenous people. In the same address Hand went on to argue that, "there is a need to understand properly and to address seriously the vital issue of self-determination for Aboriginal and Islander people" (Hand, 1987b: 3152). Hand gave an explicit and serious commitment to resolving the "vital" issue of Indigenous self-determination through the establishment of ATSIC.

At this point it is worth reiterating the definition of self-determination given in Chapter One—the right of Indigenous people to be able to "freely determine their political status and freely pursue their economic, social and cultural developments" (Dodson, M., 1993: 41). Further, self-determination "is an expression, ... of the aspiration to rule one's self and not be ruled by others", that is, "not just to be 'free', but to be 'free from' what [is] perceive[d] as 'others'" (Ronen, 1979: 7).

Hand defined the parameters of self-determination in the following way:

In the past there has been a misunderstanding of what Aboriginal and Islander people have meant when talking of self-determination. What has always existed is a willingness and desire by Aboriginal and Islander people to be involved in the decision-making process of government. It is the right of Aboriginal and Islander people as citizens of this country to be involved in this process, as ultimately these decisions will affect their daily lives. We must ensure that Aboriginal and Islander people are properly involved at all levels of the decision-making process in order that the right decisions are taken about their lives. Aboriginal people need to decide for themselves what should be done—not just take

whatever governments think or say is best for them. (Hand, 1987b: 3152)

While recognising that Indigenous people had been calling for self-determination, Hand went on to give his interpretation of what they had meant by the term. As far as he was concerned their aspiration for self-determination could be summed up as “a willingness and desire ... to be involved in the decision-making process of government”. The prerogative of decision-making remains the government’s, because as “citizens of this country”, they have a right to be merely involved in the decisions that are made about their lives. This, however, was not self-determination as it was defined above, as there was no freedom to actually make their own decisions independently from the government’s established decision-making processes.

As was discussed in Chapter One, when Indigenous people are treated in the same way as all other citizens it precludes them from determining their lives according to their own cultural values and practices, free from the intervention of the dominant national culture. Despite Labor’s understanding of the Indigenous problem, they remained locked into the classical idea of nation as one that required that the rights of the Indigenous minority should be managed and prescribed by the dominant culture. In the final sentence of the above passage Hand again demonstrated the ambiguity and ambivalence inherent in the government’s position. He stated that Indigenous people should make their own decisions rather than have decisions imposed on them by governments, when he had clearly indicated that it was the government that would make the final decisions about their lives.

The policy's ambiguity and the government's ambivalence was further demonstrated when Hand argued that:

It is not simply a symbolic move but one of substance that provides a real foundation for the future. Until all Australians recognise this need for self-determination, recognise the Aboriginal and Islanders' pride and dignity as a people and until Aboriginal and Islander people can take their rightful place as full and equal participants in the richness and diversity of this nation, our claims to being a civilised, mature and humane society sound hollow. (Hand, 1987b: 3153)

When consideration is given to the definitions of self-determination above it can only be concluded that Hand's proposal was nothing more than "symbolic". This was because Indigenous people could only be self-determining on the same basis as Non-indigenous people, not on their own cultural terms.

Undoubtedly the shift to a policy of self-determination and changes in government attitudes towards Indigenous people represented a significant change from the overtly controlling policies of the assimilation period. However, it did not deliver self-determination to Indigenous people, even though it was considered to be a "vital" issue that needed to be facilitated. Control would remain a distinguishing characteristic of Labor's Indigenous policy, albeit a covert form of control, informed by the dominant conception of nation that was inherent in the government's "decision-making processes". This idea was confirmed in 1988 by Prime Minister Hawke, who affirmed "the entitlement of Aborigines and Torres Strait Islanders to self-management and self-determination subject to the Constitution and the laws of the Commonwealth of Australia" (Hawke, 1988: 137). While this appears to be a reasonable qualification, when consideration is given to the culturally specific basis of the Constitution and Commonwealth laws it is clear that Indigenous self-determination would not be accommodated according to their own cultural values

and practices. In effect Indigenous 'self-determination' would be controlled and contained within a Non-indigenous cultural framework.

However, despite the qualification that Hawke had placed on the extent of the self-determination policy, the opposition wanted to extend the qualification. The leader of the opposition, New South Wales Liberal MP John Howard, demanded that Labor: "after the words 'the entitlement of Aborigines and Torres Strait Islanders to self-management and self-determination', insert 'in common with all other Australians'" (Howard, 1988: 141). This qualification represented an even greater desire to ensure that Indigenous people would not have rights that were incongruous with the rights of "all other Australians," that is, 'Non-indigenous' Australians. The same view was echoed in a contribution to the debate by New South Wales MP Ian Sinclair, leader of the National Party of Australia, who argued in support of Howard's proposed amendment that:

it is important that people understand that on our side of the House we want to try to bring all Australians into the one embrace. What the Labor Party motion seeks to do is to isolate the Aborigines in some way totally from the rest of Australians. We see it as critical that in the consideration of how we can best help the Aboriginal people we do not treat them as an apartheid race in some other country, but rather that they are with us in the development and the growth within this country. Therefore, we seek to move an amendment which says that we should treat them 'in common with all other Australians'. (Sinclair, 1988: 147)

Despite the very limited extent of self-determination that Labor was offering to Indigenous people through ATSIC, the opposition viewed it as an act of separation or division of Australia. It is difficult to interpret Sinclair's proposed commonality of treatment of Non-indigenous and Indigenous Australians as anything less than an assimilationist approach to Indigenous policy. Sinclair confirmed this position when he argued that the amendment "will protect the Aboriginal people from being

distinguished in some way from other Australians” (Sinclair, 1988: 148). Here Sinclair argued that Indigenous people needed to be ‘protected’ from any recognition of their inherent difference from Non-indigenous Australians. He went on to argue that the establishing of ATSIC raised the “possibility of setting up a separate apartheid state” (Sinclair, 1988: 146). Again this argument was based on the defence of maintaining one Australian people in line with the classical conception of nation.

Northern Territory Labor MP Warren Snowdon asserted that the opposition’s arguments concerning their proposed amendment indicated that its policy position on Aboriginal Affairs was “a return to the assimilationist claptrap of one Australia—the 1960s mentality which pervades the Opposition’s front bench” (Snowdon, 1988a: 2116). Almost 20 years after the demise of the assimilation policy it still informed the ideas of some opposition politicians, and underlay a mode of thinking that sought to retain the dominance of the nation’s Anglo-Celtic culture.

While the Hawke government did not accept the opposition’s amendment, the ATSIC Act that was finally passed did not contain the term ‘self-determination’.¹ It stated under the section Objects:

3. The objects of this Act are, in recognition of the past dispossession and dispersal of the Aboriginal and Torres Strait Islander peoples and their present disadvantaged position in Australian society:

(a) to ensure maximum participation of Aboriginal persons and Torres Strait Islanders in the formulation and implementation of government policies that affect them;

(b) to promote the development of self-management and self-sufficiency among Aboriginal persons and Torres Strait Islanders (Commonwealth of Australia, *Aboriginal and Torres Strait Islander Commission Act 1989*)

Rather than 'entitling' Indigenous people to an albeit limited notion of self-determination, as was expressed by Labor in the Bill's debates, the *Act* stated that it would simply "promote" the even more limited concept of "self-management and self-sufficiency". This is further proof of the level of ambivalence in the Hawke government's dealings with Indigenous people. Clause (a) also demonstrated that control was to be retained by the government over policy formulation and implementation, the role of Indigenous people being limited to "participation". In 1992 Indigenous lawyer Paul Coe, Director of the National Aboriginal and Islander Legal Service Secretariat, criticised the role of ATSIC:

despite attempts to dress it up as an assembly of Aboriginal and Torres Strait Islander Commissioners, ATSIC remains a white bureaucratic structure. Through the co-option of our brothers and sisters into its essentially white administration, it seeks to legitimise continuing state control of our affairs. (Department of Foreign Affairs and Trade, 1992: 5)

Coe articulated Indigenous issues as "our affairs", in contrast to the government's position of 'our' policies. This point was critical as it demonstrated where power lay and who would be wielding that power. For Coe, self-determination through ATSIC represented a continuation of the control that had been exercised over Indigenous people rather than its cessation. Indigenous people would be denied control of their own lives because it was perceived as a threat to the Non-indigenous control of the nation.

This assertion was confirmed by Hand who, during the second reading of the proposed ATSIC legislation, responded to criticisms of the 'power' that was to be given to Indigenous people:

There have been some people who have criticised the proposal to involve Aboriginal and Islander people in the decision making process. The main argument used against ATSIC by these people—and in the main

they are political opponents—is that the new Commission will ‘divide’ Australia. They tend to justify this by alleging the Government is setting up a separate Black Parliament. ATSIC is not a parliament. It has no powers to make laws. Its own power is derived from legislation and it is accountable to the Minister and to this Parliament. (Hand, 1989b: 1999)

Hand first dismissed the arguments of those who wanted to retain overt control over Indigenous affairs by excluding Indigenous people from the “decision making process”. Again, this is implicit evidence of a desire by some opposition politicians to reinstate an assimilationist agenda into Aboriginal Affairs, and further, that the “political opponents” feared a division of power within the nation on the basis of ‘race’. Nevertheless, Hand was unequivocal about the extent of ATSIC’s power—it would be circumscribed by the wording of the legislation which, as quoted above, was limited to “self-management and self-sufficiency”. Beyond this, the limited power was further subject to the discretion of the Minister and the parliament, and it is “Ministers [that] are the ultimate policy-makers”, rather than those whose lives are subject to the policy (Edwards, M., 2001: 1).

Clearly Labor’s self-determination policy under the ATSIC legislation would not deliver to Indigenous people the power to “rule” themselves. Instead it would be limited to “participation” and “involvement” in the policy “decision-making processes”, with the Minister retaining the power to make the final decision. Despite the contrast between the government’s and the opposition’s rhetoric in the parliamentary debates on the ATSIC legislation there was in effect little difference in what was delivered to Indigenous people by Labor in terms of control over their lives. As the establishment of ATSIC had caused controversy over its perceived threat to the nation, so too did Hawke’s proposal to form a treaty with Indigenous people.

The Proposed Labor Treaty and The Nation

While the Fraser government had discussed the issue of a treaty with Indigenous people in 1979 under the term 'makarrata' (Bennett, 1989: 155), no agreement had been reached. Hawke revived the idea in October 1987, proposing a "compact of understanding" as a means of resolving the historical failure to negotiate the colonisation of Australia with Indigenous people. Regardless of the nomenclature of any proposed agreement, it is the implications that are of greatest importance. Therefore, the general term 'treaty' will be used, with the main focus on how the issue was dealt with and the responses to its implications for the nation.

The significance of establishing a treaty between Indigenous and Non-indigenous Australians is considerable, not necessarily in material terms, but in terms of clarifying and raising the status of Indigenous people in relation to the Australian nation, in particular in recognising their special status as the original sovereign owners of the continent. Snowdon clearly articulated why a treaty was necessary:

While there is a view that non-Aboriginal Australians should not have to atone for the sins of their forebears, we are still not prepared to accept that this colonisation process, the historical continuum of dispossession, alienation and oppression which began in 1788 continues to this day. No longer do we, the colonisers, rely on guns and poison. The contemporary tools of colonisation are legislation and statutes, and these derive their power from the legal fiction of terra nullius, and to our refusal to come to terms with our obligations to Aboriginal Australians as the indigenous owners of this land whose rights have never been ceded. To the best of my knowledge we remain the only former British colony not to have recognised the rights of the indigenous people either by treaty or through the Constitution. (Snowdon, 1987: 272-3)

From Snowdon's position colonisation remained an ongoing process and the status of Indigenous people in relation to the nation remained unresolved. Importantly, he

argued that it was “legislation and statutes” that had become the “tools of colonisation”, confirming that an unbroken chain of control had continued over Indigenous people since colonisation. Further, he recognised Australia’s ‘unique’ position among other colonial nations such as Canada, the USA and New Zealand in its failure to negotiate a treaty and formalise its relationship with Indigenous people. While treaties in those countries have not necessarily delivered better health or material gains to Indigenous people, they have established legal and political recognition of their rights as ‘first nations’. Of course, much more needs to be done for Indigenous people, but the continuing legal validity of the doctrine of *terra nullius* in Australia denied them any legitimacy in claiming to be ‘first nations’. As Hand had argued, “*terra nullius*” offered to Indigenous people “no more significance than the flora and fauna” (Hand, 1983: 3490). The Hawke Labor government clearly understood that this indictment on Australia as a nation needed to be resolved.

Demonstrating their understanding of the need to reposition Indigenous people in relation to the nation through some form of treaty, Hawke argued in an address to the parliament that:

as we approach our 200 years of European settlement in this country, we do so in the recognition that that 200 years comes after 40,000 years of a proud tradition and culture of the Aboriginal people, and that we will not as a nation properly celebrate the 200 years of European settlement if we do not have that fact in our minds.

As Prime Minister of this country, I am concerned to try to stimulate, if I can, a consideration by the Aboriginal people and the non-Aboriginal in this country of what the nature of that relationship between the 200 years of European settlement and 40,000 years of Aboriginal culture and tradition should be. (Hawke, 1987: 860)

Hawke understood that 40,000 years of Indigenous sovereignty had been overturned by 200 years of Non-indigenous sovereignty, and this issue had to be resolved

through some form of mutual agreement. He also conceded that it was important for the nation's Non-indigenous people to acknowledge that it was a legitimate Indigenous claim. To gauge the level of public support for the proposed treaty Hawke looked to public opinion polls. In the parliament he reported that: "I am ... encouraged by a public opinion survey reported in the *Sydney Morning Herald* yesterday which showed that 58 per cent of those surveyed supported the compact proposal in principle" (Hawke, 1987: 860). The government's reliance on opinion polls underlined that it was not free to enter an agreement with Indigenous people without consultation with the nation. The need for a treaty demonstrated that Indigenous people were in fact a distinct and unique group within the nation, but whose claim to a legitimate and separate identity depended on the approval of the Non-indigenous majority. Hawke also raised the issue of gaining the agreement of Indigenous people in forming a treaty. However, even if an Indigenous position had been established, the ratifying of a treaty would remain dependant on whether the Non-indigenous majority also agreed. This again signified the hegemonic position of the Non-indigenous within the imagined Australian nation, and the subordinate and dependant position of Indigenous people.

Hand also recognised the need for popular Non-indigenous support when discussing the inclusion of a commitment to a treaty in his *Foundations for the Future* policy statement:

Reaching an agreement is a difficult, and, for some, a contentious issue. The Government makes no claim to special wisdom in this matter. Nor would it be appropriate to seek to impose a particular set of propositions on Aboriginal and non-Aboriginal people, for an imposed solution is unlikely to gain sufficient acceptance. (Hand, 1987b: 3154)

Hand acknowledged the difficulty of negotiating an agreement that would satisfy all participants, and further, that it would be unlikely to succeed if a treaty was imposed on the nation. These observations demonstrated the currency of *terra nullius* in the nation's understanding of the Indigenous problem—that it was not universally viewed as an obvious matter of justice that Indigenous people should be nationally recognised as 'first nation' people. Instead, the prevailing view was that Australia was a legitimate and sovereign Non-indigenous nation, and that there was no compulsion to recognise Indigenous people through a treaty. This point was made clearly by Coalition members vigorously opposed to the implications of a treaty. South Australian Liberal MP John Andrew argued that:

A treaty is the very thing that would further divide Australia. A treaty would imply that here, in our country, there are two races of people. I stand here as an Australian who is proud to be identified with the Aboriginal people as fellow Australians. ... To propose such a treaty in this Parliament is to propose that Australia should be two separate countries—two separate races of people—who ought not develop together but apart. (Andrew, 1988: 3634)

For Andrew the formation of a treaty would not resolve a national problem, but would create problems, views deeply rooted in the classical ideas of nation. It was not possible for Andrew to contemplate "two races of people" in "our country". Instead, he chose to obfuscate any notion of cultural difference between Indigenous and Non-indigenous Australians. Again there was an implicit subtext of Indigenous people being assimilated to the values and practices of the dominant culture. For Andrew 'one nation' appeared to be equated with only 'one race'.

New South Wales National Party MP David Cowan expressed similar sentiments when he condemned Hawke for his "reckless proposal for an Aboriginal compact" (Cowan, 1987: 1049). Cowan then argued an overtly integrationist position: "If we

in a sensible way are going to integrate the two races, because we are both the same, and if this is to continue to make a pleasant Australia in the way that we would want to see it done, this can only take place over the decades ahead” (Cowan, 1987: 1050). Clearly Cowan had little understanding of what Indigenous people had lost or any appreciation of their cultural difference and could only envisage a single Australian ‘race’ and nation. His views reflected a classical idea of nation, implying that it was inevitable and necessary that Indigenous people should be subsumed by the dominant Anglo-Celtic culture. Cowan implied that if Australia was going to be a “pleasant” place to live, no accommodation should be given to Indigenous claims for the recognition of their culture or their original rights. The leader of the opposition, John Howard, took the argument further, suggesting that the issues raised in connection with the proposed ATSIC Bill preamble, which included a reference to the “compact of understanding”, amounted to “an exercise in national lunacy”, warning of an ‘undermining of the basis of our Constitution’” (Bennett, 1989: 154). For Howard any notion of a treaty represented a direct attack on the nation. Stuart Rintoul reported that in 1988 Howard had declared that “he would rip up any treaty struck with Aboriginal people” (Rintoul, 1999: 184). Howard’s attitude demonstrated his adherence to the classical idea of the nation in relation to Australia and his implacable opposition to giving any recognition to the legitimacy of Indigenous claims to their original rights. Following his election as Prime Minister in 1996 Howard proved not to have changed his position.

Despite the importance of resolving a national issue through establishing a treaty with Indigenous people, Hawke’s proposal was never realised. Ultimately it proved to be too contentious and too dependent on public opinion for the Hawke government

to proceed. The dropping of the treaty parallels Hawke's earlier sensitivity to unfavourable opinion polls in relation to Labor's proposed land rights legislation. As a result, the land rights legislation was moderated to appease its opponents. In criticising Hawke's sensitivity to the polls, Liberal MP David Connolly stated:

I thought that we had reached the absolute nadir of statesmanship when I heard the Prime Minister say at a Press conference only a few weeks ago that the reason the policy had been changed was that the Australian people were no longer as sympathetic as they may have been in the past. If there is one group in this community that has a profound responsibility for moulding the opinion of the Australian electorate as a whole on all these issues, it is the members on both sides of this Parliament. (Connolly, 1986: 1480)

Connolly's accusation was cynical, as it was the opposition that had resisted the land rights legislation. As well, most governments take opinion polls into consideration when formulating their policies or making potentially contentious decisions. However, Connolly was correct to point out that it was the parliament's responsibility to educate the public on matters of national importance, particularly when it was a national issue of social justice. In reference to the injustice of not ratifying a treaty, Snowdon argued:

The weight of historical evidence and legal precedent in support of the full recognition of the legal rights of Aboriginal and Torres Strait Islander people under a treaty is overwhelming. I conclude by quoting from the statement by Dr Nugget Coombs referring to the question of social justice and the decisions which this country must face in addressing the concerns of Aboriginal people:

"It's never divisive to correct injustice. The fact of injustice is divisive and will continue to be until we correct it and learn to live with it. People who benefit from injustice will oppose this, but you don't stop working for justice simply because people around you don't like it."

(Snowdon, 1988: 3632)

Snowdon considered that the weight of evidence for a treaty was "overwhelming", and in quoting Coombs he criticised his own party, believing that the injustice inflicted on Indigenous people must inevitably be resolved. As Coombs and

Connelly had stated, governments ought to oppose those who perpetuate injustice rather than capitulate to them. In abandoning the treaty issue on the grounds of 'discouraging' public opinion the Hawke government reinforced the dominant idea of the imagined Australian nation and refused to compromise the hegemony of the majority Anglo-Celtic culture over the Indigenous minority.

In the final months of the Hawke administration, under his third Minister for Aboriginal Affairs, New South Wales Labor MP Robert Tickner, Hawke successfully passed the *Council for Aboriginal Reconciliation Act* (1991), in part as a compromise for the failed treaty proposal. The purpose of the Reconciliation Council was to facilitate reconciliation between Indigenous and Non-indigenous Australians by the centenary of Federation through informing the Non-indigenous public of the need to resolve the issues concerning colonisation and the loss of Indigenous rights.

Conclusion

When it came to power the Hawke government demonstrated a significant level of understanding concerning the Indigenous problem, which was enhanced by its early inquiries and research into many of the issues that impacted on Indigenous existence. Its positive attitude towards Indigenous people gave some hope for optimism that significant changes would be effected. The government restored a policy of Indigenous self-determination, replacing the Fraser government's policy of self-management. It also replaced the National Aboriginal Conference with the Aboriginal and Torres Strait Islander Commission as the peak Indigenous representative body and vehicle for self-determination. The issue of a treaty was

again raised by the Prime Minister as a means of rectifying Australia's colonial failure to enter into an agreement with Indigenous people over the colonisation of the continent. Nevertheless, as with the preceding governments, it was unable or unwilling to deliver on its promises. The commitment made by Labor leading up to the bicentennial demonstrated the ambivalence and ambiguity inherent in the government's attitude towards Indigenous people. As Holding had argued, the bicentennial provided a focus for a reconsideration of Australia's origins: "we must not repeat the hypocrisy. We must not make only cosmetic changes merely for the sake of the bicentennial celebrations" (Holding, 1983: 3486-7).

Nevertheless, Labor did not achieve the standards that it had set for itself. On a number of occasions Hawke bowed to public opposition to such issues as land rights and the treaty, demonstrating that the government remained locked into the classical European idea of nation, one that was prepared to protect the interests of the Non-indigenous majority at the expense of justice for the Indigenous minority. The Hawke government did not empower Indigenous people with any right to self-determination that was incongruous with those extended to Non-indigenous citizens. The peak body ATSIC that was to be the vehicle for self-determination was reduced to a body that could only deliver self-management and self-sufficiency, the term 'self-determination' being omitted from the Commonwealth ATSIC *Act*. As the Minister of Aboriginal Affairs had emphatically argued, ATSIC would have no power to legislate and would ultimately be accountable to the Minister and the parliament. Instead of ushering in a new era of Indigenous empowerment, ATSIC remained under the control and direction of the Non-indigenous government, confirming Snowdon's observation that contemporary Indigenous control was not

effected through direct force but through “legislation and statutes”. As with the previous Whitlam and Fraser governments, the dominant Anglo-Celtic culture’s conception of the Australian nation prevented the implementation of any significant changes and perpetuated the controls that were exercised over Indigenous existence. This was despite it being well understood that Indigenous people should regain control over their own lives, according to their own cultural values, norms, and practices. |

¹ See Commonwealth of Australia, *Aboriginal and Torres Strait Islander Commission Act 1989*.

9 The Keating Government's policy of self-determination: in the big picture

Introduction

In December 1991 Paul Keating, Bob Hawke's former treasurer, challenged the Prime Minister a second time for the leadership of the Labor party and won the caucus vote. As the new Labor leader and Prime Minister, Keating reconfirmed Labor's commitment to a policy of Indigenous self-determination in his notable 1992 *Redfern Park Speech*. Keating's speech demonstrated a particularly clear understanding of the issues Indigenous people faced, the role of Non-Indigenous people as the source of many of their problems, and what needed to be done to resolve these problems.

Keating's Minister for Aboriginal Affairs, Robert Tickner, continued to hold the portfolio in the transition from the Hawke government. The Keating government articulated a strong rhetorical and symbolic policy commitment to Indigenous self-determination, and also demonstrated strong policy support for a reconciliation with Indigenous people. Nevertheless, Keating also demonstrated ambivalence towards Indigenous people, placing the 'national interest' above serious matters of Indigenous justice. Again it was the dominant Anglo-Celtic imagining of the nation that militated against the extension of substantive self-determination for Indigenous people, and continued the culture of control.

The Keating Government's Construction of the Indigenous 'Problem'

Keating's *Redfern* speech demonstrated the depth of understanding that Labor had of the place occupied by Indigenous people in the Australian nation and of their discriminatory treatment since colonisation. Expressing in empathetic terms the nature of the Indigenous 'problem' and its source, Keating argued that:

the starting point might be to recognise that the problem starts with us non-Aboriginal Australians.

It begins, I think, with that act of recognition. Recognition that it was we who did the dispossessing. We took the traditional lands and smashed the traditional way of life. We brought the diseases. The alcohol. We committed the murders. We took the children from their mothers. We practised discrimination and exclusion. It was our ignorance and our prejudice. And our failure to imagine these things being done to us. (Keating, 1992b)

This statement represented one of the most explicit admissions by an Australian Prime Minister of the Non-indigenous responsibility for injustices inflicted on Indigenous people. It did not resolve the difficulties and injustices, but contributed significantly towards achieving a meaningful reconciliation because it did not equivocate on the harsh realities of the discriminatory, and at times overtly racist, attitudes and practices of Non-indigenous Australians towards Indigenous people. Failure to confront this would by default absolve Non-indigenous Australia from responsibility and would imply that the problems faced by Indigenous people were somehow of their own making and that resolution was their responsibility. Reconciliation, however, requires the resolution of the Non-indigenous to Indigenous relationship within the nation. In this way Keating demonstrated a sound understanding of the Indigenous 'problem', and also understood the Indigenous need for self-determination.

In his 1992 *One Nation* policy statement he argued that: “Underpinning this Government’s policies is the recognition that Aboriginal and Torres Strait Islander people have to be given far more control over their lives and responsibility for setting their own priorities” (Keating, 1992a: 26). This statement acknowledged two important issues: implicitly, that Indigenous existence remained subject to excessive levels of non-Indigenous control; and explicitly, that government control must be ceded to Indigenous people. Nevertheless, this was a qualified statement, as Keating argued that it was “far more control” that should be given, suggesting that it was the government’s intention to retain a certain level of control. This was understandable from a government perspective as retaining control in the national space ensured political and social certainty. The difficulty in its application to Indigenous people arises because of their legitimate and continuing claim to sovereignty and self-determination, which were never ceded to the Australian nation. Yet, while the government feared any ‘loss of control’ and national ‘division’, this ‘fear’ coexisted with the conflicting recognition that control must be returned to Indigenous people if the ‘problem’ was to be resolved. However, the Indigenous claim for control of their existence is always perceived to be sub-ordinate to the ‘national interest’.

The manner in which the Australian nation is constituted and imagined as a monocultural entity that entrenches and protects the interests of the Anglo-Celtic majority is the ‘stumbling block’ over which the issue of Indigenous self-determination falls. The cultural specificity of national constitutions has long been recognised. As early as 1733 Henry Bolingbroke argued that:

By constitution we mean, whenever we speak with propriety and exactness, that assemblage of laws, institutions and customs, derived from certain fixed principles of reason, directed to certain fixed objects

of public good, that compose the general system, according to which the community hath agreed to be governed. (Maddox, 2000: 137)

In terms of its application to Australia, Graham Maddox observed that this was a wide definition of “constitution”. Nevertheless, it demonstrated that constitutions are formed out of the social and cultural context that produced the “laws, institutions and customs” to which “the community hath agreed to be governed”. This was clearly never the case for Indigenous people whose laws and customs were not reflected in the Constitution. Bolingbroke further added that “the whole administration of public affairs is wisely pursued, and with a strict conformity to the principles and objects of the constitution” (Maddox, 2000: 137). Thus the formulation and implementation of Indigenous policy is subject to “principles and objects” that protect Non-indigenous interests. The ‘stumbling block’ therefore exists in the flawed understanding of Australia as an *exclusive* Anglo-Celtic nation, and the consequent lack of accommodation of Indigenous cultural practices and customs. Most importantly there is a failure to see that Indigenous claims for self-determination and sovereignty are legitimate and do not pose a threat to national integrity or interests.

The presumption of the cultural exclusivity of national sovereignty on the part of the Anglo-Celtic majority produce unwarranted fears and an overwhelming government urge to control and police the Indigenous ‘other’ in order to protect the ‘national interest’. It is in this context worth noting again that the title of Keating’s speech in which he advocated the ceding of control was in fact “*One Nation*”, reinforcing the above argument concerning the monocultural imagining of the nation. As a consequence the imagined nation offers a means of justifying many actions and attitudes that are deemed to be in the ‘national interest’, to the detriment of the Indigenous minority. The idea of the nation is also used to define what the nation is

not, and in the case of Indigenous people it is used to problematise claims for Indigenous self-determination and sovereignty, consciously and unconsciously, as a means of exclusion, policing, and control of the Indigenous minority. Nevertheless, the Keating government did understand the negative impact of the idea of nation, even though ultimately they did little about it.

The former Hawke Minister for Aboriginal Affairs, Clyde Holding, agreed with Keating that the Indigenous problem was a Non-indigenous one:

on the basis of some considerable experience in this matter, that at the end of the day, if we are serious about reconciliation, it is essentially a white problem. For some 200 years Aboriginal people throughout the length and breadth of this great nation have been trying to reconcile themselves to living within the framework of a dominant white culture—a culture which in many ways they found brutally oppressive and foreign to the traditions, attitudes and religious beliefs that had governed them before our predecessors came to this land. (Holding, 1993a: 847)

Holding framed the problem as one of continuous and continuing Non-indigenous domination. While for the most part Indigenous people were no longer overtly brutalised, oppressed, or controlled by governments, domination continued in more subtle and covert ways. As Holding admitted, Australian culture was in fact a “white culture”, one that imposed ‘white’ values, norms, and practices on Indigenous people and prevented them from determining their lives according to their own values, norms, and practices.

A similar view on indigenous issues was expressed by the academic David Roberts who claimed that Indigenous people, “as a colonised people, small in population and widely dispersed across Australia [were] force[d] ... into working in and around a complex and foreign system of rules, structures, priorities and controls established by the dominant society” (Roberts, 1993: 244). This view was also supported by

Queensland Labor MP Marjorie Henzell who quoted from a Keating government policy document entitled *Social Justice for Indigenous Australians 1993–94*:

It is now widely recognised that the dispossession of a people, the destruction of the culture, and their marginalisation in a larger society, produce problems that are extremely difficult to combat and can only be addressed in a long time frame. The wounds are such that they are not to be healed in a decade, or even in a single generation. Patience and persistence are required; and, of vital importance, restoration to the people themselves of control over their own lives. (Henzell, 1993: 614)

The document recognised that the problem was compounded and complex and could not be resolved in the short term. Most importantly it recognised that the lack of Indigenous control over their lives was a fundamental issue that needed to be resolved. Here Labor again reinforced that control must be restored to Indigenous people if the Indigenous problem was to be resolved and a meaningful reconciliation was to be achieved.

As discussed in previous chapters, the flaw in policy and legislative solutions to the Indigenous problem is that policies can be changed and legislation can be amended or repealed as both are subject to political and ideological trends. Consequently, the Indigenous problem will ultimately demand a Constitutional resolution of the position of Indigenous people within the Australian nation, which guarantees their rights to self-determination. Indeed, when Queensland Liberal MP Peter Slipper questioned Robert Tickner on his comments that a meaningful reconciliation would require amendments to the Constitution, Tickner responded: “As I said at the recent Conference sponsored jointly by the Constitutional Centenary Foundation and the Council for Aboriginal Reconciliation, it has always been my view that issues of indigenous peoples’ rights and issues of reconciliation are inseparable from the process of long term constitutional reform” (Tickner, 1993c: 1701). Tickner

demonstrated that he understood that any resolution to the Indigenous problem could not be isolated from the ways in which the nation is constituted, defined, and imagined. The Council for Aboriginal Reconciliation and ATSIC also recognised the need for Constitutional reform in a joint report entitled *Towards Social Justice?*. They acknowledged that while Indigenous people enjoyed the same 'citizenship rights' as other Australians, they also needed Constitutional change to protect special Indigenous rights. Their view was formed after consultation with a wide range of Indigenous communities across Australia. They argued that: "clearly the strong view held throughout the range of those consulted was that there is a fundamental necessity for these 'indigenous rights' to be acknowledged, recognised and protected within the national legal and constitutional framework" (Council for Aboriginal Reconciliation and ATSIC, 1995: 2). Their argument also implicitly demonstrated that Indigenous people did not want to divide the Australian nation or secede, rather they want to share the nation in a way that recognised their special Indigenous rights. This was a particularly important point, as Indigenous claims for self-determination have wrongly and persistently been interpreted by political opponents as a demand for the creation of a separate Indigenous nation.

Holding gave implicit recognition to the fact that the presence of Indigenous people had problematised the dominant imagining of the nation:

One of the problems that has bedevilled Australian society since the very foundation of this nation has been that a dominant white community has never really been able to make up its mind what it wants to do about its indigenous people. In my view, a major step forward was taken recently by the High Court of Australia when it recognised native title. (Holding, 1993b: 620)

Despite using the possessive term "its" Indigenous people, Holding recognised that the "dominant white community" had not been able to deal with the inherent and

'disruptive' pre-existing rights of Indigenous people. He further acknowledged that any solution could only be achieved through giving legal recognition to those rights, rights that recognise the legitimacy of Indigenous difference within the nation. Keating likewise demonstrated this understanding, arguing, in the context of the High Court's rejection of the doctrine of *terra nullius* and his government's subsequent passing of the Native Title Act, that:

There is enormous symbolic value in the Mabo decision and the subsequent legislation. For the first time in our history, the inherent rights of indigenous Australians have been recognised and given statutory protection. These developments indicate that as a nation we have had the collective courage and wisdom to acknowledge the violence and destruction done to indigenous Australians and their culture since European occupation. They signal that as a nation we are willing to accept our responsibility to work towards a new relationship. (Keating, 1994: 587)

Keating acknowledged that Indigenous people retained pre-existing rights that should be recognised and protected, and by implication that the recognition of those rights impacted significantly on the resolution of the relationship between Indigenous and Non-indigenous Australians.

However, the opposition did not share these views of the Indigenous problem and Indigenous rights. Queensland National Party MP Warren Truss, an opposition spokesperson on Aboriginal Affairs, acknowledged the necessity of resolving the Indigenous problem, but only in an assimilationist model of equal rights:

Australia has a clear responsibility to its Aboriginal people to ensure that their standard of living is improved and that they enjoy equal opportunities with their fellow Australians. This obligation means that special programs and special opportunities funded by other Australians may be necessary to address their disadvantage. However, the sooner we move to a situation where rights are available equally to all Australians irrespective of their race, where welfare is provided on the basis of need—not on race—where one law and one set of standards applies to all, the sooner our country will have a harmonious, progressive and non-racist multicultural society.

It is simply not good enough for anyone who makes comments that do not exactly fit the politically correct agenda of the Aboriginal industry to be immediately branded a racist. Indeed, such criticism could be most fairly directed against those who advocate special laws and special land titles purely on the basis of race. (Truss, 1994: 16)

Truss argued that the granting of “special” laws and rights for Indigenous people constituted a racist act. Political correctness was used in its pejorative sense, characteristic of the political right, in this attack on “special” Indigenous rights. In the same manner, the term “Aboriginal industry” was used to suggest that those involved in advancing Indigenous rights have gone beyond the limits of claiming what is a matter of justice. For Truss the Department of Aboriginal Affairs had become a ‘milch cow’ that could be milked by Indigenous people both for financial gain and extraordinary rights. Truss also implicitly argued that Anglo-Celtic domination needed to be protected in order to create a “harmonious” multicultural Australia by stating that “one law and one set of standards” should apply to all. Clearly he had little understanding of what Indigenous people had lost as a result of colonisation, and how this had a consequential impact on their contemporary circumstances. His view of the nation was one that represented a single set of values, norms, and practices to which Indigenous people must ultimately comply. Truss took his argument further when he suggested that: “The current Mabo land rights crisis represents the biggest threat to the sovereignty and economic future of Australia outside of wartime” (Truss, 1994: 17). Here he equated the granting of special Indigenous rights with a “wartime” threat. Clearly, for Truss the Australian nation could not accommodate any degree of difference that related to “special” rights and laws, perceiving them as a threat to national sovereignty.

Scott Bennett noted John Howard's resistance to the idea of Constitutional change for Indigenous people when he was opposition leader. Howard contested the acknowledgement of Indigenous people as "the prior occupiers and original owners of this land" (Bennett, 1999: 29). In 1987 Howard had argued that the recognition of such rights "'undermin[ed] ... the basis of our Constitution in establishing a plethora of claims for compensation for dispossession'" (Bennett, 1999: 29). Howard recognised the injustice of colonisation, but held that it was too late to rectify. This view of the nation and consequent attitudes towards Indigenous people came to the fore when the Coalition came to power in 1996 under Howard's leadership.

While this view of the nation was explicitly articulated by the Coalition, it also in more subtle ways underpinned the views of Labor, despite their positive and contrasting rhetoric. Nevertheless, as argued above, Labor demonstrated a deeper and more sympathetic understanding of the Indigenous problem that was more conducive at least to a successful process of reconciliation. This was evident in the attitude of Keating and other members of the Labor government.

In his *Redfern* address, delivered for the opening of the 1992 International Year for the Indigenous People, Keating stated: "Isn't it reasonable to say that if we can build a prosperous and remarkable harmonious multicultural society in Australia, surely we can find just solutions to the problems which beset the first Australians—the people to whom the most injustice has been done" (1992b). Keating affirmed that the nation had adapted to the idea of a multicultural Australian nation, but that resolution of the Indigenous problem remained a national issue that required the finding of "just solutions" for those who had suffered the "most injustice".

Implicitly he suggested that the nation would need to be re-imagined in a way that would recognise inherent Indigenous rights that had been denied for so long.

In a similar show of support for Indigenous rights Henzell quoted from ATSIIC's corporate plan:

The goal of the Aboriginal and Torres Strait Islander Commission is to secure the empowerment of Aboriginal and Torres Strait Islander peoples so that, through self-determination they can make decisions that affect their lives and share in Australia's land, wealth and resources, contributing equitably to the nation's economic, social and political life with full recognition of their indigenous cultural heritage as the First Australians. (Henzell, 1993: 616)

Labor explicitly showed their commitment to self-determination under which Indigenous people would be empowered to make decisions concerning their lives on the basis of their cultural heritage. Adding to this statement of commitment, Henzell argued that as a result of Non-indigenous "occupation, dispossession and genocide ... it is very important that we do not absolve ourselves from responsibility" (Henzell, 1993: 616). She described the suffering inflicted on Indigenous people as "genocide", a word that would be described as 'excessive' and 'extreme' from a conservative political perspective, and which did not correspond with the idea of Australia being a 'settler' nation. However, this positive approach by the Keating government did not translate into the changes that they had committed to.

The Keating Government's Policy of Indigenous Self-determination

In an address to the parliament commemorating the twenty-fifth anniversary of the 1967 Constitutional Referendum, Tickner argued that:

There has been increasing recognition that Aboriginal and Torres Strait Islander people must be able to make decisions for themselves on their

own future, as reflected I believe in what is now the cross-party support for the existence of the Aboriginal and Torres Strait Islander Commission. Aboriginal and Torres Strait Islander people themselves can take credit for changing the way we look at issues as they assert their aboriginality, their right to be heard, and to implement their own solutions to the issues that they face.

... It is more a matter of acknowledging the first—but very necessary—step in formalising equitable relationships in this country. The report of the Royal Commission into Aboriginal Deaths in Custody brought home to us just how far we still have to go and how important attitudes of heart and mind are in underpinning the achievement of real social justice. (Tickner, 1992: 2931)

Tickner argued that since the referendum it had been Indigenous people who had pressured the nation for the recognition of their rights, and that as a result the government had established ATSIC as the vehicle for self-determination. Nevertheless, he conceded that there needed to be a transformation in the relationship between Indigenous and Non-indigenous Australians, and that this required a significant change of attitude on the part of Non-indigenous people if social justice was to be achieved.

Roberts, while agreeing with Tickner's views, argued that:

While the decision to adopt self-determination as policy was made by the Australian State and as such was a continuation of that long tradition of imposed decisions, it did reflect a willingness to recognise the legitimacy of the Aboriginal movement and its aspirations and to find a way of incorporating them in the Australian political process. (Roberts, 1993: 243)

Roberts highlighted that the self-determination policy remained essentially a Non-indigenous initiative, as did the establishment of ATSIC. While the policy of self-determination recognised Indigenous aspirations, it remained under the control of government despite the implied meaning of 'self'-determination. Roberts acknowledged that the relationship was still dominated by the Non-indigenous majority, and that changes depended on their willingness to accommodate

Indigenous aspirations within the Non-indigenous-dominated nation. As a consequence, Roberts further argued that: "If Aboriginal and Torres Strait Islander peoples are to have real decision-making power over their futures Governments must be prepared to relinquish control" (Roberts, 1993: 256). Demonstrating that Labor under Keating understood this issue, Tickner added that: "there is more to social justice than carefully designed programs of assistance" (Tickner, 1992: 2931). This and the above quote illustrate that Tickner desired not only to deliver social justice through government programs but also understood that it was also a matter of Indigenous people being able to determine their own existence.

When presenting the report of the 1992 Standing Committee on Aboriginal and Torres Strait Islander Affairs, Tasmanian Labor MP Duncan Kerr made another important observation concerning the inherent difference of Indigenous people:

Almost 70 per cent of Aboriginal and Torres Strait Islander people live in cities or towns, yet many perceive urban Aboriginals not to be real Aboriginals. Such inaccurate and negative attitudes disadvantage these people and subject them to strong assimilatory expectations. The denial of their Aboriginality does not countenance the continuous change that occurs within the culture of various societies, particularly through periods of great social upheaval, as experienced by Aboriginal and Torres Strait Islander people during the last 200 years.

The Committee believes that there is a need to raise public awareness of contemporary Aboriginal and Torres Strait Islander society and culture. The indigenous people also have a strong desire for renewal and self-determination. Urban indigenous people seek recognition of their existence, their past and their aspirations, both for themselves and for their children.

Urban indigenous people seek a recognition of their Aboriginality, that is to say, their separate identity, which has been shaped by the last 200 years as much as by the thousands of years before that. Most wish to take their place in Australia as equals not as second-class citizens who must deny their identity in order to assimilate into the broader society. (Kerr, 1992: 4009)

On the basis of this argument, the Australian nation was not absolved from recognising the inherent difference of Indigenous people even though they may not have been perceived as living like “real Aboriginals”. Kerr held that it was necessary for the nation to recognise that Indigenous people were as different in 1992 as they were in 1788, their culture was still not a European culture, and they still possessed the inherent right of self-determination. He further argued that anything short of this recognition was unambiguously assimilationist. The context in which Kerr used the term “equals” related to an equality of legitimacy and treatment in their inherent difference, rather than an ‘equality’ that implies ‘sameness’. The points made by Tickner and Kerr formed a sound basis on which to accommodate Indigenous self-determination within the nation.

In keeping with their view of Indigenous self-determination, Labor sought to amend the ATSIC legislation in order to address particular recommendations in the *Aboriginal Deaths in Custody Report*. However, these proposals were watered-down in the Senate, demonstrating the contingency of establishing Indigenous self-determination through legislation rather than Constitutional recognition of their rights. Nevertheless, Labor attempted to extend the effect of their self-determination policy. Victorian Labor MP Neil O’Keefe, speaking on behalf of Tickner, advised that the following recommendations of the Royal Commission into Aboriginal Deaths in Custody would be incorporated in the government’s amendment:

Paragraph 1.7.22 states:

The perception of many Aboriginal people ... is that too often policies are propounded, programs put forward ... in a form which has been largely determined in the bureaucracies ... not by Aboriginal people. The agenda is being fixed by non-Aboriginal people.

Paragraph 1.7.23 states:

In the ultimate, self-determination is basically about people having the right to make decisions concerning their own lives, their own communities, the right to retain their culture and to develop it.

Paragraph 1.7.34 states:

... the whole thrust of this report is directed to the empowerment of Aboriginal society on the basis of their deeply held desire, their demonstrated capacity, their demonstrated right to exercise according to circumstances, maximum control over their own lives and that of their own communities; that such an empowerment requires that the broader society ... approaches the relationships with the Aboriginal society on the basis of the principle of self-determination.

It should be noted for the record that the totality of the Government's proposals were not in response to proposals put forward by the Opposition, but were directly in line with the ideas put forward by indigenous people, through the section 26 review process, carried out as an essential step in the reform of the ATSIC Act. (O'Keefe, 1993: 1010)

Labor expressly supported the right of Indigenous people to develop their own policies and programs, rather than imposing them upon them, and that any proposed amendments would extend the scope of ATSIC. It is worth noting that the recommendations of the Royal Commission quoted above were developed outside the party political process, and thus are a non-partisan national record of the wishes of Indigenous people. Labor attempted to implement some of these recommendations. Importantly, O'Keefe expressed the government's willingness to relinquish control over Indigenous existence and to empower them.

This position was still supported in 1995 when Henzell, who quoting from a government report, stated that: "Our focus is on institutional, structural, collaborative, cooperative reform. It is about a fundamental shift from welfare to basic rights, from dependence to autonomy, from government assistance to power. Central to the social justice agenda is self determination" (Henzell, 1995: 2604). Labor again made clear its commitment to an unambiguous notion of self-determination, and that there would be a transfer of power from the government to

Indigenous people. Nevertheless, the Keating Labor government demonstrated an inherent ambivalence towards self-determination. Despite rhetorical support for self-determination over a number of years, in 1993 Tickner had argued in reference to the proposed amendments to the *ATSIC Act* that:

the effect of this package of amendments represents a careful balance between implementing the principles of self-determination and self-management and the accountability requirements of parliament. ATSIC, and particularly the regional councils, are further empowered to make their own decisions while ensuring that the processes they follow are open to public scrutiny. This is something which Aboriginal and Torres Strait Islander peoples have themselves demanded, and reinforces ATSIC's established commitment to high standards of accountability. (Tickner, 1993b: 160)

Tickner argued that Indigenous self-determination was to be balanced by "accountability" and "public scrutiny", and that this proposed amendment reflected the desire of Indigenous people. It is understandable that Indigenous people would want the conduct of their affairs to be seen by Non-indigenous Australians as being sound, effective, and efficient. However, it is the question of where this balance lay and on whose terms it was effected that raises issues of ambivalence and continuing control. Beyond this it remained only a contingent empowerment on the basis of proposed legislation, and with a change of government such measures could be rolled back. This possibility was raised in the misgivings expressed by the opposition concerning Indigenous self-determination.

A few months earlier the Shadow Minister for Aboriginal Affairs, Victorian Liberal MP Peter Nugent, had raised a concern regarding amendments to the *ATSIC Act* that involved the proposed elected positions of *ATSIC* commissioners and particularly the Chairperson. Nugent argued:

We do not have any problem with the first two areas of this amendment Bill. We do, however, have some degree of concern about the Bill's

removal of the Minister's prerogative to choose two commissioners and especially his prerogative to select the chairperson. While we certainly acknowledge the importance of democratic principles in assisting the achievement of greater self-management and independent decision making, the coalition parties are also concerned about aspects of control and accountability, particularly where government funds are concerned. (Nugent, 1993: 843-4)

Significant here was the use of the term "self-management" rather than 'self-determination' in discussing Indigenous decision-making power, giving it cautious support using the lesser term. However, Nugent clearly expressed doubts about the proposed amendments, and was unambiguous in his desire to see the retention of ministerial control over important aspects of ATSIC's management. Similar views were expressed by another opposition spokesperson on Aboriginal Affairs, New South Wales National Party MP Garry Nehl, who argued, again in relation to amendments to the ATSIC Act, that:

I think the vast majority of Aboriginal and Torres Strait Islander people who are certainly conscious of their own aspirations, their own culture and their own history—which is a very long one—can see them evolving, developing and growing within the context of Australian society. I think that is the way we have to go. I think we have to be very careful of the way we use words like 'self-determination' and 'autonomy' because they are capable of various interpretations. This continues to cause some confusion for some people. (Nehl, 1993: 3980)

Nehl's comments reflected a dominant Anglo-Celtic perspective of the nation and the place of Indigenous people within it, as he framed their aspirations "within the context of Australian society", rather than recognising any special Indigenous rights. He was also concerned about the use of the terms "self-determination" and "autonomy" as they were a source of "confusion" that arose out of "the separatist fantasy of creating a country within a country" (Nehl, 1993: 3980). Again it was the fear of national division that fed the opposition's desire to contain and control Indigenous aspirations.

Thus, while the rhetoric and arguments of Labor and the Coalition concerning Indigenous self-determination are at odds, and at times are in stark contrast, in practice there exists a comparable ambivalence evident in the desire to continue control and minimise Indigenous self-determination.

The Keating Government's Ambivalence: 'Self-determination' v. Continuing Control

The Prime Minister, the Minister for Aboriginal Affairs and other spokespersons demonstrated Labor's sound understanding of the Indigenous 'problem' and a strong commitment to empowering Indigenous people through ATSIC as the vehicle for Indigenous self-determination. Tickner's statement that "Gone would be the days where key decisions affecting the lives of Aboriginal and Torres Strait Islander people would be taken by a Minister and his officials" (Tickner, 1993a: 105) reinforced this approach. Nevertheless, ambivalence towards Indigenous people and their right of self-determination remained evident in Labor's position. As has been argued in previous chapters, ambivalence had been pervasive in Aboriginal Affairs, reflecting the conflict between a genuine desire to cede control to Indigenous people and the seemingly overwhelming 'need' to continue to exercise control over them. Labor was hampered in its approach to empowerment of Indigenous people because of its difficulty in re-imagining the Australian nation.

The need for a re-imagined nation was reflected in a statement made by Labor's chairperson of the House of Representatives Standing Committee on Aboriginal Affairs, Queensland MP Garrie Gibson:

I do not seek in any way to be patronising or paternalistic in my approach to the process of self-determination for Aboriginal and Islander

Australians. Far from it. I am strongly committed to advancing the process of self-government for indigenous people. Rather, I seek to emphasise that all of us—members of the parliament and the government, workers in the bureaucracy both in ATSIC and in other departments, Aboriginal and Islander people and the rest of the Australian population—are on a sharp learning curve in shaping this new concept within our political and administrative structures. It is a radical new concept, untried anywhere else in the world in the fashion of our model, and all participants in the process need time to grow with it and to reshape it as it evolves. (Gibson, 1993: 600)

Gibson was explicit in his defence of self-determination for Indigenous people. However, despite its 20-year history as a policy principle, he portrayed Indigenous self-determination as a “radical new concept” within the Australian nation, and that adjusting to its implications would require concerted effort. What Gibson did not acknowledge, despite his allusion to the need for a re-imagined Australian nation that could accommodate Indigenous self-determination, was why Indigenous self-determination was such a “radical new concept”. He simply recognised that the nation’s “political and administrative structures” should be adjusted.

On the basis of the argument in Chapters One and Three, Indigenous self-determination was ‘perceived’ as “radical” by Gibson because it challenged the very nature of Australia as an Anglo-Celtic-dominated nation. Indigenous self-determination that amounted to more than policy rhetoric challenged the continuity of the control exercised over Indigenous existence. Government ambivalence towards Indigenous self-determination arose from the tension and conflict between the Anglo-Celtic-dominated nation and the recognised ‘need’ and desire to cede control of Indigenous existence to Indigenous people. That is, the ambivalence remained inherent in the simultaneously conflicting desires of empowering and controlling Indigenous people. What was “radical” about Indigenous self-determination was the rationalé that the Non-indigenous government would have to

cede control within the nation on the basis of 'race'. Thus, the government was caught in a double bind—if they failed to cede control they maintained the hegemony that entrenched Indigenous disempowerment and disadvantage, but if they ceded control they would diminish their power within the national space and perceivably risk division and fragmentation of the nation. The latter point is based on a narrow and exclusive Anglo-Celtic view of the Australian nation that ultimately prevented a re-imagining and reconstituting of the nation in ways that could accommodate Indigenous self-determination.

The Constitutional division of sovereignty in Australia between the Commonwealth and the States was acknowledged in a 1995 ATSIC report:

3.31 Australia has a federal system of Government in which Australian sovereignty is divided between Commonwealth and the States. Local Government, however, is an integral part of the system although it derives its authority from State legislation. These existing divisions should not be seen as immutable. Indigenous self-Government is becoming an increasing reality in other federal systems of Government, and is a desirable option for Australia. That new self governing entities exercising a certain degree of sovereignty can be accommodated within our federal system has already been demonstrated in the case of Norfolk island, and the establishment of the Torres Strait Regional Authority has been a major step along the road of regional self-determination for indigenous Australians. (ATSIC, 1995: 30-1)

As ATSIC pointed out, Australian sovereignty, albeit in a limited way, has been subdivided not only with the States, but into a number of regional areas. Significantly, these regional areas are off-shore, remote, not subject to pastoral or mining leases, and do not contribute in any major way to the Australian economy. While some ground had been given in the establishing of the Torres Strait Regional Authority, this body had not been granted self-determination and consequently did not pose a potential threat of regional independence. Overwhelming resistance was still directed to the division of sovereignty on the basis of 'race', because the

Australian nation was viewed as a singular and specific 'cultural' polity. It was again significant that ATSIC, the peak representative body of Indigenous people in Australia, held that Indigenous people did not want to secede from Australia. Instead, ATSIC indicated that it desired what other federated nations had granted to their Indigenous peoples: internal self-determination free from any threat to national sovereignty. Thus, despite Gibson's portrayal of Indigenous self-determination as a "radical concept" there were international examples where such rights had been extended.

Nevertheless, in 1994 Keating argued unambiguously that ATSIC's role was to be the "vehicle for indigenous self-determination" (Keating, 1994: 589). This view had been propounded by former chairperson of ATSIC Dr. Lowitja O'Donoghue, who stated that ATSIC represented the "centre-piece of the government's policy of greater self-management and self-determination" for Indigenous people (Reynolds, 1996: 136). O'Donoghue elsewhere claimed that the establishing of ATSIC "signalled an end of domination, even the benevolent domination of distant administrators" (Robbins, 1997: 521). These two major players in Indigenous politics portrayed ATSIC as the means of achieving Indigenous self-determination. This perception that was also held by Max Griffiths, who argued that ATSIC "exercis[ed] most of the direct control in Aboriginal affairs" (1995: 226). Despite Keating, O'Donoghue and Griffiths' positive views of ATSIC, Gibson revealed the actual extent of ATSIC's role:

The problem we face is that many government departments and indigenous Australians think that ATSIC is responsible for everything. It is not, and it would not be able to achieve all of those things.

There is a view and a wish amongst Aboriginal people on ATSIC's regional councils that they should have a much greater say in the way in

which these other mainstream departments deliver their services, but that is not currently the case. They do not have a say in the way in which the Commonwealth Department of Health, Housing and Community Services delivers its services to Aboriginal people; they do not have any say in the way in which state housing commissions might allocate housing to Aboriginal and urban communities where Aboriginal people might live; they do not have a say in the way in which state health departments provide hospitals and other community health services to Aboriginal people as well as to other Australians. Those are the areas where we have great problems.

It is a misconception to be blaming ATSIC for the fact that we have not been able to make significant inroads into health and education issues for Aboriginal people. ATSIC's responsibility is to complement mainstream government departments. It is there to top up. It is there to identify where there are some specific areas of neglect from those mainstream departments and to put some extra money in to help those communities. It is not there to provide prime services. It is there to give a voice to Aboriginal and Islander people so that they can identify their needs in that area, and to say to those mainstream departments, 'This is what you should be doing. This is the major area of concern that we have in our area, and we have real health problems'. That is clearly understood by the government and the opposition. (Gibson, 1993: 601-2)

According to Gibson ATSIC, despite being portrayed as the "vehicle for Indigenous self-determination", could only voice Indigenous opinion, and was merely a "complement [to] mainstream government departments". Therefore, rather than a body that could formulate and implement its own policies for Indigenous people as self-determination implies, it was instead a limited administrative entity. Further, Gibson argued that ATSIC was "not there to provide prime services", thus exposing the limitations of ATSIC's role as being primarily an advisory body to government. Power and control under the self-determination policy of the Keating government was clearly not ceded to ATSIC, but was retained by "mainstream government departments". Gibson highlighted that Indigenous people had "a view and a wish" to have "a much greater say" in their affairs, then listed critical areas in which they had no say, and consequently, no self-determination.

It is difficult to comprehend how the term 'self-determination' could be used in reference to ATSIC in this context, as it does not correspond to the concept as defined in Chapter One. This view is supported by Roberts, who argued that it was "problematic" for ATSIC to facilitate self-determination because "it remains a bureaucratic Organisation operating within the confines of the Public Service Act and staffed accordingly. It is still a semigovernment body subject to Government policy, funded by the Government and accountable to the Minister for Aboriginal Affairs who retains the power to direct the Commission" (Roberts, 1993: 255). Roberts' observation of the limitations of ATSIC demonstrated that control of ATSIC and Indigenous affairs was firmly in the hands of the Non-indigenous government.

It is worth re-stating the views of Aboriginal activist and lawyer Paul Coe quoted in Chapter Eight. In his capacity as Director of the National Aboriginal and Islander Legal Service Secretariat, Coe argued that "ATSIC remains a white bureaucratic structure ... [that] seeks to legitimise continuing state control of our affairs" (Department of Foreign Affairs and Trade, 1992: 5). For Coe ATSIC represented nothing more than the continuing exercise of control over Indigenous people via a representative body created by the government. ATSIC clearly would not be empowered to operate outside of the parameters set by those seeking to protect the Non-indigenous hegemony of the Australian nation. Roberts also argued in relation to other government agencies that had responsibility for Indigenous people that: "by their very nature [they] seek to gain and maintain hegemonic control. They are not well placed to be agents of Aboriginal self-determination and their responses to Aboriginal demands have been essentially based on the provision of social welfare,

thereby fostering continued dependency” (Roberts, 1993: 249). Any notion of Indigenous self-determination delivered through ATSIC and other government agencies was clearly rejected by Coe and Roberts, and their arguments support the thesis’ position that control continued to be exercised by a Non-indigenous government, either directly by ministerial direction or through Non-indigenous bureaucratic structures and practices. This contradicts Tickner’s emphatic statement quoted at the beginning of this section that such practices were to be a thing of the past. Ambivalence was clearly evident in the Keating government’s position concerning self-determination.

Another spokesperson on Indigenous issues, Queensland Labor MP Peter Dodd, supported Keating’s argument concerning the role of ATSIC: “Since the election of the Hawke government in 1983 there has been a slow evolution towards the present position where ATSIC is the embodiment of self-government for Australia’s indigenous people” (Dodd, 1993: 608). While Dodd used the term “self-government” rather than self-determination to describe the empowerment of Indigenous people through ATSIC, later in the same address he was ambivalent to the empowerment of Indigenous people: “ATSIC is structured so that Aboriginal and Torres Strait Islander people have a say in government decisions that affect their lives” (Dodd, 1993: 609). For Dodd, Indigenous “self-government” through ATSIC equated with Indigenous people merely having a say in “government decisions”. Clearly, the Keating government retained control of the processes of decision-making, consequently allowing no correspondence between the idea of ‘Indigenous self-determination’ and government practice. This interpretation has also been put by Jane Robbins and John Summers:

Under the policy of self-determination, Aborigines have obtained a small measure of authority and dignity within their own communities, and Aboriginal communities have obtained some bargaining power in the Australian political system. However, in the world of the non-Aboriginal Australians, Aborigines often remain second-class citizens. While this situation continues, there is the risk that many Aborigines will continue to be 'fourth-world' people, pauperised and with little or no capacity to determine their own future. (Robbins, 1997: 528)

Robbins and Summers suggest that the policy of self-determination is at odds with its inherent meaning, concluding that Indigenous people have in fact "little or no capacity to determine their own future". Thus the ambivalence of the Keating government towards Indigenous people was clearly evident, and yet the government did not recognise this.

The Keating government's rhetoric of self-determination for Indigenous people was hollow. Indeed, the *ATSIC Act* was not amended under its list of stated objects, despite Dodd's claim of its "slow evolution towards ... the embodiment of self-government". The *Act's* objects remained:

(a) to ensure maximum participation of Aboriginal peoples and Torres Strait Islanders in the formulation and implementation of government policies that affect them;

(b) to promote the development of self-management and self-sufficiency among Aboriginal peoples and Torres Strait Islanders;

...

(d) to ensure co-ordination in the formulation and implementation of policies affecting Aboriginal peoples and Torres Strait Islanders by the Commonwealth, State, Territory and local governments, without detracting from the responsibilities of State, Territory and local governments to provide services to their Aboriginal and Torres Strait Islander residents. (Commonwealth of Australia, *Aboriginal and Torres Strait Islander Commission Act* (1989) (No. 150)

The term 'self-determination' was not used in the *Act* or any subsequent amendments, only the lesser terms "self-management" and "self-sufficiency".¹ Further, there was no mention of Indigenous empowerment, the proclaimed

embodiment of 'self-determination' in fact being reduced to "maximum participation in the formulation and implementation of government policies that affect them". The *Act* implicitly reinforced the notion of Non-indigenous control in its statement that the government would formulate and implement Indigenous policies. Self-determination, as has been argued by this thesis, as well as by Prime Ministers, Ministers for Aboriginal Affairs, other government spokespersons, and Indigenous people, is unambiguously about Indigenous people having the power to determine their own existence. However, it is overwhelmingly evident that there was no such commitment on the part of the Keating government to make this a reality, despite Tickner's claim that his proposed amendments to the *ATSIC Act* would "strengthen the transformation from dependence to empowerment" (Tickner, 1993a: 105). Clearly, the basis of the *ATSIC Act* did not facilitate the empowerment of Indigenous people, it merely gave them a say in the policy processes of government. The Keating government clearly understood this limitation of *ATSIC*, with Dodd arguing that *ATSIC* was "structured so that Aboriginal and Torres Strait Islander people have a say in government decisions that affect their lives" (Dodd, 1993: 608).

Tickner reinforced this point when he addressed the parliament concerning his proposed amendments to make *ATSIC* a fully elected body:

I take this opportunity to appeal to the opposition to use the opportunity presented by the amendments going before the Senate on this piece of legislation to reconsider the issue of whether *ATSIC* should be a totally elected body. As I said before, the *ATSIC* genie is out of the bottle and it will not go back in. There is no prospect of the parliament supporting any constraints that would erode the dramatic advances in self-determination that have been achieved by the establishment of *ATSIC*.

I repeat that the power of decision making is now vested in Aboriginal hands. It matters not one jot whether or not the minister appoints the chairperson of the commission or any of the other appointed positions on

ATSIC. I urge members of the coalition to look at the ATSIC act and at the powers of the chairperson under the act because they are negligible to non-existent. Why not have the confidence in Aboriginal people that we profess to have as members of parliament? If self-determination is to mean more than rhetoric and a comfortable turn of phrase in a parliamentary debate, we should give effect to our convictions. (Tickner, 1993b: 626)

Tickner stated that “dramatic advances” had been made in regard to self-determination, with “decision making power ... now vested” with Indigenous people. However, he also allowed that the chairperson of ATSIC had virtually no power, and further, by implication, that self-determination had only rhetorical meaning. It is difficult to understand how Tickner did not see the inherent contradictions of his argument, on the one hand arguing for an elected chairperson of ATSIC while simultaneously appealing to the opposition for support on the basis that the ATSIC chairperson had “negligible to non-existent” powers. It is also difficult to comprehend how the claim of advances in self-determination had been “dramatic” when he argued that “If self-determination is to mean more than rhetoric ... we should give effect to our convictions”. His argument also contradicted the assertion that “the power of decision making is now vested in Aboriginal hands”, as the *ATSIC Act* stated that ‘self-determination’ meant merely the participation of Indigenous people in the policy process rather than having control of the process.

Charles Perkins was aware of the limitations on the role of Indigenous people in self-determination:

It is clear that Aboriginal organisations throughout Australia have adopted more of a class-based posture in that they now form a solid part of the institutionalised status quo. This is due, in part, to the pursuit of survival economic goals. The blame is partly contained within the monopolising role of government. Government determines the political processes which purge the political and democratic aggression from those Aboriginal organisations and individuals.

Likewise, the silence from many of the Aboriginal organisations and individuals most able to protest on a broad range of issues, shows clearly their dependency on government moneys for their survival. The effect of such a coercive process is that Aboriginal affairs policies are not properly debated and they become impossible to articulate. We are a captive peoples as never before in our history. A clear negative expression of this point is the lack of a national representative independent Organisation for our people. (Perkins, 1994: 34-5)

Perkins touched on a number of important issues that support the argument of continuing control. He argued that ATSIC, among other Indigenous organisations, were not “independent”, being subject to the “monopolising role of government” that “determines the political processes” and was in effect “coercive”. His telling conclusion, that “We are a captive peoples as never before in our history”, was reached not in a period of overt government control but under a policy that ostensibly empowered Indigenous people through self-determination.

The arguments in this section prove that the empowerment of Indigenous people through self-determination was “negligible to non-existent”, thus demonstrating the ambivalence of the Keating government towards Indigenous people. Despite its positive rhetoric of Indigenous empowerment, the Keating government’s priority was protection of the Anglo-Celtic-dominated nation.

In a speech concerning Labor’s proposed native title legislation, Keating argued that: “No one group will get all they want from this legislation—not Aboriginal people, not industry, not governments. But the national interest will be served, and only the Commonwealth legislation is capable of serving it” (Ryan, 1995: 235). The “national interest” does not represent the interest of some undefined heterogeneous acultural group, but is in fact the interest of the Anglo-Celtic majority in whose hands national power is vested. Keating used the idea of the “national interest” here

to justify his government's position, as only those with power can do: the national interest was not able to be defined or modified by Indigenous people. This view is supported by Bennett, who argued in relation to the Mabo legislation: "that it was the farmers and miners whose needs would be promptly addressed by the Keating Government, and that Aboriginal people would have to submit to the government's timetable" (1999: 51). Roberts similarly argued that: "Governments, together with other vested interests have continued in recent years to go to great lengths to protect 'the public interest' in order to set aside Aboriginal interests" (Roberts, 1993: 249). It was clear that under the Keating government Indigenous interests and rights were secondary to those of the 'national interest', the latter being code for the Anglo-Celtic majority.

ATSIC recognised that Non-indigenous rights were given priority over the rights of Indigenous people:

3.26 Self determination should not be constrained to operate within the existing legal and political structures. Structures must be able to be changed to take account of indigenous rights. This is essential to securing empowerment of indigenous peoples. Non indigenous Australians must also accept that Aboriginal sovereignty has never been ceded to the Australian State and that indigenous people retain a special status. Indigenous rights are clearly distinguishable from, and additional to, the normal citizenship rights enjoyed by all others who make up multicultural Australia. (ATSIC, 1995: 29-30)

ATSIC acknowledged that, as the "vehicle for self-determination", it was "constrained" by the "existing legal and political structures" of the nation. These structures unambiguously reflected the values and practices of the dominant Anglo-Celtic culture that had been instituted through the Constitution at Federation. ATSIC also implicitly recognised that Indigenous people had had no part in the formation of the nation, because the nation's "structures" had not taken any "account" of their

Indigenous rights. As a consequence the right of self-determination had been denied them even though they had never ceded their sovereignty. Therefore, in speaking as the peak Indigenous representative body, ATSIC was able to argue that Indigenous people had not been empowered to determine their own lives, but remained subject to the limitations imposed upon them through the dominance of the Anglo-Celtic culture within the nation. Under Keating the Australian nation had not been re-imagined in a way that would accommodate Indigenous self-determination, despite the positive rhetoric and Keating's clear understanding that Indigenous people needed "to be given far more control over their lives". It was, instead, as Perkins had recognised above: "We are a captive peoples as never before in our history". While Indigenous people were no longer subjected to the overt control of the Non-indigenous governments of the past, they were controlled through administrative and bureaucratic means that did not take account of their inherent right to self-determination.

Conclusion

The Keating government's approach to resolving the Indigenous problem and empowerment through self-determination was in many ways a breakthrough for Indigenous people in the way that they were imagined within the nation. The government demonstrated a sound understanding of the position of Indigenous people within the Australian nation, and responded positively to their problems. Keating's *Redfern Park* speech stands out as a significant point in the relationship between Australian Commonwealth governments and Indigenous people, as it did not equivocate on the harsh and unjust treatment to which Indigenous people had been subjected since colonisation. The propensity of many Commonwealth

governments since Federation had been to maintain the “great Australian silence” on the plight of Indigenous people and their future within the Australian nation. Keating and his government saw with greater clarity the ‘big picture’ of the relationship between Non-indigenous and Indigenous people and what needed to occur if Indigenous people were to achieve a rightful place within the nation. |

|A re-imagining of the nation was anticipated in Keating’s comparison of the changes that had been achieved within the nation in relation to multiculturalism, and the possibilities that similarly presented themselves in addressing the Indigenous problem. Nevertheless, despite the much-needed acknowledgement of national guilt, the positive rhetoric concerning self-determination, and the fostering of an inclusive national approach towards Indigenous people, the Keating government could not escape the imagining of the nation as an Anglo-Celtic-dominated polity. The fact that self-determination for Indigenous people introduced implications beyond those involved in multiculturalism, including the potential for a division of national sovereignty on the basis of ‘race’, worked against making the necessary substantive changes. As a consequence the Keating government displayed ambivalence towards Indigenous people by equivocating on that crucial issue. The result was that Indigenous people under the Keating government would, as had been the case since colonisation, continue to be subjected to Non-indigenous control. ATSIC, the promised vehicle for Indigenous self-determination, despite widespread perceptions concerning its role, would remain a representative body firmly under the control of government. Yet, while no substantive change was effected for Indigenous people, at least under the Keating government there was a sense that the aspirations of Indigenous people for self-determination received favourable consideration. |

While the following chapter reveals that there was little that Indigenous people could do to halt the regressive actions of the Howard government in their approach to Indigenous self-determination and resolution of the Indigenous problem, as is being argued throughout this thesis, it was only a matter of degree between Labor and the Coalition governments in what was actually achieved for Indigenous people, despite the rhetorical gulf that appeared to separate the two. This was because both Labor and Coalition governments have adhered to the same ideas that have informed the imagined Australian nation since its earliest days. These ideas protect and reinforce the dominance of the majority Anglo-Celtic culture, its values, and its practices, which in turn were reflected in Australia's Constitution and laws and which have been most evident in its policies and practices towards Indigenous people.

¹ See *Aboriginal and Torres Strait Islander Commission (Consolidation) Act 1989* (Cwlth)

10 The Howard Government's policy of Indigenous self-management: back to the past

Introduction

In March 1996 the Keating government lost office in a landslide victory to the Coalition led by John Howard. This change precipitated a radical shift of rhetoric and practices in relation to Indigenous Australians and other minorities, including ethnic groups, multiculturalists, feminists, and refugees. There was a Coalition led backlash against the 'politically correct' minorities that Howard said had been 'pandered' to by the Keating government,¹ the Howard government focusing its policies on what he called the Australian 'mainstream' rather than minority groups.² Despite denials, the Howard government, through their rhetoric and practices, advocated a return to assimilationist policy whereby Indigenous people would become part of the Australian mainstream. Conflict and control, rather than co-operation, came to characterise the relationship between the Commonwealth government and Indigenous people, seriously undermining the process of reconciliation between Indigenous and Non-indigenous Australia set in motion by the Hawke government.

The Howard government's rejection of Indigenous self-determination and its emphasis on the 'mainstream' confirmed that the period of ambivalence was over. The difference with the Howard government however was that they made their objection to self-determination explicit, and practised what had underpinned the

ambivalent practices of other governments since 1972. Howard's commitment to mainstream Australia and his covenant with the mining and pastoral industries can be interpreted as a commitment to symbols of the hegemonic Anglo-Celtic nation and a rejection of the advancement of special Indigenous rights. The position of the Howard government on Indigenous policy created a loop back to the pre-1972 policy of assimilation and was a distinct departure from the recognition of difference in Australia that had peaked under the Keating government, even though it had been done in narrow economic terms.³

The Howard Government's Construction of the Indigenous 'Problem'

The construction of the Indigenous problem under the Howard government was unambiguously regressive and drew heavily on 'traditional' views of the settler history of the Australian nation. When formulating their policies the Prime Ministers from Whitlam to Keating had, in their views of Australian history, taken into account the injustices done to Indigenous Australians since 1788—that is, they acknowledged the problem of Indigenous disempowerment and the lack of national recognition of their legitimate rights. This change in policy formulation had followed a general shift in views of Australian history that had begun in the 1970s and peaked in the 1980s (Stratton, 1998: 123). National views of Australian history had broadly embraced this new perspective and modified the problematic 'settler' view of the Australian nation. However, there was a backlash against this 'new' history. The historian Geoffrey Blainey, who became the most widely recognised advocate of the 'traditional' view, popularised the term "black armband history" (Blainey, 1993a). Jon Stratton argued that:

For Blainey, then, the advent of the new histories of Australia, written from the point of view of subaltern and minority groups was closely associated with multiculturalism. The unspoken heart of this connection was the displacement of the white, Anglo-Celtic, mainstream culture as the privileged site for viewing Australia's history. (Stratton, 1998: 120)

Howard adopted the term "black armband history" as a defence against the 'marginalising' of the "white, Anglo-Celtic, mainstream" view of Australian history. The importance of this issue to the position of Indigenous people within the nation, the construction of the Indigenous problem by government, and the subsequent policies that would be formulated and implemented cannot be underestimated. Stratton went on to argue that Blainey's term "black armband history" constituted a "direct attack on the increasing acceptance in left-wing political circles of the Aboriginal and Torres Strait Islander version of modern Australian history" (1998: 121). Howard saw his mission as one of countering and 'restoring' to its 'rightful' position "mainstream culture as the privileged site for viewing Australia's history". From this position, Indigenous people had to be brought into the Australian mainstream and not be encouraged to develop separately.

Whether intentional or not, this imposed an assimilationist agenda on the formulation and implementation of Indigenous policy, re-instituting a culture of overt control. The construction of the Indigenous 'problem' thus became 'unproblematic' and the solution, that Indigenous people had to have their material and service needs met in the same way as mainstream Australians, 'obvious'. Therefore, there were no issues of culture or empowerment to problematise policy decisions, as there was only 'one nation' and subsequently 'one people' that deserved equal treatment. Howard made his position clear in an interview on 3 May 1997 with the controversial talk-back radio host Alan Jones:

I want to get the record straight: any suggestion that we have perpetuated the Aboriginal industry is wrong. Any suggestion we have continued the ludicrous practices of Robert Tickner when he was Aboriginal Affairs Minister are wrong. But equally, they are Australians like you and me. And when you are dealing with matters that affect the Aboriginal people, like native title, they are entitled to be consulted, they are entitled to be treated decently and ordinarily, like everybody else. (Bachelard, 1997: 97)

Howard used the pejorative term “Aboriginal industry” to imply special treatment, rights, and benefits for Indigenous people that were not available to mainstream Australians. While he dispelled any doubts that Indigenous people would receive anything other than equal treatment from his government, it was this approach that had created many of the problems that Indigenous people now face, as discussed previously concerning the policies of assimilation, integration and through the denial of self-determination.

Howard drew on traditional liberal ideas of the individual, community, and nation in constructing the Indigenous problem. As argued in previous chapters, the difficulty is that such perspectives and ideas are not acultural, and impact negatively on Indigenous people by imposing on them Non-indigenous values, norms, and practices. Effectively, Howard’s position was one of almost indifference towards Indigenous people, reflecting a belief that in a liberal society equal treatment and benefits should apply to all, with such ‘benign’ assimilation ultimately resolving the Indigenous problem. Leading up to the 1996 election Howard argued that the:

Liberal tradition has always held that ideas are not political ends in themselves, but the basis for developing practical policies that work for the common good.

... [and] to promote ideas for public policy based on greater individual freedom and dignity, fairer and more competitive enterprise, limited and more accountable government, and a more genuine sense of national community. (Howard, 1995a: 1)

Howard demonstrated that the “Liberal tradition” emphasised the role of the abstract individual, as opposed to groups, in public policy formulation, and that his government’s “practical policies” would be designed “for the common good”, as opposed to policies that would recognise and accommodate difference within the nation. That is, Howard believed in a nation of individuals who are to live and function within certain prescribed cultural parameters. Nevertheless, political ends always reflect ideas, as well as values and norms, so it is a moot point to suggest that policies are purely “practical”. While Howard suggested that his practical policies did not reflect ideas or ideology, in the working out of “practical solutions” it is not possible to suspend ideas, value judgements, or ideology. Within the nation the construction of the “common good” is never universally appropriate, and the pursuit of this goal has been the cause of many of the problems faced by Indigenous people.

Reflecting concern for Indigenous people Howard argued in the same speech that: “Few Australians would dispute that the living standards of Aboriginal and Torres Strait Islander people require our urgent focussed attention” (Howard, 1995a: 17). However, Howard’s obvious concern for Indigenous people was directed at their “living standards”, revealing an essentially economic perspective. This demonstrated the limitations of Howard’s understanding of the Indigenous problem, and alluded to an agenda of assimilating them into the ‘mainstream’ community. To this he added, in line with his practical approach to problem solving, that “many Australians are exasperated and perplexed that so much could have been spent and apparently so little achieved” (Howard, 1995a: 17). Howard reinforced this attack on the alleged “ludicrous practices” of the Keating government when he went on to refute the

position that the Keating government was taking with Indigenous people. Again reflecting an assimilationist approach, he argued:

The whole Aboriginal policy area has been hijacked by the social engineers, the politically correct and other sundry groups more intent on dividing than uniting our community. They have been aided and abetted by the Prime Minister, whose policy approach once again has been to create divisions and unrealised expectations within the Australian community, including amongst the Aboriginal and Torres Strait Islander people. (Howard, 1995a: 17)

Believing that Keating had the wrong emphasis, Howard accused Keating of ‘social engineering’ through advocating Indigenous self-determination within the nation, thus ‘dividing’ the unified nation. This point highlighted the conceptual divide between Labor and the Coalition’s idea of nation—one of cultural diversity, albeit superficial but nevertheless rhetorically inclusive, versus one of singularity. Howard continued that the Coalition would focus policy in Aboriginal affairs “on improving standards and opportunities in health, employment, education and housing. It does remain a national disgrace that these fellow Australians should suffer such continuing deprivation and under-privilege on the eve of the 21st century” (Howard, 1995a: 17).

His emphasis on “practical outcomes”, in the framework of a single nation, for people whom he viewed as deprived and underprivileged “fellow Australians” was of course a legitimate concern, and one that still requires urgent attention. However, it also reduced the Indigenous problem to something that was one-dimensional. It centred on practical needs whereas the Indigenous problem was much more complex, involving issues of cultural practices, norms, and values, and, most importantly, the issue of Indigenous self-determination. Jane Robbins and John Summers have stressed that the Howard government’s focus was on “program delivery and services

rather than on bigger issues such as political rights or independence” (Robbins, 1997: 522). Central to Howard’s position was the regaining of control over Indigenous affairs through the delivery of practical solutions and the elimination of the concept of self-determination.

Howard did not address the more complex issues because he saw only one Australian nation in which all people should receive the same benefits and bear the same responsibilities. In effect Howard’s position was assimilationist, thus his accusation of the Keating government’s ‘social engineering’. Assimilation may have appeared to be a ‘logical’ response for Howard, but only to a simplistic construction of the problem. This point was exemplified when Howard argued that:

All Australians have a solemn moral obligation to achieve lasting improvements for our Aboriginal people and the maximum tolerance and justice for all our citizens.

The actions we take must be within the framework of one undivided Australian nation with a common respect for the one body of law, to which all are equally accountable and from which all are entitled to receive an equal share of justice. (Howard, 1995a: 18)

Clearly there was no room in Howard’s Australia for Indigenous self-determination, as there was only a single “undivided Australian nation”, “one body of law”, and ‘one people’. Howard’s intention was to restore the dominant Anglo-Celtic culture to its hegemonic position.

In Howard’s 1996 election victory speech he again emphasised the idea of the singularity of the Australian nation, “that the things that united Australians were infinitely more important and more enduring than the things that divided Australians” (Howard, 1996a: 1). He added that “uniting the Australian people will be the cornerstone of my approach in Government”, and “it will be my intention and

my commitment that from now I and my colleagues will devote our all ... [to] delivering the maximum degree of unity and cohesion to the Australian people” (Howard, 1996a: 1-2). The importance of these statements was not merely rhetorical but was in fact the practical objective of the Coalition government, which had a profound impact on the approach to the Indigenous problem.

Howard utilised a number of issues to reinforce his position on the Indigenous problem. In a headland speech a few months before the 1996 election he attacked the Keating government over its attempts to redefine the national identity:

Today I want to talk about our national identity and the shared values and history that have shaped it. National identity used to be a subject on which there was a broad measure of agreement between the major parties. But the Keating Government is attempting to redefine national identity in a crudely self-serving way.

And in doing so, the Keating Government is living proof of the Orwellian dictum that those who seek to control the future first try to control the past by distorting it for their own particular narrow purpose.

... As the debate has become grossly politicised, it's been accompanied by a negative, simplistic rewriting of history.

... I want to talk about lively traditions and values which bind us together as a people. ...

Our identity is so distinct and our shared values so robust that we cheerfully take them for granted unless something threatens them or someone challenges them. Our past is a legitimate source of pride as well as confidence and self-understanding.

Endless bouts of introspection and navel gazing are unhealthy. Mostly they arise out of attempts to rewrite our past or reposition our history by people with axes to grind who aren't all that interested in the truth. (Howard, 1995b: 1)

This is a clear articulation of Howard's view of what constituted the national identity. His rejection of the “rewriting” of the past placed him firmly in a traditional Anglo-Celtic view of Australian history and reinforced his intent to restore Anglo-Celtic values and traditions within the nation. This assimilationist position left no

place for Indigenous values and traditions associated with the 'rewritten' history. Howard's tone was one of 'righteous indignation' and contempt for those who would challenge the traditional view of history and the national identity. Significantly, he accused the Keating government of re-writing Australian history in a "negative" and "simplistic" way that was economical concerning the "truth", and implied that he would restore "truth" to the debate.

As was argued in the previous chapter, the Keating government in fact introduced a more balanced view of Australian history by openly acknowledging the injustices that had been inflicted on Indigenous people. Howard's use of the "Orwellian dictum" against Keating was particularly relevant, as perceptions of the past justified Labor's particular approach to resolving the problem. Despite the Keating government's failure to cede control, they at least had a sound understanding of the Indigenous problem and what was required to resolve it. However, for Howard, Keating's approach was anathema as it undermined the traditional view of history, the nation, and national identity. Howard clearly set out to restore the 'mainstream' view on all these issues, and in doing so reinforced the assimilationist and paternalistic nature of his project based on an hegemonic Anglo-Celtic view of the nation. Howard's view of what constituted history was simplistic, 'axiomatic', and unproblematic—in short, that Australian history was fixed and could not and should not be re-written. For Howard, the "facts" of Australian history were "immutable" (Stratton, 1998: 121).

Howard also held that "Our national character springs not from particular ideologies but from mainstream egalitarian values" (Howard, 1995b: 4). The importance of the

concept of such “values” cannot be underestimated in Howard’s construction of the Indigenous problem. In the same speech under the subtitle “Australian Tolerance”, Howard argued that:

Fanaticism has played very little part in the value systems which define our identity ... But there is a tendency which I’ve referred to as “minority fundamentalism” which is worth mentioning here.

Minority fundamentalism is based on the assumption that if you extol mainstream practices or values then you must automatically be intolerant of the values or circumstances of minorities—despite overwhelming evidence to the contrary. (Howard, 1995b: 5)

His point here is confused. While arguing that the “mainstream” was “overwhelmingly” tolerant of minority values, he pejoratively framed the defence of minority values as “fundamentalism”, implying that there was no basis for defending such minority values as they were already embraced by the mainstream and to suggest they needed to be defended was “fanaticism”. Howard herein created a rhetorical and ideological defence of the mainstream as supposedly tolerant and historically faultless, in contrast, the “fundamentalist” who could be read as both immigrants and Indigenous people as being outside their values.

In 1996 Howard suggested that: “Over recent times, a new constituency has galvanised around new issues and in support of liberal priorities” (Howard, 1996b: 13). This “new constituency” “includes all those who do not want their national government to respond to the loudest clamour of the noisiest minority” (Howard, 1996b: 14). Again, Howard reinforced that his government would not be ‘pandering’ to minority groups. Instead he argued that his new constituency would “only prove enduring if Liberalism continues to relate its fundamental values and principles to the concerns and aspirations of the Australian mainstream, rather than the narrower agendas of elites and special interests” (Howard, 1996b: 14). Excluded from the

mainstream, if Howard's statement was to be inverted, were those who wanted "their national government to respond to the loudest clamour of the noisiest minority", and those with the "narrower agendas of elites and special interests". Implicitly the "special interests" of Indigenous people were to be considered unacceptable if they did not conform to the interests of the mainstream. For Howard the Indigenous problem of the present should not be linked to past treatment but should only be seen in their ongoing disadvantage as "fellow Australians". Earlier in the same speech Howard had argued in relation to history:

We need to acknowledge as a nation the realities of what European settlement has meant for the first Australians, the Aboriginals and Torres Strait Islanders, and in particular the assault on their traditions and the physical abuse they endured.

...

But in understanding these realities our priority should not be to apportion blame and guilt for historic wrongs but to commit to a practical program of action that will remove the enduring legacies of disadvantage.

That is why our priority should be a process of reconciliation with Aboriginal and Torres Strait Islander Australians built on a practical program to alleviate their disadvantage in terms of health, literacy, housing, employment and respect for their culture and traditions, as well as to facilitate the goal of greater economic independence. (Howard, 1996b: 11)

He openly acknowledged the injustices that were inflicted on Indigenous people as a result of colonisation, and further, that respect should be shown for their "culture and traditions". However, he considered that their disadvantages required practical and economic solutions, rather than recognising the cultural and social complexity of the problem. For Howard, reconciliation could be achieved solely through addressing material disadvantage, but no mention was made of empowerment through self-management. As Howard perceived a hiatus between the past and the present, the Indigenous problem of the present was not fundamentally linked to the sufferings of Indigenous people in the past. This restricted the Indigenous problem to one of the

material needs and of the need for Indigenous people to become a part of mainstream Australia as equals. The impact of Howard's construction of the Indigenous problem was evident in their policy of self-management.

The Howard Government's Policy of Indigenous 'Self-management'

The Howard government ostensibly maintained a policy of Indigenous self-management as a continuing Coalition policy established by the Fraser government in 1976. However, in their 1996 election policy document the Coalition mentioned Indigenous self-management only in passing: "Indigenous self-management was significantly advanced by the Fraser Coalition government during the 1970's" (Liberal Party of Australia, 1996: 4). There was however no explicit statement that self-management was the Coalition's Indigenous policy. Noting this omission, Scott Bennett argued that there seemed to be a return by the Coalition to an assimilationist position in Indigenous policy (1999: 64).

The Coalition's policy document did emphasise that: "social justice cannot be delivered to Indigenous people until disadvantages in health, housing, education and employment and the high incarceration rates are overcome, the Coalition will make addressing Indigenous disadvantage in these areas a high priority" (Liberal Party of Australia, 1996: 1). It was evident that the Howard government gave priority to "practical" goals in their policy formulation, but there was no expressed commitment to the empowerment of Indigenous people. This represented a clear shift away from the position of the Hawke and Keating governments and even the Fraser government.

The shift was confirmed when Howard's Minister for Aboriginal Affairs, Queensland Liberal Senator John Herron, stated that the Coalition government "has adopted a very different attitude from the previous government in relation to indigenous affairs" (Herron, 1997: 6456). Herron added, in reference to the Hawke and Keating Labor governments, that: "In 13 years \$16,000 million was spent, and indigenous Australians were left as the most disadvantaged people in this nation. By throwing money without any concern for outcomes, Labor left indigenous Australians 'in the position of administering their own poverty and misery'" (Herron, 1997: 6456). This emotive statement was a direct attack on the self-determination policy of Labor, whereby Labor was irresponsibly, and merely, a source of money for Indigenous self-determination and an additional attack on Indigenous management of their funds, which was meant to resonate with their opposition to separate Indigenous funding. However, Tickner had emphasised and expected, as did the Howard government, a high level of accountability from Indigenous organisations (Tickner, 1993: 160). The accusation also reflected the belief that Indigenous people were unable to manage their own affairs, alluding to a paternalistic approach. Yet David Hollinsworth's research shows that the Howard government's audits of "accountability within 1,122 ATSIC-funded organisations found that 95% were fine, of the 5% unsatisfactory, most problems related to late lodgement of financial information and failure to lodge program performance reports" (1998: 197). Despite this positive finding the Howard government continued to implement its very different agenda. Hollinsworth further pointed out that Herron "continually claimed that the priorities of the Aboriginal industry were wrong in their pursuit of land rights and self-determination, rather than delivering the basic necessities of health, housing, community services, and education"

(Hollinsworth, 1998: 199). Herron made clear that the Howard government was intent on moving away from the ideas of self-determination towards a material and service-based form of assimilation.

This approach demonstrates that the Howard government was firmly locked into a classical conception of the nation, which would make no concessions to a minority culture, but was committed to protecting the dominance of the majority Anglo-Celtic culture. In relation to the Howard government's emphasis Patrick Dodson argued that:

by ignoring empowerment ... the Herron push to move beyond welfare is a code for moving back to the past. This is a move to a past when Aboriginal people were contained on the missions and settlements, their leaders frustrated by having no voice, no organisation, no mandate to represent their people's interests. We want basic services. We want health, housing and education. But not at the price of losing our own soul, our own identity, a say in our lives. We refuse to sacrifice the essence of what makes us Aboriginal people. (Dodson, P., 1998: 6-7)

As Dodson argued, undoubtedly Indigenous people wanted to have their basic needs met in the same way as Non-indigenous Australians did, however, not if this meant relinquishing their aspiration and ability to be self-determining. Dodson also alluded to the assimilation era where the Australian nation was unambiguously committed to protecting Anglo-Celtic cultural practices and values.

The use of the term self-management was infrequent in parliamentary debates, policy documents, or speeches. The most emphatic commitments to Indigenous empowerment expressed by Herron occurred when he was attacked in the Senate, barely four months after the election, for controversially launching Geoffrey Partington's book *Hasluck Versus Coombs: White Politics and Australia's Aborigines*.⁴ According to Queensland Labor Senator Margaret Reynolds,

Partington's book suggested that "Australia should return to the policies of assimilation and abandon Aboriginal self-determination, the core aspiration of indigenous Australians" (Reynolds, M., 1996a: 2020). Reynolds stated that Indigenous people had taken "widespread offence" at the Minister's "unwise launching" of the book, and further called for the Minister to state the government's position on Indigenous self-determination (Reynolds, M., 1996a: 2020). Herron responded: "Specifically, in relation to self-determination, yes, the government does support self-determination. We have made that perfectly clear in our policy and I think it is important that it be pursued. ... I unequivocally state our support as a government for self-determination and all it implies in that regard" (Herron, 1996b: 2020). He used the term "self-determination" rather than self-management, albeit under duress from the opposition, although as discussed above, there was no support expressed for self-determination, or even self-management, in the government's 1996 election policy document.

During an extended debate in the Senate over the book launch, Herron denied promoting assimilationist policies: "The government is on record as opposing assimilation policies. They are the policies of the past" (Herron, 1996c: 3772). When his attendance at the book launch was again raised in the Senate later that year Herron stated that: "This government is about greater self-management for indigenous Australians. It is about encouraging indigenous Australians to take hold of their own destiny and work towards greater independence at all levels" (Herron, 1996c: 3772). Again, while use of the term "self-management" appeared to support Indigenous empowerment, when a broader perspective is taken of the Coalition's position it is difficult to establish a firm commitment to such a policy. Mary

Kalantzis and Bill Cope contest his rejection of being an assimilationist (Kalantzis, 1997: 79). And despite denying any support for the views expressed in Partington's book, Herron promoted it, thus demonstrating his insensitivity and ambivalence towards Indigenous people in his role as Minister for Aboriginal Affairs.

Kalantzis and Cope also discuss Howard's attendance at the book launch, quoting him as stating that he thought it was "a good book" (Kalantzis, 1997: 79). It is difficult to see this comment as other than an admission that Howard saw nothing inherently wrong with being associated with someone who was uncritical of the concept of assimilation. This assertion is strongly supported by Kalantzis and Cope, who report that in: "Dismissing criticism of Herron's statement that we should be reconsidering assimilation [Howard] claimed that his minister had been a victim of the 'thought police'" (Kalantzis, 1997: 79). Rather than defending his ostensible policy of self-management, Howard gave the impression of support for a return to assimilation, as his Minister for Aboriginal Affairs had done. Kalantzis and Cope quote Howard as stating "Any notion of self-determination which includes the idea of a nation within a nation is something to which I am totally opposed" (Kalantzis, 1997: 79). This is a particularly clear reflection of Howard's consistent commitment to a classical European idea of the nation, that is, one comprising only one people and one culture, and the denial of any special rights to any minority culture. Bennett has quoted Howard as saying "I cannot accept ... the principle that one group of Australians should be given rights and privileges that are not available to others" (Bennett, 1999: 14). Howard was implacably opposed to any special "rights and privileges" for Indigenous people that emanated from their cultural difference. His position exemplifies Ernest Gellner's statement that "Nationalism is a political

principle which maintains that similarity of culture is the basic social bond” (1998: 3).

The Howard government’s ambiguous commitment to Indigenous self-management and apparent support for assimilation, expose the opposition of the government to Indigenous empowerment. The Coalition’s 1996 policy document stated that “The formation of ATSIC was intended to provide greater involvement of Indigenous people in the decision making processes that affect them” (Liberal Party of Australia, 1996: 13). This promise of merely greater Indigenous “involvement” is evidence that the “decision making processes” were to remain in Non-indigenous hands and undermines any commitment to Indigenous self-management. As the analysis in the Keating chapter demonstrated, ambivalence towards self-determination was inherent in the formation of ATSIC. However, Labor at least gave rhetorical support for Indigenous empowerment, while under the Howard Coalition it is evident there would be no such support.

In 1996 Senator Reynolds questioned Herron in relation to the International Instruments on the Rights of Indigenous Peoples: “What is the Government’s position on self-determination?” (Reynolds, M., 1996b: 2712). Herron replied that: “The question of self-determination is currently under consideration in relation to the draft Declaration on the Rights of Indigenous Peoples, and will form part of the Government’s negotiating position on the Declaration” (Herron, 1996c: 2712). A full response was not forthcoming until 1998 when Queensland Democrats’ Senator John Woodley asked South Australian Liberal Senator Robert Hill, the Minister representing the Prime Minister in the Senate:

Are officials from the Department of Foreign Affairs lobbying to remove the clause on self-determination from the draft United Nations Declaration on the Rights of Indigenous Peoples? [and] Has there been a formal cabinet resolution to withdraw Australia's commitment to self-determination for Aboriginal Australians ...? (Woodley, 1998: 957)

Senator Hill responded:

My advice is that Australia is not seeking to have the article deleted from the draft declaration. What we are seeking is more appropriate language.

...I am told that the meaning of several references to self-determination and its application to indigenous people in the draft is far from clear to most governments in the working group, including Australia. Part of the purpose of participating in the working group is obviously to understand and influence debate on this particular issue. The government believes that alternative language such as 'self-management' or 'self-empowerment' would better reflect Australia's national interest and circumstance and would be more useful than the existing language in advancing the debate. (Hill, 1998: 957)

While Hill rejected self-determination as being inappropriate, he did support self-management. The reason the government problematised the term "self-determination" is that it posed a potential threat to the 'national interest'—the implications for national sovereignty and Indigenous 'separatism' within the nation.

Senator Hill's fears were reflected in response to a further question from Senator Woodley: "Does your government understand that the policy of Aboriginal self-determination is one which is well established?" (Woodley, 1998: 957). Hill responded:

there has been a long development of the concept of self-determination in international law. There is considerable jurisprudence on the issue. It is because of that that it is the view of this government that language such as 'self-management' and 'self-empowerment' in relation to indigenous affairs in this country would be more appropriate expressions. It would more appropriately express the rights that are seeking to be confirmed by the declaration. It is in fact as a result of the development of that meaning, the complexity of that meaning, that we have chosen to move in this particular direction. (Hill, 1998: 957-8)

Again, as has been discussed previously, 'self-management' is a lesser term than 'self-determination', even though in practice there have been only minor differences between the two policies under Australian governments since 1972. Nevertheless, the Howard government was clearly committed to restricting the extent of Indigenous rights expressed in any United Nations draft Declaration. Hill's concern was also a reflection of their domestic position on the extent of Indigenous rights. In response to the nomenclature of the UN draft declaration the Foreign Minister, Alexander Downer, argued that: "We don't want to see a separate country created for indigenous Australians. We will ... be arguing ... that it might be better to use the term 'self-management' rather than leaving an impression that we are prepared to have a separate indigenous state" (*Indigenous Law Bulletin*, 1998: 4).

This fear that self-determination would lead to the establishment of a separate Indigenous state is difficult to support. A Commonwealth policy of Indigenous self-determination always remains subject to the legislative restraints of the Constitution as well as to the Minister for Aboriginal Affairs and the parliament. Further, there is no international body that can enforce compliance with international agreements. The position of the government appears to be unnecessarily over-reactive. However, the argument here is that the response merely reflects the underlying government position towards Indigenous self-determination. Stuart Rintoul has suggested that: "The Government's opposition to self-determination for indigenous people ... was a frontal attack on the central pillar of the Aboriginal struggle" (Rintoul, 1999: 183-4). Clearly, the Howard government was determined to wind back to an 'appropriate' level the position of Indigenous people within the nation.

In a similarly aggressive fashion to his rejection of self-determination, Howard boasted to the controversial talk-back radio host Alan Jones, that he ought to “remember that I’m the Prime Minister who took money out of the ATSIC budget ... I’m the bloke that’s been under constant attack from Aboriginal leaders for being insensitive to their situation” (Bachelard, 1997: 97). The political significance of this statement, apart from its financial implications, was that ATSIC as the peak Indigenous body and the vehicle for self-determination was being wound back. Further, Howard unabashedly recognised his own insensitivity towards Indigenous people. Significantly, Howard varied the way he promoted his position on Indigenous policy with “different audiences”, being more conciliatory when he made his announcements at his Wik decision press conference (Bachelard, 1997: 97). This careful tailoring of its position maximised electoral support, attempted to placate those more sympathetic to Indigenous causes, and demonstrated the Howard government’s ambivalence towards Indigenous people.

Howard’s predominantly negative position towards Indigenous policy had been unchanged since the 1980s. As noted earlier, in 1988 Howard had declared that “he would rip up any treaty struck with Aboriginal people” (Rintoul, 1999: 184), and this attitude towards the position of Indigenous people within the nation continued to underpin his approach to Indigenous self-determination. Most importantly, it reflected Howard’s view of the Australian nation as an entity that could not and should not recognise Indigenous claims to sovereignty or self-determination.

In his first press conference as Prime Minister following his 1996 election victory, Howard announced “an inquiry into the spending practices of ATSIC, followed

shortly by a cut in the ATSIC budget of almost half a billion dollars” (Rintoul, 1999: 184). New South Wales Labor Senator Michael Forshaw considered that the Howard government had a negative and controlling disposition towards the peak body of Indigenous representation and the vehicle for self-determination:

It seems to me that many people on the government side and their supporters still have not accepted Mabo or Wik. They still think that we should really go back to terra nullius. They would be happy if we still had that regime in place, but we do not. It is about time they realised that and came to terms with what the High Court has said.

In preparation for this debate, I have been reading through the Hansard of speeches by the Prime Minister (Mr Howard) and other members of the coalition. I cannot find anywhere a speech where the Prime Minister or senior ministers have actually got up and in a pro-active way talked about the rights of the indigenous people in this country. Rather, every time they get up to speak, every time they have something to say, it is reactive. Very often it sounds like they are trying to find problems and trying to drag the reputation of our indigenous people down. When they talk about ATSIC, they do not talk about the fact that this was an attempt to give the indigenous people of this country legal control over their own destiny. Rather, they go out and seek problems and then try to highlight them to discredit them. (Forshaw, 1997: 9636)

Forshaw’s observation confirmed the Howard government’s intention to exert greater control over Indigenous existence, as well as to reduce the capacity of ATSIC to advance Indigenous empowerment. The Howard government effectively created a loop back to the pre-1972 policy of Indigenous assimilation, after self-determination and self-management had been the established policy for almost 25 years. In relation to this issue Michael Dodson and Sarah Pritchard asked the searching question:

Why then Australia’s new-found hostility to self-determination for Indigenous peoples? In claiming self-determination, few, if any, Indigenous peoples are interested in dismembering existing States. Instead, they are seeking constitutional reform within States so that they can develop their institutions and determine their development in accordance with their own values. ATSIC and the Torres Strait Regional Authority are part of the message of self-determination. It is noteworthy that in Australia not a single Indigenous organisation—not even the self-proclaimed Aboriginal Provisional Government—has expressed a desire for independent statehood. Thus the image of separate Black states is a

misleading and mischievous representation of Indigenous Australians' actual aspirations in relation to self-determination. (1998: 5-6)

The Howard government's fear of division and separation between Indigenous and Non-indigenous Australians is not well founded. Clearly, Pritchard and Dodson believed that Indigenous Australians desired to have control over their own existence through their own organisations, rather than any pre-occupation with dividing the nation. Nevertheless, there was an unambiguous desire to contain and control Indigenous people and bring them back into the 'mainstream' of the Australian nation. Dodson and Pritchard went on to argue that:

At a time when the rest of the world is moving closer to an understanding and accommodation of the aspirations of Indigenous Peoples, Australia's approach has hardened significantly. At the UN, Australia is no longer seen as a constructive advocate of Indigenous rights. Maverick advocacy of 'self-empowerment' and 'self-management'—terms without any basis in political theory or international law—is unlikely to reverse the decline in our standing abroad. (1998: 6)

The shift in the Howard government's position on Indigenous self-determination is underpinned by a desire to 'restore' a 1950s' conception of the nation, the national identity, and view of the nation's 'settler' history, all of which are fundamentally founded in the classical European idea of nation which has, implicitly or explicitly, underpinned the views of successive governments since 1972. These views of the nation have made it impossible to accommodate any Indigenous aspiration for self-determination, having required the control and containment of any divergence from what is perceived as the 'mainstream national interest'. Patrick Dodson has argued that under the Howard government: "Assimilation as a template for policy and practice is back in its virulent form from what we thought was the dead of the past" (Dodson, P., 1998: 5). The strategy of the Howard government had in essence been to maintain a token commitment to a policy of 'self-management' while

simultaneously and as seamlessly as possible restoring government control over Indigenous existence in ways that were undeniably assimilationist.

The Ambivalence of the Howard Government Towards Indigenous People

In his now infamous address to the Council for Aboriginal Reconciliation Convention on 26 May 1997, Howard demonstrated in a direct and confrontational way his and his government's ambivalence towards Indigenous people. At a convention that was specifically intended to foster better relations between Indigenous and Non-Indigenous Australians, the Prime Minister pounded the podium and berated the delegates as part of his refusal to give a national apology to the Stolen Generation.

Ironically, on the following day the House of Representatives celebrated the 30th anniversary of the 1967 referendum that gave the Commonwealth government powers to make laws on behalf of Indigenous Australians. On this day Howard put a motion to the House of Representatives under the title of "Aboriginal Reconciliation", again confirming his ambivalence towards Indigenous people. Howard's five-point motion contained "a number of unambiguous statements of fundamental principle" which outlined his government's plan for Aboriginal Affairs (Howard, 1997: 4111). Nowhere did he confirm a government commitment to the empowerment of Indigenous people through either self-determination or self-management. Instead, he urged that the House recognise: "the need for the legislative and other powers of the Commonwealth to be used to address the profound economic and social disadvantage continuing to be suffered by indigenous

Australians—with specific emphasis on and practical measures to address health, housing, education and employment” (Howard, 1997: 4110). Howard again reinforced his practical approach to Indigenous issues and interpreted the 1967 amendment to the Constitution to complement his government’s approach to reconciliation, arguing:

Our approach as a government to the process of reconciliation is very much guided by and heavily influenced by the spirit of the 1967 referendum. If the 1967 referendum spoke of anything it spoke of a need to remedy in a practical way the disadvantage of the Aboriginal and Torres Strait Islander people. If you want a unanimity of view within the Australian community or a near unanimity of view within the Australian community on issues relating to the indigenous people then you must look at areas of disadvantage in issues such as health, housing, employment and education. Our approach to reconciliation is very much guided by our strong belief that the path to effective reconciliation lies in remedying those areas of disadvantage and through that giving to the Aboriginal and Torres Strait Islander people the full capacity to enjoy freedom of opportunity as Australian people. (Howard, 1997: 4111)

He refused to recognise the inherent cultural difference of Indigenous people to Non-indigenous Australians by limiting their needs to practical issues, and by reinforcing the ‘need’ for Indigenous people to be brought into line with ‘mainstream’ Australia. As has been argued throughout this chapter, the meeting of the practical needs of Indigenous people is an absolutely necessary and commendable goal, and something that successive governments have failed to do. However, they are not their sole needs. Howard’s assimilationist approach is reflected in his desire to give Indigenous people “the full capacity to enjoy freedom of opportunity as Australian people”, rather than empowering them as Indigenous Australians with the capacity to be self-determining or even the lesser capacity to be self-managing.

However, Howard's approach did not stop there. While acknowledging the objections of Indigenous people to his ten-point Native Title plan, he nevertheless believed his decision was fair:

I know that the government's response to the Wik decision has generated considerable opposition, not only within some sections—I stress some sections—of the rural community of Australia, but also within the indigenous community of Australia. Can I say to the indigenous people of Australia that I understand why they are opposed to the amendments that we have put forward, but can I put to them and can I put through this parliament to the Australian people that the plan that we have devised to deal with the consequences of the Wik decision and also to deal with the unsatisfactory features of the Native Title Act is a fair and balanced plan. It is true that it does represent a significant winding back of the situation that obtained under the law immediately after the decision of the High Court in the Wik case. I do not disguise that fact. I have said before that I believed that the pendulum had swung too far and that it was necessary in the wake of the Wik decision to make a number of changes. (Howard, 1997: 4113)

Howard recognised that he was “winding back” to a “significant” degree fundamental Indigenous rights that had been recognised by the High Court and that he understood Indigenous objections, but concluded that his actions were both “fair and balanced”. His attitude towards Indigenous people and his formulation of policy was inherently ambivalent, on the one hand recognising the need for reconciliation, but on the other feeling no compunction in minimising their rights. His position also demonstrated his commitment to protecting the rights of the Non-indigenous majority against any ‘special’ rights of Indigenous people, reinforcing the importance of the classical idea of nation to his Indigenous agenda. However, what Howard did not recognise was that it was the denial of basic Indigenous rights that had brought about the need for reconciliation in the first place.

On the issue of Native Title, Howard was also willing to distort the truth and incite wide fears about the ‘threat’ to Non-indigenous Australians in order to restrict

Indigenous rights. On 4 September 1997 he appeared on national television “with a map in hand falsely warning that further development of 78 per cent of Australia’s land mass, not covered by exclusive tenure, could potentially be subjected to Aboriginal veto” (Rintoul, 1999: 185). Unlike any Prime Minister since 1972, Howard was prepared to publicly go on the offensive against Indigenous rights. He was, however, constrained from extinguishing Native Title—not because of its profound impact on Indigenous people, but because of the legal and financial implications for the Commonwealth government.

In his ‘reconciliation’ motion to the parliament Howard again demonstrated great insensitivity and ambivalence towards Indigenous people when he argued, in relation to Native Title, that:

In proposing those changes, the government is not in any way suggesting that the principles of native title established by the Mabo case should be interfered with or overturned. It is worth reminding the House that the Wik decision did disappoint the expectations of many. It did run contrary to the majority view of the community after the Native Title Act was passed in 1993. The government has not opted for the blanket extinguishment route because, in our view, blanket extinguishment would involve unnecessarily expensive and protracted litigation. It could be exposed to constitutional challenge and it would in symbolic terms also be seen as a far greater affront to what the indigenous people of Australia had achieved in the native title area than other approaches. (Howard, 1997: 4113)

He suggested that if it had been less “expensive” and legally expeditious, his government would have applied blanket extinguishment. His suggestion the impact on Indigenous people would have been *merely* “symbolic” demonstrates a profound lack of understanding of what such rights mean to Indigenous people, and amounts to opposition to the cause of reconciliation and Indigenous rights.

The ways in which the Howard government dealt with Indigenous people again reinforces the currency of the classical European conception of the nation. They also demonstrate the assimilationist agenda of the Howard government, where Indigenous rights could not be incongruous with those enjoyed by Non-indigenous Australians. This is supported in Howard's statement that the "pendulum had swung too far" in favour of Indigenous people and was impinging on the rights of Non-indigenous Australians. His approach to Aboriginal Affairs amounted to an attempt at "blanket extinguishment" of the legal recognition of Indigenous cultural difference within the Australian nation. He showed no understanding of the historical loss of Indigenous people, even though he recognised the importance of history in his own understanding of the Australian nation. In reference to history he stated:

I do not believe that, as a community, we can ignore history. We must openly acknowledge the injustices of the past. As an intensely proud Australian, along, I am sure, with all other Australians who have a balanced view of the history of this country, I am immensely proud of what we have achieved over the last 200 years. I believe that the Australian achievement is something of which all of us should be proud. It has been a heroic achievement in the face of immense difficulties.

That does not gainsay the fact that there have been significant blemishes. Undoubtedly, the most significant blemish of all in the history of this country over the last 200 years has been the treatment of our indigenous people. I would have thought that was an unarguable fact. I would have thought it was a concept that all of us could embrace, but I would have thought that we could have embraced it without developing an approach to reconciliation that looks backwards rather than forward.

I believe that the proper basis of reconciliation is to recognise the truth about the past, to remain proud about what this country has achieved during the years of its existence, and to resolve, united together as Australians, to work towards a better and more cooperative future. The most effective way of doing that and the most effective way in which we can honour the passage of the 1967 referendum and the wisdom of the Australian people expressed with that referendum is to commit our energy, our resources and our time to remedying those areas of continuing disadvantage amongst the most disadvantaged group within our community—the Aboriginal and Torres Strait Islander people. (Howard, 1997: 4114)

Effectively, Howard argued that while the injustices of the past must be recognised, they should not be rectified. Instead, only the consequences and symptoms of those accumulated past injustices, evident in contemporary disadvantages, should be addressed in order to make Indigenous people the material equals of Non-indigenous Australians. The empowerment of Indigenous people to be self-managing or self-determining was not an option under Howard's plan. The leader of the opposition Western Australian Labor MP Kim Beazley Jnr. argued, in a proposed amendment to Howard's motion, that the parliament should recognise that it "was made abundantly clear by the political leaders of the time, that the referendum was passed with the intent that the power conferred on the Commonwealth only be used for the benefit of the Aboriginal and Torres Strait Islander people" (Beazley Jnr., 1997: 4114). However, in using the Commonwealth powers to the detriment of Indigenous peoples' rights Howard overlooked this point. In the same debate the Queensland One Nation Party MP Pauline Hanson echoed Howard's views, only in more explicit terms: "Indigenous Australians need to be brought back into the mainstream so that their problems can be dealt with on a needs basis" (Hanson, 1997a: 4126).

The Howard government also demonstrated ambivalence towards Indigenous people through the appointment of Herron as Minister for Aboriginal Affairs. Herron, a surgeon before entering parliament, rose to this position from backbench obscurity. His appointment was unexpected, even to himself: "I had no idea I was going to get this portfolio, let alone be in the ministry. I had no idea that I was going to be selected" (Herron, 1996a: 321). It is difficult to suggest why a person with little experience in Aboriginal Affairs was appointed to such a sensitive and difficult portfolio. While it is possible only to speculate on the rationalé of this appointment,

it appeared to be a strategic plan on the part of the government. The thrust is that a weak and inexperienced Minister would be directed by the government rather than taking their own initiative. Further, concerning the strategy of the government and the inadequacies of the Minister: “[Herron’s] period in office was marked by his being eased aside on the important issues. It was Special Minister of State, South Australian Liberal Senator Nick Minchin who had the task of dealing with the changes to the *Native Title Act* (1993), and Minchin and Howard handled the public debate over this issue” (Bennett, 1999: 90). Clearly, Howard did not believe that Herron had the ability to deal with such complex issues.

In an early debate over amendments to the *Native Title Act* Northern Territory Labor Senator Bob Collins, a principal Labor contributor to debates on Indigenous issues in the Senate, pointed out a crucial amendment headed “Early ministerial intervention in the national interest” (Collins, 1996b: 3790). Collins cited a media observation, which confirmed his own view, that the Minister was “not an advocate for the Aboriginal people of Australia; he is an advocate for the government to them” (Collins, 1996b: 3790). Again, this suggested that his role as Aboriginal Affairs Minister was secondary; rather than meeting the needs of Indigenous people through his portfolio, he was an apologist for the government’s agenda. Collins added that the “minister for Aboriginal affairs is going to get the job of overriding Aboriginal opinion, but under what circumstances can the minister do so?” (Collins, 1996b: 3791). Clearly the answer was, when it was in the “national interest”. While this specifically related to the *Native Title Act*, it was also applicable broadly across the portfolio. Herron was an inappropriate appointment for such a complex and sensitive

portfolio, but one that served the government's agenda of controlling Aboriginal Affairs in the "national interest" rather than in the interests of Indigenous people.

While previous Ministers for Aboriginal Affairs have been inexperienced, it has not been under a government with such an overt agenda of 'winding back' advances in Indigenous rights. The government appeared to be using Herron as a soft target for their reforms (Collins, 1996b; 3759), while Minchin handled the more difficult Indigenous issues because of his abilities as a hard political operator. No Aboriginal Affairs Minister before Herron had been subjected to such extended criticism for their handling of the portfolio. By 27 June 1996, less than four months after the election, a censure motion had already been moved against him in the Senate over a number of important issues (Collins, 1996a: 2395). These issues emphasised his inappropriate appointment and ineptitude in the role. Nevertheless, it is important to note that the attacks on Herron were not personal or even particularly politically motivated, but rather were because he did not possess the skills necessary for the job. Collins, one of his most strident critics, defended Herron: "We all know his personal qualities of sincerity and decency. I have never suggested that the minister is a bad man" (Collins, 1996b: 3759). The appointment rather highlighted the cynicism and ambivalence of the Howard government towards Indigenous people.

During the censure debate the Tasmanian Green's Senator, Bob Brown, summarised the nature of the censure: "What we have is a minister who clearly has shown that he does not understand the plight, the position, the history and the aspirations of the Aboriginal community in Australia" (Brown, 1996: 3756-7). This was evident in Herron's controversial comments concerning the Stolen Generation: "We can be

regretful, we can be sorry, we can be all those things but we can't change the past. What we must recognise is that a lot of people have benefited by that" (Herron, 1996c: 3757). Brown then quoted a response to Herron's comments by Pat O'Shane, an Indigenous magistrate, who asserted that the "taking of children has been extremely destructive and painful ... and how anybody who holds the portfolio of Aboriginal affairs can make such comments is beyond my wildest imagination" (Brown, 1996: 3757). This clearly demonstrated the insensitivity and ineptitude of the Minister and his lack of understanding and appreciation of the Indigenous situation. Democrats' Senator Woodley argued that "To say that many indigenous people benefited from being forcibly removed from their families is to support one of the cornerstones of assimilation" (Woodley, 1996: 3768). Woodley's observation resonates with the generally assimilationist and paternalistic approach to Indigenous people demonstrated by the Howard government.

The paternalistic stance of the Howard government was also made clear in relation to the amendments to the *Native Title Act*. Senator Brown argued:

this government is not about to give the Aboriginal people proper full control over their destiny in their lands which so many of us believe it is high time were returned to them. I object, sir, to the potential for this minister to be arbitrating a dispute between Aboriginal people and miners, knowing that this government's impulse is to give the go-ahead to the miners. We hit the basis of the matter when we consider the Aboriginal people, with their ancient and magnificent relationship with the land, still facing the prospect of their minister in cabinet turning down their protests and giving the go-ahead to the big mining corporations coming in from outside, without any understanding of that ancient relationship and that cultural intertwining between the Aboriginal people and the land, and saying, 'Go ahead; the Aboriginal people will have to suffer the cultural, social, economic and environmental consequences because I say that it is good for you.'

That is not good enough. I thought that kind of destructive paternalism would have passed in the 1960s, the 1970s and perhaps the 1980s. But

here we have a government with this minister reinstating that form of destructive paternalism. (Brown, 1996: 3759)

As Brown pointed out, the Minister, instead of being the representative of Indigenous people and promoting their interests as the portfolio suggested he should, became the arbiter of what was in the “national interest”. Brown further suggested that the amendments to the *Native Title Act* put Herron in the position of the Aboriginal protectors of the past:

Paternalism is writ large, as Senator Bob Collins says, on these changes to the Native Title Act that are being brought in. The minister for Aboriginal affairs is going to be able to dictate what is good for the Aboriginal community in this country. Isn't that a throwback, as Senator Collins says, to the protector for Aboriginal or native peoples status of the past? (Brown, 1996: 3793)

This fundamental policy shift of increasing control over Indigenous existence underpinned the agenda of “practical reconciliation” that focused on the material needs of Indigenous people while denying the power to control their own destinies. The Howard government made a distinct break with the approach towards Indigenous issues demonstrated by the Whitlam, Fraser, Hawke, and Keating governments, which took relations between Indigenous people and the Commonwealth government back to the assimilationist period before 1972. Equally, the relationship between ATSIC and the Minister reached an all-time low in 1998, to the point where ATSIC head Gatjil Djerrkura wrote in ATSIC's annual report to the government “of the ‘alarming’ direction taken by the Commonwealth in Indigenous affairs” (Fletcher, 2000: 111). Djerrkura added that “‘relations between the Minister and the Commission's elected arm deteriorated’ and announced that, in March 1998, a no-confidence motion was passed against the minister” (Fletcher, 2000: 111-12). ATSIC called for Herron to be sacked because of his poor performance (Bennett, 1999: 90). Thus, it is clear that Herron was appointed to the position of Minister of

Aboriginal Affairs to oversee a reduction in the control that Indigenous people had over their lives. This appointment reinforced the depth to which the classical European idea of nation permeated the thinking and informed the practices of the Howard government.

Conclusion

This chapter has demonstrated that the Howard government implemented a significant change in the emphasis and direction of Indigenous policy, giving only cursory support to the Coalition's established concept of Indigenous self-management introduced by the Fraser government. Instead, the Howard government sought to undermine Indigenous aspiration for self-determination because of its perceived threat to the national interest, sovereignty, and unity, arguing that it was a right incongruous to those enjoyed by Non-indigenous Australians. Further, the tone of the rhetoric and political discourse concerning Indigenous people was characterised by negative and "reactive" attitudes, as was observed by Senator Forshaw, and was aimed at finding fault with and discrediting Indigenous organisations and aspirations. Recognition was in part given to Indigenous history since 1788 and the treatment to which they had been subjected by Non-indigenous people and governments, but these were rejected as a basis for any special contemporary Indigenous rights. The overwhelming emphasis of the Howard government was that Indigenous people should become part of the mainstream Australian nation in order to have their material and service needs met in the same way as Non-indigenous Australians. This emphasis was underpinned by a thinly veiled belief that assimilation was the legitimate and most appropriate solution to the Indigenous problem. Indeed, Howard's emphasis on "one nation", "one body of

law”, and ‘one people’ represented a recoding of the need to assimilate Indigenous people into the Australian mainstream. The ‘mainstream’ was clearly representative of the dominant Anglo-Celtic values, norms, and practices of the nation. This reflected a stronger commitment to a classical European idea of nation than any government since 1972, a commitment that sought to reinforce the values, norms, and practices of a culturally homogenous nation. The severe funding cuts to ATSIC and the further winding back of native title rights under Howard’s ten-point plan also epitomised the general approach of the Howard government towards Indigenous rights.

While not all that had been achieved for Indigenous people since 1972 was overturned, the Howard government made clear that it would not accommodate any special Indigenous rights that impinged on or exceeded the rights of ‘mainstream’ Australia. In implementing its regressive approach to Indigenous policy the Howard government reinforced and extended the exercise of government control over Indigenous existence and manifested its rejection of Indigenous self-determination. |

¹ See Howard, John, (1996b) *The Liberal Tradition: The Beliefs and Values Which Guide the Federal Government*, 1996 Sir Robert Menzies Lecture, 18 November.

² See Johnson, Carol, (1997) “John Howard and the Revenge of the Mainstream: Some Implications for Concepts of Identity”, in Crowder, George, *et al.* (eds.), (1997) *Australian Political Studies, Proceedings of the 1997 APSA Conference*, Vol. II, Flinders University Politics Department, South Australia: 409-33.

³ See Johnson, Carol, (1996) “Shaping the social: Keating’s integration of social and economic policy”, *Just Policy*, no. 5, Feb: 9-15)

⁴ Partington, Geoffrey, (1996) *Hasluck Versus Coombs: White Politics and Australia’s Aborigines*, Quakers Hill Press, Sydney.

Conclusion

This thesis has argued that the loss of Indigenous self-determination is the fundamental issue that underlies the Indigenous 'problem' and that it is the imagined Australian nation that is the obstacle to the restoration of that right. This loss of self-determination occurred as the result of the colonisation of the Australian continent by the British and their failure to enter into a treaty, purchase land, or to co-exist equally with Indigenous people. It has been shown that Australia's Indigenous people, as the original sovereign occupiers and owners of the continent, have a legitimate claim to the right to self-determination. However, regaining this sovereignty has been complicated by the international legal definition of sovereignty as a national and not a group right. This power was discussed in relation to the general claims that the United Nations Working Group on Indigenous Populations (WGIP) is making on behalf of the world's Indigenous peoples. The WGIP has argued that establishing the right to self-determination is imperative for the long-term cultural survival and development of Indigenous peoples, and that it would contribute significantly to the resolution of many of the entrenched difficulties that Indigenous people face. Beyond these claims, the WGIP argues that self-determination for Indigenous peoples according to their own cultural heritage is a basic human right that they are being denied. In response to this claim, most of the governments whose territories incorporate Indigenous people, and who are involved in negotiations with the WGIP, concede that there is a need to grant them a greater degree of self-determination, but insist that this must be free from any implications of secession.

Nevertheless, the fear of national division or secession by consecutive Australian governments has problematised the granting of Indigenous self-determination. This anxiety was made evident in the analysis of the five post-1972 Commonwealth governments that, despite party difference, have never fully countenanced such a right. In Australia the basis of the Indigenous claim for the right to be self-determining is that it would allow Indigenous people to order their own existence according to their cultural values, norms, and practices, without any implication of secession. Such a claim has been argued most forcibly by Michael Dodson and Sarah Pritchard (Dodson and Pritchard, 1998: 5-6).

Having established the legitimacy of the Indigenous peoples' right to self-determination, the thesis showed how the history of Australia's colonisation and the policies based on this premise led to the erosion of that right. This demonstrated the level of control that has been exercised over Indigenous people. The consequence of the doctrine of *terra nullius* on which British possession was based is that Indigenous people have historically been treated as though they have been an inconvenient adjunct to the Anglo-Celtic project of nation building, development, and progress, rather than being able to co-exist and freely determine their own existence. This was elucidated through the survey of policies that Indigenous people have been subjected to since colonisation. It has also been demonstrated that the defining characteristic of all Indigenous policies has been the exercise of control over almost every aspect of their lives. These policies have included British colonial protection, frontier violence, protection policies implemented by the various colonial and state governments, and eventually the assimilation policy, which was implemented after it

was realised that Indigenous people would not 'die out'. Under the assimilation policy Indigenous people were expected to conform to the cultural values, norms, and practices of the dominant Anglo-Celtic culture of the nation.

Following the analysis of the policies adopted between colonisation and 1972 consideration was then given to the development of the classical European model of nation. The work of Benedict Anderson and Ernest Gellner was used to develop a theoretical framework of the ideas and practices that nations use to establish themselves and secure their futures, as well as the implications for minority cultures within their territories. The central arguments of both Anderson's and Gellner's work was the importance of a dominant culture to the creation of the nation. Equally, they suggest that the dominant culture within a given national territory seeks to impose its own particular values, norms, and practices on all minority cultures through such means as language, education, and state bureaucratic structures and functions. Thus a sense of political legitimacy and cultural sovereignty are established by that culture. However, Anderson's work indicated that it is possible to have a more inclusive form of imagined community: one where cultures can co-exist. Following an exposition of this theoretical framework consideration was given to the development of the Australian nation and the centrality of the Anglo-Celtic culture to this process.

It has been argued that the Australian nation was imagined in the style of a monocultural classical European nation. Clear evidence of this was given through an analysis of the development of the White Australia policy, which was designed to protect Australia from the 'contamination' of other cultures. This policy

subsequently became the defining policy of the Australian nation. Indigenous people's exclusion from the nation was based on Social Darwinist ideas and their perceived 'primitive' state. The history that the Australian nation developed for itself was in keeping with Anderson's arguments, in that it was characterised by "amnesias" and the "forgetting" of Indigenous people and their inherent rights. Following Federation there was a very slow improvement in the ways that Indigenous people were treated, beginning with the belated recognition of their humanity. Nevertheless, Indigenous people were subjected to governmental controls that sought to impose on them Anglo-Celtic values, norms, and practices while rejecting their traditional cultures.

The beginning of a more significant change in attitude towards Indigenous people was signalled by the comprehensive approval of the constitutional reforms passed by the 1967 referendum. Those changes enabled the Commonwealth to legislate on behalf of Indigenous people and to include them in the national census. In 1972, influenced in part by changes being initiated by other national governments to the treatment of Indigenous peoples and cultural minorities, the Whitlam government introduced an ostensible radical shift in Indigenous policy from assimilation to self-determination.

After coming to power Whitlam stated that it was his government's intention to restore the lost power of self-determination to Indigenous people. Simultaneously, however, there remained a bureaucratic commitment to the policy of integration, which was barely distinguishable from the policy of assimilation. The Whitlam government's distinct ambivalence to any significant change in Indigenous policy

was confirmed by Whitlam's statements that Indigenous policy would be formulated and implemented by his government. While the National Aboriginal Consultative Committee was established as a means of Indigenous representation, its power was restricted to having the opportunity to be consulted and conferred with on matters of policy. Any notion of self-determination was negated because the Whitlam government maintained the dominant position of the Anglo-Celtic culture within the nation by refusing to allow Indigenous people to control their own policy processes and objectives according to their own cultural heritage. This was despite the government having a sound understanding of their past treatment and of their need and right to be self-determining.

During their time in opposition the Fraser-led Coalition had remained committed to a policy of assimilation. However, because of the precedent set by Whitlam's self-determination policy, the Fraser government was compelled to change their position in order to avoid criticism of a regressive attitude to Indigenous policy. Accordingly, following the dismissal of the Whitlam government in 1975, a policy of Indigenous self-management was introduced. The concept of self-management is not an internationally recognised right in the way that self-determination is, rather it represents a compromised and reduced national accommodation of that right. Nevertheless, the Fraser government recognised the need of Indigenous people to have input to the policies that impacted on their lives. This was expressed by Fraser's Minister for Aboriginal Affairs, Ian Viner, who explained that his government would work towards giving Indigenous people a "sense of involvement in their future" (Viner, 1976a: 642). This reflects the level of commitment that the government accorded to empowering Indigenous people: self-management in this

context deprived Indigenous people of the ability to control their lives on their own terms. This was confirmed by Fraser when he argued that Indigenous people would merely have the same kind of government decisions as all other Australians. Under the Fraser government's policy, Indigenous people occupied a position within the nation that remained subject to government containment and control. The Fraser government intended to maintain the hegemonic position of the Anglo-Celtic culture by refusing to grant Indigenous people any rights that set them apart within the nation, even though that is what the Indigenous problem requires for resolution.

Following the defeat of Fraser in 1983 the incoming Hawke Labor government reinstated self-determination as the Commonwealth Aboriginal Affairs policy. Hawke's government displayed a solid understanding of the Indigenous problem and a more positive attitude towards the issue of Indigenous empowerment, which gave hope for substantial change. However, the government failed to implement changes that would have substantially facilitated self-determination. The issue of a treaty between the government and Indigenous representatives was again raised as a means of rectifying Australia's historical failure to negotiate with Indigenous people over possession of the continent. However, Hawke abandoned any idea of a treaty because of what he said were unfavourable public opinion polls, despite a clear understanding on the part of the government of the need to address the longstanding issue. One of the government's most significant initiatives was to establish ATSIC, which it promoted as the vehicle for self-determination and the peak national body of Indigenous representation. The Commonwealth *ATSIC Act*, however, made no mention of the term self-determination, referring instead to Indigenous self-management and self-sufficiency, which was a clear compromise on what it had

promised to deliver. Under Hawke Indigenous people would not have any rights extended to them that were incongruous with those enjoyed by Non-indigenous people. Hawke's Minister of Aboriginal Affairs, Robert Tickner, emphasised that ATSIC would be directly accountable to the government, confirming that control would remain a distinguishing characteristic of Indigenous policy, in contradiction to their commitment to the concept of self-determination. Under the Hawke government there was no substantial alteration to the position of Indigenous people within the nation, and the dominance of the Anglo-Celtic majority was maintained.

Hawke's loss of the parliamentary leadership of the Labor party to Keating brought about a significant change to the way in which the Australian nation was imagined. One theme of Keating's 'big picture' politics was his rhetorical support for a more inclusive sense of nation, one that embraced cultural diversity as a positive for Australia's future. Under Keating's government Indigenous people received unequivocal recognition of the injustices that they had suffered and of their need to be empowered. In 1992 Keating argued that Indigenous people needed much greater control over their own destinies and must be enabled to set their own priorities. He also welcomed the High Court decision in the *Mabo* case that overturned the doctrine of *terra nullius*, the basis on which possession of Australia had been made. Nevertheless, despite his government's positive rhetoric and explicit support for Indigenous people, it was also ambivalent in its approach to Indigenous rights and remained ultimately constrained by its commitment to maintaining the Anglo-Celtic hegemony of the nation. The government's *Native Title Act* reduced the extent of claims that could be made under the High Court's decision. And while Keating's Minister for Aboriginal Affairs, Robert Tickner, argued that the government and its

ministers would no longer make the important decisions on behalf of Indigenous people, in a direct contradiction of this statement the government argued that ATSIC, rather than being the vehicle for Indigenous self-determination was a body that would convey Indigenous opinion to the government. It further revealed that ATSIC was never intended to be a primary provider of services to Indigenous people but was designed to complement the services of mainstream government departments. Thus under Keating ATSIC, the vehicle of self-determination, was no more than a limited administrative body, constrained and controlled by the government for Indigenous people.

In comparison to the four governments that were in office between 1972 and 1996, the election of the Howard government ushered in a distinct change of attitude and policy towards Indigenous people. The Howard government pejoratively described Indigenous affairs as an 'industry', implying that there was no legitimate basis for its existence and that its claims exceeded those enjoyed by 'mainstream' Australians. Only a token commitment was given to restoring the policy of self-management developed by the Fraser government. Instead, rhetorical emphasis was given to the concept of 'practical reconciliation', the focus of which was delivering services and living conditions to Indigenous people that were comparable to those of Non-indigenous Australians. This of course is a commendable policy goal. However, this policy made no commitment to the restoration of the Indigenous right to self-determination, being instead a recoding of an assimilationist agenda. By negative and reactive responses to Indigenous calls for empowerment, and the implementation of severe cuts to the ATSIC budget, the Howard government sought to obstruct the Indigenous aspiration to self-determination because of its perceived threat to national

unity. While the government acknowledged the treatment that Indigenous people had been subjected to throughout Australia's history, it would not recognise any basis for contemporary redress. Rather, it emphasised that Indigenous people needed to 'move on' from the past and become a part of mainstream Australian society. This response reinforced the idea of an assimilationist agenda, supported by a belief in 'one nation', 'one body of law', and 'one people', an attitude also taken towards the policy of multiculturalism. Howard's approach strongly reinforced the notion of an Anglo-Celtic nation, where the values, norms, and practices of the dominant culture were paramount. The Howard government's implementation of its policy agenda reinforced and extended the exercise of government control over Indigenous existence.

During the period of the Howard administration there has also been a renewed emphasis on Indigenous assimilation outside of the government arena, with a number of academics advocating a return to pre-1972 principles.¹ Such perspectives reinforce the arguments of this thesis concerning the way in which the Australian nation is imagined as a monocultural political entity that continues to resist the idea of the nation being shared between its original sovereign owners and the Anglo-Celtic people that have colonised their territories. As a consequence, Indigenous people remain subjected to Non-indigenous control, not in the overt ways of the past, but in ways that preserve the Non-indigenous hegemony through governmental and bureaucratic controls that prevent Indigenous self-determination on the basis of their own values, norms, and practices.² Clearly the Australian nation needs to be re-imagined in a way that will accommodate Indigenous aspirations for the right to self-determination. This will require political will and leadership, and a broad public

understanding and acceptance of the Indigenous place in the continent's history and future. Because the nation is an imagined community it is possible to re-imagine it as an inclusive entity that can accommodate Indigenous self-determination without 'threatening' the integrity of the nation.

In conclusion, such a nation will have to transcend the advances of the past 30 years that have given recognition to the need for that right. Nevertheless, as has been demonstrated, while historical changes in attitudes towards Indigenous rights have been slow across the two centuries since colonisation, they have overcome what, for Indigenous people, must have seemed like insurmountable obstacles. Therefore, despite what appears to be a setback for Indigenous self-determination at the turn of the millennium, it needs to be seen in the context of the long progression from the time when Indigenous people were thought to be on the brink of 'extinction' to 1972 and the beginning of a political change in understanding Australia's history and the kind of nation that Australia needed to become. The re-imagining of the nation will require, as all political change has required, the commitment of Non-indigenous and Indigenous people to challenge and overcome the ignorance and prejudice that informs the national imagining of the nation.

¹ See for example: Johns, Gary (ed.), (2001a), *Waking up to Dreamtime: The Illusion of Aboriginal Self-determination*, Media Masters, Singapore. In his introduction, Johns' use of the term 'nation' is significant in that it resonates with the arguments developed in this thesis. He portrayed the 'nation' as being above the Indigenous problem and suggested that the way in which the Australian nation is imagined is not problematic, but is something that Indigenous people need to conform to. It is precisely these sorts of arguments and ideas that have actually created the Indigenous problem, rather than providing a solution to it. Embedded in this perspective is an inherent commitment to an assimilationist agenda, where Indigenous people need to become a part of the established nation and to leave their "dreams of another world" behind.

See also, Partington, Geoffrey, (1996) *Hasluck Versus Coombs: White Politics and Australia's Aborigines*, Quakers Hill Press, Sydney; Johns, Gary, (2001b) "The Failure of Aboriginal Separatism", *Quadrant*, May, pp. 9-18; Windschuttle, Keith, (2001) "Why there should be no Aboriginal Treaty", *Quadrant*, October, pp. 15-24.

² See Read, Peter, (1997) "Aborigines making history", in Hudson, Wayne and Bolton, Geoffrey (eds), *Creating Australia: changing Australian history*, Allen & Unwin, Sydney, p. 69.

Bibliography

Aboriginal Law Bulletin, (1989) Vol. 2, No. 37, April.

Aboriginal News, (1973) Vol. 1, No. 2, August.

Aboriginal News, (1976) Vol. 3, No. 1, February.

Aboriginal Provisional Government Council, (1990) "Towards Aboriginal sovereignty", *Chain Reaction*, No. 62, October, pp. 38-41.

_____, (1994a) *Towards Aboriginal Sovereignty*, Deep South Sovereign, Hobart, 2nd ed.

_____, (1994b) *Aboriginal Government: the APG papers Vol. 1*, Deep South Sovereign, Hobart, 2nd ed.

Adams, Philip (ed.), *The Retreat From Tolerance: a snapshot of Australian society*, ABC Books, NSW.

Age (Melbourne), 28 April 1987, 22 August 1998.

Ahluwalia, Pal, (2001) "When does a settler become a native? Citizenship and identity in a settler society", *Pretexts: literary and cultural studies*, Vol. 10, No. 1, pp. 63-73.

Ali Khan, L., (1996) *The Extinction of Nation-States*, Kluwer Law International, The Hague.

Alston, Philip and Chaim, Madelaine (eds), (1995) *Treaty-Making and Australia: globalisation versus sovereignty*, Federation Press, NSW.

Altman, Jon and Sanders, S., (1995) "From exclusion to dependence: Aborigines and the welfare state in Australia", in Dixon, John and Scheurell, Robert (eds), *Social Welfare with Indigenous Peoples*, Routledge, London.

Anaya, James, (1996) *Indigenous Peoples in International Law*, Oxford University Press, Oxford.

_____, (1990) "The rights of Indigenous peoples and international law in historical and contemporary perspective", *Harvard Indian Law Symposium*: 191, in Iorns, Catherine, J., (1992) "Indigenous Peoples and Self-determination: challenging state sovereignty", *Occasional Papers*, Murdoch School of Law.

Anderson, Benedict, (1991) *Imagined Communities: reflections on the origin and spread of nationalism*, Verso, London, 2nd ed..

_____, (1998) *The Spectre of Comparisons: nationalism, Southeast Asia, and the world*, Verso, London.

Andrew, John, (1988) Australia, House of Representatives, *Debates*, , *Aborigines and Torres Strait Islanders*, Vol. 164.

Armitage, Andrew, (1995) *Comparing the Policy of Aboriginal Assimilation: Australia, Canada and New Zealand*, UBC Press, Vancouver.

Armstrong, John A., (1982) *Nations before Nationalism*, The University of North Carolina Press, Chapel Hill.

ATSIC, (1992) *Reconciliation, Social Justice and ATSIC*, ATSIC, Canberra.

ATSIC, (1995) *Recognition, Rights and Reform: a report to government on Native Title social justice measures*, Commonwealth Government, Canberra.

Attwood, Bain, (1989) *The Making of the Aborigines*, Allen & Unwin, Sydney.

_____, (ed.), (1996) *In the Age of Mabo: history, Aborigines and Australia*, Allen & Unwin, Sydney.

Auerbach, Erich, (1957) *Mimesis, The Representation of Reality in Western Literature*, Trask, Willard (trans.), Doubleday Anchor, Garden City, N.Y.

Australian Department of Aboriginal Affairs, (1979) *Annual Report 1978-79*.

Australian Financial Review, 6 March 1986.

Australian Law Reform Commission Report (1986).

Australian Reconciliation Convention, (1997) *The Path to Reconciliation: renewal of the nation*, 26–28 May, AGPS, Canberra.

Australian, 4 August 1965; 11 May 1999; 21 August 2001.

Bachelard, Michael, (1997) *The Great Land Grab* (Hyland House, South Melbourne).

Bacon, Francis, (1906) *Essays*, Dent, London.

Beaglehole, J.C. (ed.), (1955) *The Journals of Captain James Cook Vol. I*, no publisher, Cambridge.

_____, (ed.), (1962) *The Endeavour Journal of Joseph Banks Vol. II*, no publisher, Sydney.

Beazley, Sr., Kim, (1976) Australia, House of Representatives, *Debates, Governor General's Speech*, Vol. 98.

Beazley Jnr., Kim, (1997) Australia, House of Representatives, *Debates, Aboriginal Reconciliation*, Vol. 213.

Beckett, Jeremy (ed.), (1988) *Past and Present*, Aboriginal Studies Press, Canberra.

_____, (1988) "Aboriginality, citizenship and Nation State", in Beckett, Jeremy (ed.), *Social Analysis*, No. 24, Dec., pp. 3-18.

Behrendt, Larissa, (1995) *Aboriginal Dispute Resolution*, The Federation Press, NSW.

Bell, James H., (1964) "Assimilation in New South Wales", in Reay, Marie (ed.), *Aborigines Now*, Angus and Robertson, Sydney, pp. 59-71.

Benjamin, Walter, (1973) *Illuminations*, Fontana, London.

Bennett, Scott, (1989) *Aborigines and Political Power*, Allen & Unwin, Sydney.

_____, (1999) *White Politics and Black Australians*, Allen & Unwin, Sydney.

- Betts, Katharine, (1988) *Ideology and Immigration: Australia 1976 to 1987*, Melbourne University Press, Melbourne.
- Birrell, Robert, (1995) *A Nation of Our Own: citizenship and nation-building in Federation Australia*, Longman, Melbourne.
- Blackstone, Sir William, (1979) *Commentaries on the Laws of England Vol. 1 Of the Rights of Persons (1756)*, A Facsimile of the First Edition of 1765-1769, The University of Chicago Press, Chicago.
- Blainey, Geoffrey, (1984) *All for Australia*, Methuen Haynes, NSW.
- _____, (1991) *Blainey: eye On Australia*, Schwartz Books, Melbourne.
- _____, (1993a) *Weekend Australian*, 1-2 May.
- _____, (1993b) "Drawing up a balance sheet of our history" (Latham Lecture), *Quadrant*, July–August, pp. 10-15.
- _____, (1994) *A Shorter History of Australia*, William Heinemann, Victoria.
- Bloch, Marc, (1961) *Feudal Society* Manyon, I.A. (trans.), The University of Chicago Press, Chicago, Vol. 1.
- Bolt, Christine, (1971) *Victorian Attitudes to Race*, Routledge and K Paul, London.
- Bolton, Geoffrey, (1993) *Who Owns Australia's Past*, University of Queensland Press, Queensland.
- Bonner, Neville, (1973) Australia, House of Representatives, *Debates, Adjournment*, Vol. 58.
- Borrie, W.D., Cuthbert, Grace, Wood, G.L., Harris, H.L. and Elkin, A.P., (1947) *A White Australia: Australia's population problem*, The Australasian Publishing Co. Pty. Ltd, Sydney.
- Bourke, Colin, Bourke, Eleanor and Edwards, Bill (eds), (1994) *Aboriginal Australia*, University of Queensland Press, Queensland.

- Bourke, Colin and Cox, Helen, (1994) "Two Laws: One Land", in Bourke, Colin, Bourke, Eleanor and Edwards, Bill (eds), *Aboriginal Australia*, University of Queensland Press, Queensland, pp. 49-64.
- Brady, Veronica, (1992) *Towards Reconciliation?*, Indian Ocean Centre for Peace Studies, Briefing Paper No. 3, April.
- Brehony, Kevin, J. and Rassool, Naz (eds), (1999) *Nationalisms Old and New* (Macmillan Press Ltd., London.
- Breuilly, John, (1982) *Nationalism and the State*, Manchester University Press, Manchester.
- Britton, Alex (ed.), (1892) *Historical Records of New South Wales*, Sydney, Vol. 1, pt. 2.
- Brougham, Barbara (ed.), (1993) *Aboriginal Studies: windows on Indigenous Australia*, University of South Australia, Underdale.
- Brown, Bob, (1996) Australia, Senate, *Debates*, Vol. 179.
- Bryant, Gordon, (1973a) Australia, House of Representatives, *Debates, State Grants (Aboriginal Advancement) Bill*, Vol. 82.
- _____, (1973b) Australia, House of Representatives, *Debates, Aboriginal Affairs Bill*, Vol. 83.
- _____, (1976) Australia, House of Representatives, *Debates, States Grants (Aboriginal Assistance) Bill*, Vol. 102.
- _____, (1977) Australia, House of Representatives, *Debates, Appropriation Bill (No 1)*, Vol. 107.
- Bulletin*, 25 June 1892.
- Bunbury, Bill, (1998) *Unfinished Business: reconciliation, the republic and the Constitution*, ABC Books, NSW.

Calder, Stephen, (1973a) Australia, House of Representatives, *Debates, Aboriginal Affairs Bill*, Vol. 83.

_____, (1973b) Australia, House of Representatives, *Debates, Appropriation Bill (No. 1)*, Vol. 83.

_____, (1976) Australia, House of Representatives, *Debates, Aboriginal and Torres Strait Islanders*, Vol. 98.

_____, (1977) Australia, House of Representatives, *Debates, Foreign Policy*, Vol. 104.

Cameron, Donald, (1977) Australia, House of Representatives, *Debates, Appropriation Bill (No. 1)*, Vol. 107.

Camilleri, Joseph A. and Falk, Jim, (1992) *The End of Sovereignty?*, Edward Elgar Publishing Ltd., England.

Campbell, Graeme and Uhlmann, Mark, (1995) *Australia Betrayed*, Foundation Press, Western Australia.

Carroll, John (ed.), (1992) *Intruders in the Bush: the Australian quest for identity*, Oxford University Press, Melbourne, 2nd ed..

Castles, Stephen, Kalantzis, Mary, Cope, Bill and Morrissey, Michael, (1992) *Mistaken Identity: Multiculturalism and the Demise of Nationalism in Australia*, Pluto Press Australia, NSW, 3rd ed..

Cavanagh, Senator J.L., (1974) *Selected Policy Statements on Aboriginal Affairs 1973–1974*, AGPS, Canberra.

Chaney, Fred, (1979) Australia, Senate, *Debates, Questions Without Notice*, Vol. 83.

Chatterjee, Partha, (1986) *Nationalist Thought and the Colonial World*, Zed Books, London.

_____, (1993) *The Nation and Its Fragments: colonial and postcolonial histories*, Princeton University Press, Princeton.

_____, (1999) "Anderson's Utopia", *Diacritics*, Vol. 29, No. 4, Winter, pp. 128-134.

Chesterman, John and Galligan, Brian, (1997) *Citizens Without Rights: Aborigines and Australian citizenship*, Cambridge University Press, Cambridge.

Clark, Bruce, (1990) *Native Liberty, Crown Sovereignty: the existing Aboriginal right of self-government in Canada*, McGill-Queen's University Press, Montreal.

Collins, Bob, (1996a) Australia, Senate, *Debates*, Vol. 178.

_____, (1996b) Australia, Senate, *Debates*, Vol. 179.

Commonwealth of Australia, (1992) *Aboriginal Deaths in Custody: overview of the response by governments to the Royal Commission*, AGPS, Canberra.

Commonwealth of Australia, *Aboriginal and Torres Strait Islander Commission Act 1989*.

Commonwealth of Australia Constitution Act 1900.

Commonwealth of Australia, *Council for Aboriginal Reconciliation Act, 1991*.

Connolly, David, (1985) Australia, House of Representatives, *Debates, Appropriation Bill (No. 1)*, Vol. 144.

_____, (1986) Australia, House of Representatives, *Debates, Aboriginal Land Rights*, Vol. 147.

Coombs, H.C., (1978) *Australia's Policy Towards Aborigines 1967-1977*, Minority Rights Group, London.

_____, (1994) *Aboriginal Autonomy: issues and strategies*, Smith, Diane (ed.), Cambridge University Press, Cambridge.

Council for Aboriginal Reconciliation, (1993a) *Making things right: reconciliation after the High Court's decision on native title*, AGPS, Canberra.

- Council for Aboriginal Reconciliation, (1993b) *Addressing the Key Issues of Reconciliation*, AGPS, Canberra.
- Council for Aboriginal Reconciliation, (1994a) *Understanding Country: the importance of land and sea in Aboriginal and Torres Strait Islander Societies*, AGPS, Canberra.
- Council for Aboriginal Reconciliation, (1994b) *Controlling Destinies: greater opportunities for Indigenous Australians to control their destinies*, AGPS, Canberra.
- Council for Aboriginal Reconciliation, (1994c) *Sharing History: a sense for all Australians of a shared ownership of their history*, AGPS, Canberra.
- Council for Aboriginal Reconciliation, (1995a) *Going Forward: social justice for the first Australians*, AGPS, Canberra.
- Council for Aboriginal Reconciliation and ATSIC, (1995b) *Towards Social Justice?*, AGPS, Canberra.
- Council for Aboriginal Reconciliation, (1997) *The Path to Reconciliation: renewal of the nation*, AGPS, Canberra.
- Cowan, David, (1987) Australia, House of Representatives, *Debates, Appropriation Bill (No. 1) 1987-88*, Vol. 156.
- Craig, John, (1991) *Australian Politics Notebook*, Harcourt Bruce Jovanovich Group (Australia) Pty Limited, NSW.
- Crawford, James, (1979) *The Creation of States in International Law*, Clarendon Press, Oxford.
- Crawford, R.M., Clark, Manning and Blainey, Geoffrey, (1985) *Making History*, Penguin, Ringwood.
- Cross, Manfred (1973) Australia, House of Representatives, *Debates, Aboriginal Affairs Bill*, Vol. 83.

Crowder, George, Manning, Haydon, Mathieson, David, Parkin, Andrew and Seabrooke, Leonard (eds), (1997) *Australasian Political Studies 1997: Proceedings of the 1997 APSA Conference Vol. II*, Flinders University of South Australia.

Curthoys, Ann, (1997) "History and identity", in Hudson, Wayne, Bolton, Geoffrey (eds), *Creating Australia: changing Australian history*, Allen & Unwin, Sydney, pp. 23-38.

Daily Mirror, 9 July 1945.

Dalton, T., Draper, M., Weeks, W. and Wiseman, J., (1996) *Making Social Policy in Australia*, Allen & Unwin, NSW.

Darian-Smith, Kate and Hamilton, Paula (eds), (1994) *Memory and History in Twentieth-Century Australia*, Oxford University Press, Oxford.

Davidson, Alastair, (1997) *From Subject to Citizen: Australian citizenship in the twentieth century*, Cambridge University Press, Cambridge.

Deane, Sir William, (1996) *Some Signposts from Daguragu*, Council for Aboriginal Reconciliation, Canberra.

de Garis, Brian, (2000) "Matheson, Sir Alexander, Perceval (1861–1929)", in Millar, Ann (ed.), *The Biographical Dictionary of the Australian Senate, Vol. 1, 1901–1929*, Melbourne University Press, Australia, pp. 344-347.

Deloria, Vine and Lytle, Clifford, (1984) *The Nations Within: the past and future of American Indian sovereignty*, Pantheon, Books, New York.

Department of Aboriginal Affairs, (1979) *Annual Report 1978-79*.

Department of Foreign Affairs and Trade, (1992) *Backgrounder*, Vol. 3, No. 9.

Department of Territories, (1967) Australia, *The Australian Aborigines*, AGPS, Canberra.

- Dexter, B.G., (1973) "The Commonwealth Department of Aboriginal Affairs—its function and underlying principles", Address given to Monash Centre for Research into Aboriginal Affairs, 9 May.
- Diamond, Jared, (1997) *Guns, Germs and Steel*, W.W. Norton & Company, New York.
- Dixon, John and Scheurell, Robert (eds), (1995) *Social Welfare with Indigenous Peoples*, Routledge. London.
- Djerrkura, Gatjil, (1998) *ATSIC Annual Report 1997–98*, ATSIC, Canberra.
- Dodd, Peter, (1993) Australia, House of Representatives, *Debates, Aboriginal And Torres Strait Islander Commission Amendment Bill (No. 2) 1993*, Vol. 189.
- Dodson, Michael, (1993) *Aboriginal and Torres Strait Islander Social Justice Commission First Report: 1993*, AGPS, Canberra.
- _____, (1996a) *Reconciliation at the Crossroads*. Address to the National Press Club, April, AGPS, Canberra.
- _____, (1996b) *Assimilation versus Self-determination: no contest*, North Australia Research Unit, Darwin.
- _____ and Pritchard, Sarah, (1998) "Recent developments in Indigenous policy: The abandonment of self-determination?", in *Indigenous Law Bulletin*, October, Vol. 4, issue 15, pp. 4-6.
- Dodson, Patrick, (1998) "Will the circle be unbroken?: cycles of survival for Indigenous Australians", North Australia Research Unit, Discussion Paper No. 12.
- Durie, Mason, (1998) *Te Mana, Te Kawanatanga: the politics of Maori self-determination*, Oxford University Press, Oxford.
- Dutton, Francis, (1846) *South Australia and its Mines with an historical sketch of the colony, under its several administrators, to the period of Captain Grey's departure*, T. and W. Boone, London.

- Edwards, Bill, (1994) "Living the Dreaming", in Bourke, Colin, Bourke, Eleanor and Edwards, Bill (eds), *Aboriginal Australia*, University of Queensland Press, Queensland, pp. 65-84.
- Edwards, Meredith, with Howard, Cosmo and Miller, Robin, (2001) *Social Policy, Public Policy: from problem to practice*, Allan & Unwin, NSW.
- Eley, Geoff and Suny, Ronald G. (eds), (1996) *Becoming National*, Oxford University Press, Oxford.
- Elkin, A.P., (1944) *Citizenship for the Aborigines: a national Aboriginal policy*, Australasian Publishing Co. Pty. Ltd., Sydney.
- _____, (1947a) "Is White Australia doomed?", in Borrie, W.D., Cuthbert, Grace, Wood, G.L., Harris, H.L. and Elkin, A.P., *A White Australia: Australia's population problem*, The Australasian Publishing Co. Pty. Ltd, Sydney, pp. 174-214.
- _____, (1947b) "Re-Thinking The White Australia Policy", in Borrie, W.D., Cuthbert, Grace, Wood, G.L., Harris, H.L. and Elkin, A.P., *A White Australia: Australia's population problem*, The Australasian Publishing Co. Pty. Ltd, Sydney, pp. 215-252.
- Paul, Ellen, Miller, Fred, and Paul, Jeffrey, (1996) *The Communitarian Challenge to Liberalism*, Cambridge University Press, Cambridge.
- Encel, Sol, (1971) *A Changing Australia*, The Australian Broadcasting Commission, Sydney.
- Evans, C., (1998) Australia, Senate, *Native Title Amendment Bill 1997 [No. 2]*, Vol. 190.
- Evans, Harry, (2000) "Introduction", in Millar, Ann (ed.), *The Biographical Dictionary of the Australian Senate, Vol. 1, 1901-1929*, Melbourne University Press, Australia, pp. 1-11.
- Fitzgerald, Stephen, (1997) *Is Australia An Asian Country?*, Allen & Unwin, NSW.

Fletcher, Christine, (1992) *Aboriginal Politics: intergovernmental relations*, Melbourne University Press, Melbourne.

_____, (ed.), (1994) *Aboriginal Self-determination in Australia*, Aboriginal Studies Press, Canberra.

_____, (2000) "From consensus to conflict: ATSIC and the Howard Government", in Singleton, Gwynneth (ed.), *The Howard Government: Australian Commonwealth Administration 1996–1998*, University of New South Wales Press, Sydney, pp. 108-124.

Forshaw, Michael, (1997) Australia, Senate, *Debates*, Vol. 188.

Fourmile, Henrietta, (1989) "Who owns the past?", *Aboriginal History*, No. 13, Pt. 1, pp. 1-8.

Fowler, Michael and Bunck, Julie, (1995) *Law, Power, and the Sovereign State*, The Pennsylvania State University Press, Pennsylvania.

Fraser, Malcolm, (1977) Australia, House of Representatives, *Debates, Answers to Questions*, Vol. 106.

_____, (1981), "The Government and the National Aboriginal Conference", Address to the Sixth Plenary Session of the National Aboriginal Conference, Canberra, 10 November, Commonwealth Government Printer, Canberra.

Frost, A., (1981) "New South Wales as *terra nullius*; the British denial of Aboriginal land rights", *Historical Studies*, Vol 19, No. 77, pp. 513-523.

Frow, John and Morris, Meaghan (eds), (1993) *Australian Cultural Studies: a reader*, Allen & Unwin, NSW.

Gale, Fay and Brookman, Alison, (1975) *Race Relations in Australia: the Aborigines*, McGraw Hill Book Co., Australia.

Gale, Fay (ed.), (1983) *We are Bosses Ourselves*, Australian Institute of Aboriginal Studies, Canberra.

Gamage, Siri (ed.), (1993) *A Question of Power and Survival?: studies on assimilation, pluralism and multiculturalism in Australia*, UNE Symposium Group, Armidale.

Gellner, Ernest, (1964) *Thought and Change*, Weidenfeld and Nicholson, London.

_____, (1983) *Nations and Nationalism*, Basil Blackwell, Oxford.

_____, (1998) *Nationalism*, Phoenix, London.

Georges, George, (1979) Australia, Senate, *Debates, Aboriginal Land Rights*, Vol. 80.

Gibb, D.M., (1979) *The making of 'White Australia'*, Victorian Historical Association, Melbourne.

Gibson, Garrie, (1993) Australia, House of Representatives, *Debates, Aboriginal And Torres Strait Islander Commission Amendment Bill (No. 2) 1993*, Vol. 189.

Goldlust, John, (1996) *Understanding Australian Citizenship*, AGPS, Canberra.

Griffiths, Max, (1995) *Aboriginal Affairs: a short history 1788–1995*, Kangaroo Press, NSW.

Grimshaw, Patricia, Lake, Marilyn, McGrath, Ann and Quartly, Marian, (1994) *Creating A Nation*, McPhee Gribble Publishers, Ringwood.

Gutmann, Amy (ed.), (1994) *Multiculturalism*, Princeton University Press, Princeton.

Hage, Ghassan, (1998) *White Nation: fantasies of white supremacy in a multicultural society*, Pluto Press, NSW.

Hancock, W.K., (1930) *Australia*, Australian Pocket Library Edition.

Hand, Gerry, (1983) Australia, House of Representatives, *Debates, Aboriginal Affairs*, Vol. 134.

_____, (1987a) Australia, House of Representatives, *Debates, Foundations for the Future*, Vol. 155.

_____, (1987b) Australia, House of Representatives, *Debates, Foundations for the Future*, Vol. 158.

_____, (1989a) Australia, House of Representatives, *Debates, Aboriginal Affairs*, Vol. 165.

_____, (1989b) Australia, House of Representatives, *Debates, Aboriginal and Islander Bill*, Vol. 166.

Hannum, Hurst, (1990) *Autonomy, Sovereignty, and Self-determination: the accommodation of conflicting rights*, University of Pennsylvania Press, Philadelphia.

Hanson, Pauline, (1997a) Australia, House of Representatives, *Debates, Aboriginal Reconciliation*, Vol. 213.

_____, (1997b) *Pauline Hanson—the truth*, Pauline Hanson, Queensland.

Hasluck, Paul, (1973) Australia, House of Representatives, *Debates, Governor General's Speech*, Vol. 82.

_____, (1988) *Shades of Darkness: Aboriginal affairs 1925–1965*, Melbourne University Press, Victoria.

Havemann, Paul (ed.), (1999) *Indigenous Peoples' Rights in Australia, Canada & New Zealand*, Oxford University Press, Oxford.

Hawke, Bob, (1987) Australia, House of Representatives, *Debates, Questions without Notice*, Vol. 156.

_____, (1988) Australia, House of Representatives, *Debates, Aborigines and Islanders*, Vol. 162.

Hazelhurst, Kayleen, M. (ed.), (1987) *Ivory Scales: black Australia and the law*, NSW University Press, NSW.

Headon, David, Hooton, Joy and Horne, Donald (eds), (1994) *The Abundant Culture: meaning and significance in everyday Australia*, Allen & Unwin, NSW.

- Hemming, Steve, (1994) "Changing history: new images of Aboriginal history", in Bourke, Colin, Bourke, Eleanor and Edwards, Bill (eds), *Aboriginal Australia*, University of Queensland Press, Queensland, pp. 17-34.
- Henderson, Gerard, (1990) *Australian Answers*, Random House Australia, NSW.
- Henkin, Louis, (1995) *International Law: politics and values*, Martinus Nijhoff Publishers, London.
- Henzell, Marjorie, (1993) Australia, House of Representatives, *Debates, Aboriginal and Torres Strait Islander Commission Amendment Bill (No 2) 1993*, Vol. 189.
- _____, (1995) Australia, House of Representatives, *Debates, Aboriginal Land Rights (Northern Territory) Amendment Bill (No. 2) 1995*, Vol. 200.
- Herron, John, (1996a) Australia, Senate, *Debates*, Vol. 177.
- _____, (1996b) Australia, Senate, *Debates*, Vol. 178.
- _____, (1996c) Australia, Senate, *Debates*, Vol. 179.
- _____, (1997) Australia, Senate, *Debates*, Vol. 186.
- _____, (1998) *Addressing Priorities in Indigenous Affairs*, AGPS, Canberra.
- Hill, Robert, (1998) Australia, Senate, *Debates*, Vol. 193.
- Hindess, Barry, (1996) *Discourses of Power*, Blackwell, Oxford.
- Hinsley, F.H., (1986) *Sovereignty*, Cambridge University Press, Cambridge, 2nd ed..
- Hirst, J.B., (1992) "Multiculturalism: Australia's absurd history", in Carroll, John (ed.), *Intruders in the Bush: the Australian quest for identity*, Oxford University Press, Melbourne, 2nd ed., pp. 193-207.
- Hobsbawm, E.J., (1992) *Nations And Nationalism since 1780: programme, myth, reality*, Cambridge University Press, Cambridge, 2nd ed..
- Hodge, Bob and Mishra, Vijay, (1990) *Dark Side of the Dream*, Allen & Unwin, NSW.

Holding, Clyde, (1983) Australia, House of Representatives, *Debates, Aboriginal Affairs*, Vol. 134.

_____, (1986) Australia, House of Representatives, *Debates, Aboriginal Land Rights*, Vol. 147.

_____, (1993a) Australia, House of Representatives, *Debates, Aboriginal and Torres Strait Islander Commission Amendment Bill 1993*, Vol. 188.

_____, (1993b) Australia, House of Representatives, *Debates, Aboriginal and Torres Strait Islander Commission Amendment Bill (No 2) 1993*, Vol. 189.

Hollinger, David, (1995) *Postethnic America: Beyond Multiculturalism*, Basic Books, New York.

Hollinsworth, David, (1998) *Race and Racism in Australia*, Social Science Press, Australia, 2nd ed..

Horne, Donald, (1989) *Ideas for a Nation*, Pan Books, Sydney.

House of Representatives Standing Committee on Aboriginal Affairs, (1990) *Our Future, Our Selves*, AGPS, Canberra.

House of Representatives Standing Committee on Aboriginal and Torres Strait Islander Affairs, (1994) *Justice Under Scrutiny*, AGPS, Canberra.

Howard, John, (1988) Australia, House of Representatives, *Debates, Aborigines and Islanders*, Vol. 162.

_____, (1995a) *The Role Of Government: A modern Liberal approach*, The Menzies Research Centre–1995 National Lecture Series, 6 June.

_____, (1995b) *Politics And Patriotism: a reflection on the national identity debate*, Grand Hyatt Hotel, Melbourne, 13 December.

_____, (1996a) *Victory Speech*, The Wentworth Hotel, Sydney, 2 March.

_____, (1996b) *The Liberal Tradition: the beliefs and values which guide the Federal Government*, 1996 Sir Robert Menzies Lecture, 18 November.

_____, (1996c) *The Australia I Believe In*, Liberal party of Australia, Canberra.

_____, (1997) Australia, House of Representatives, *Debates, Aboriginal Reconciliation*, Vol. 213.

_____, (2000) *Practical Reconciliation* (<http://www.pm.gov.au/media/pressrel/2000/address2903.htm>).

Hudson, Wayne and Bolton, Geoffrey, (1997) "Introduction", in Hudson, Wayne and Bolton, Geoffrey (eds), *Creating Australia: changing Australian history*, Allen & Unwin, Sydney, pp. 1-11.

Huggins, Jackie, (1993) "Always was always will be", *Australian Historical Studies*, Vol. 25, No. 100, April, pp. 459-464.

Hutchinson, D.E. (ed.), (1969) *Aboriginal Progress. A new era?*, Nedlands, University of Western Australia.

Indigenous Law Bulletin, (1998) October, Vol. 4, issue 15.

International Covenant on Civil and Political Rights, Article 1.

Iorns, Catherine, J., (1992) "Indigenous peoples and self-determination: challenging state sovereignty", *Occasional Papers*, Murdoch School of Law.

Iverson, D., Patton P., Sanders, W., (2000) "Introduction", in Iverson, D., Patton P., Sanders, W., *Political Theory and the Rights of Indigenous Peoples*, Cambridge University Press, Cambridge, pp. 1-21.

Jaensch, Dean and Loveday, Peter (eds), (1979) *Election in the Northern Territory 1974-1977*, North Australia Research Unit, Australian National University.

_____ and Teichmann, Max, (1988) *The Macmillan Dictionary of Australian Politics*, Macmillan, Sydney, 3rd ed..

Jakubowicz, Andrew, Morrissey, Michael and Palser, Joanne, (1984) *Ethnicity, Class and Social Policy in Australia*, SWRC Report No. 46, University of NSW: Social Welfare Research Centre, May.

- James, Paul (ed.), (1996) *The Nation in Question*, Allen & Unwin, NSW.
- Jenkin, Graham (ed.), (1989) *Between the Wars: documents relating to Aboriginal Affairs 1919–1939*, South Australian College of Advanced Education, Magill Campus, South Australia.
- Jenkins, Stephen, (1997) “Australian Multiculturalism: What is the National Agenda?”, BA Honours Thesis, University of Adelaide.
- Johns, Gary (ed.), (2001a) *Waking up to Dreamtime: The Illusion of Aboriginal Self-determination*, Media Masters, Singapore.
- _____, (2001b) “The Failure of Aboriginal Separatism”, *Quadrant*, May, pp. 9-18.
- Johnson, Carol, (1996) “Shaping the social: Keating’s integration of social and economic policy”, *Just Policy*, No. 5, Feb., pp. 9-16.
- _____, (1997) “John Howard and the revenge of the mainstream: some implications for concepts of identity”, in Crowder, George, Manning, Haydon, Mathieson, David, Parkin, Andrew and Seabrooke, Leonard (eds), (1997) *Australasian Political Studies: Proceedings of the 1997 APSA Conference Vol. II*, Flinders University of South Australia, pp. 409-433.
- Johnson, Les, (1975) Australia, House of Representatives, *Debates, Appropriation Bill (No. 1)*, Vol. 94.
- Johnston, Elliott, (1991a) *Royal Commission into Aboriginal Deaths in Custody: National Report Vol. 2*, AGPS, Canberra.
- _____, (1991b) *Royal Commission into Aboriginal Deaths in Custody: National Report Vol. 5*, AGPS, Canberra.
- Jones, Barry, (1978) Australia, House of Representatives, *Debates, Aboriginal and Torres Strait Islanders (Queensland Reserves and Self-management) Bill*, Vol. 108.

Jones, Gavin, (1997) "'Australian Identity', racism and recent responses to Asian immigration to Australia", Research School of Social Sciences, Australian National University, *Working Papers in Demography*, No. 71, Canberra.

Jordens, Ann-Mari, (1995) *Redefining Australians*, Hale and Iremonger, Sydney.

Jupp, James and Kabala, Marie (eds), (1993) *The Politics of Australian Immigration*, AGPS, Canberra.

Kalantzis, Mary and Cope, Bill, (1997) "An opportunity to change the culture", in Adams, Philip (ed.), *The Retreat From Tolerance: a snapshot of Australian society*, ABC Books, NSW, pp. 57-85.

Keating, Paul, (1992a) *One Nation Speech*, 26 February, AGPS, Canberra.

_____, (1992b) *The Redfern Park Speech*, Launch of International Year for the World's Indigenous People, Sydney, 10 December.

_____, (1994) Australia, House of Representatives, *Debates, ATSIC Amendment (Indigenous Land Corporation and Land Fund) Bill 1994*, Vol. 196.

_____, (1995a) *Our Nation: Multicultural Australia and the 21st Century*, Office of Multicultural Affairs, ACT.

_____, (1995b) Australia, House of Representatives, *Land Fund And Indigenous Land Corporation (ATSIC Amendment) Bill 1994*, Vol. 199.

_____, (1996) "The Labor Government and Social Policy: 1983-1995", *Just Policy*, No. 5 February, pp. 3-8.

Keeffe, James, (1973) Australia, Senate, *Debates, Adjournment*, Vol. 57.

_____, (1974) Australia, Senate, *Debates, Adjournment*, Vol. 62.

Kelly, Margaret, (2001) *The Australian*, Tuesday Aug 21 Opinion.

Kelly, Paul, (1992) *The End of Certainty: the story of the 1980s*, Allen & Unwin, NSW.

- Kerr, Duncan, (1992) Australia, House of Representatives, *Debates, Aboriginal and Torres Strait Islander Affairs Committee Report*, Vol. 187.
- Kilgariff, Bernard, (1979) Australia, Senate, *Debates, Appropriation Bill (No. 3) 1978-79*, Vol. 81.
- Kirby, Hon. Justice Michael, CMG, (1987) "Foreword", in Hazelhurst, Kayleen, M. (ed.), *Ivory Scales: black Australia and the law*, NSW University Press, NSW.
- Kukathas, Chandran, (1993) "The Idea of a Multicultural Society", in Kukathas, Chandran, (ed.), *Multicultural Citizens: The Philosophy and Politics of Identity*, The Centre for Independent Studies, New South Wales, pp. 19-30.
- Kymlicka, Will, (1995) *Multicultural Citizenship: A Liberal Theory of Minority Rights*, Clarendon Press, Oxford.
- Kymlicka, W, (2000) "American Multiculturalism and the 'Nations Within'", in Ivison, D., Patton P., Sanders, W., *Political Theory and the Rights of Indigenous Peoples*, Cambridge University Press, Cambridge, pp. 216-236.
- Laski, Harold, J., (1917) *Studies in the Problem of Sovereignty*, Yale University Press, London.
- _____, (1919) *Authority in the Modern State*, Yale University Press, London.
- _____, (1921) *The Foundations of Sovereignty*, George Allen & Unwin, London.
- Liberal Party of Australia and National Party of Australia, (1996) *Policies for a Coalition Government: Aboriginal and Torres Strait Islander Affairs*, LPA and NPA, Canberra.
- Liberal Party of Australia, *For all of us: Aboriginal and Torres Strait Islander Affairs*, 1996, Liberal Party of Australia, Canberra.
- Lippmann, Lorna, (1979) "The Aborigines", in Patience, Allan and Head, Brian (eds), *From Whitlam to Fraser: reform and reaction in Australia politics* (Oxford University Press, Oxford, pp. 173-188.

- Loveday, Peter (ed.), (1982) *Service Delivery to Remote Communities*, North Australia Research Unit, Darwin.
- Lynch, John, (1973) *The Spanish-American Revolutions, 1808–1826*, Norton, New York.
- Mabo v Queensland* (1992) 107 CLR 1.
- Macintyre, Clement, (1991) *Political Australia: a handbook of facts*, Oxford University Press, Melbourne.
- Maddox, Graham, (2000) *Australian Democracy in Theory and Practice*, Longman, Sydney, 4th ed..
- Mansell, Michael, (1989) "Treaty proposal: Aboriginal sovereignty", *Aboriginal Law Bulletin*, Vol. 2, No. 37, April, pp. 4–6.
- _____, (1992) "Perspectives on Mabo: the court gives an inch but takes another mile", *Aboriginal Law Bulletin*, Vol. 2, No. 57, August, pp. 4–6.
- _____, (1993) "Native title: Eva Valley statement", *Pacific News Bulletin*, Vol. 8 No. 8, p. 3.
- Manzo, A. Kathryn, (1998) *Creating Boundaries: the politics of race and nation*, Lynne Rienner Publishers, London.
- Markus, Andrew and Ricklefs, M.C. (eds), (1985) *Surrender Australia?*, Allen & Unwin, Sydney.
- Maunsell, Charles, (1979) Australia, Senate, *Debates, Aboriginal Land Rights*, Vol. 80.
- McConnochie, K., Hollinsworth, D. and Pettman, J., (1988) *Race and Racism in Australia*, Social Science Press, Australia.
- McKenzie, David, (1973) Australia, House of Representatives, *Debates, States Grants (Aboriginal Advancement) Bill*, Vol. 82.
- McQueen, Humphrey, (1970) *A New Britannia*, Penguin, Melbourne.

- McRae, Heather, Nettheim, Garth, Beacroft, Laura and McNamara, Luke, (1997) *Indigenous Legal Issues*, LBC Information Services, Sydney, 2nd ed..
- Melleuish, Gregory, (1998) *The Packaging of Australia: politics and culture wars*, University of NSW Press, NSW.
- Melville, Henry, (1835) *The history of the island of Van Dieman's Land, from the year 1824 to 1835 inclusive*, Elder and Smith, London.
- Menzies, Robert, (1965) Australia, House of Representatives, *Constitution Alteration Bill 1965*, Vol. 48.
- Millar, David, Coleman, Janet, Connolly, William and Ryan, Alan (eds), (1991) *The Blackwell Encyclopaedia of Political Thought*, Blackwell, Oxford.
- Millar, Ann (ed.), (2000) *The Biographical Dictionary of the Australian Senate, Vol. 1, 1901–1929*, Melbourne University Press, Australia.
- Miller, J.D. and Jinks, Brian, (1971) *Australian Government and Politics*, Gerald Duckworth & Co. Ltd., London, 4th ed..
- Mullard, Chris, (1976) *Aborigines in Australia Today*, Australian National University, Canberra, , 2nd Impression.
- National Constitutions Conference, (1994) *The Position of Indigenous People in National Constitutions: speeches from the conference*, Canberra 4-5 June, AGPS, Canberra.
- Nehl, Garry, (1993) Australia, House of Representatives, *Debates, Aboriginal And Torres Strait Islander Commission Amendment Bill (No. 3) 1993*, Vol. 191.
- _____, (1994) Australia, House of Representatives, *Aboriginal Reconciliation*, Vol. 196.
- Neville, A.O., (1947) *Australia's Coloured Minority: its place in the community*, Currawong Publishing Co. Pty. Ltd., Sydney.

- Nile, Richard (ed.), (1991) *Immigration and the Politics of Ethnicity and Race in Australia and Britain*, Bureau of Immigration Research, Australia and University of London, London.
- Nugent, Peter, (1993) Australia, House of Representatives, *Debates, Aboriginal And Torres Strait Islander Commission Amendment Bill 1993*, Vol. 188.
- O'Donoghue, Lowitja, (1992) "Reconciliation, Social Justice and ATSIC", ATSIC, Canberra.
- O'Keefe, Neil, (1993) Australia, House of Representatives, *Debates, Aboriginal And Torres Strait Islander Commission Amendment Legislation*, Vol. 188.
- Office of Multicultural Affairs, (1989) *National Agenda for a Multicultural Australia*, AGPS, Canberra.
- Office of Multicultural Affairs, (1989) *National Agenda for a Multicultural Australia*, AGPS, Canberra.
- O'Malley, Pat, (1996) "Indigenous governance", *Economy and Society*, Vol. 25, No. 3, August, pp. 310-326.
- Pardoe, Colin, (1992) "Arches of radii, corridors of power" in Attwood, Bain and Arnold, John (eds), *Power, Knowledge and Aborigines*, La Trobe University Press, Victoria, pp. 132-141.
- Partington, Geoffrey, (1996) *Hasluck Versus Coombs: white politics and Australia's Aborigines*, Quakers Hill Press, Sydney.
- Patience, Allan and Head, Brian (eds), (1979) *From Whitlam to Fraser: reform and reaction in Australia politics* (Oxford University Press, Oxford).
- Patton, Paul, (1995) "Mabo and Australian society: towards a postmodern republic", *The Australian Journal of Anthropology*, Vol. 6: 1&2, pp. 83-100.
- _____, (1996) "Sovereignty, law and difference in Australia: after the Mabo Case", *Alternatives*, Vol. 21, April, pp. 149-170.

Pearson, Noel, (1993) "Reconciliation: to be or not to be", *Aboriginal Law Bulletin*, Vol. 3, No. 61, April, pp. 14-17.

_____, (1994) *After Mabo*, 8th Lionel Murphy Memorial Lecture, The State Library of N.S.W., 8th December, Lionel Murphy Foundation.

_____ and Sanders, Will, (1995) *Indigenous Peoples and Reshaping Australian Institutions: two perspectives*, The Australian National University, Centre for Aboriginal Economic Policy Research, Discussion Paper No. 102, pp. 1-16.

Perkins, Charles, (1975) *A Bastard Like Me*, Ure Smith, Sydney.

_____, (1994) "Self-determination and managing the future", in Fletcher, Christine (ed.), *Aboriginal Self-determination in Australia*, Aboriginal Studies Press, Canberra, pp. 33-46.

Peterson, Nicolas and Sanders, Will (eds), (1998) *Citizenship and Indigenous Australians*, Cambridge University Press, Cambridge.

Phillips, D.J. and Houston, J., (1984) *Australian Multicultural Society*, Drummond, Victoria.

Pieterse, Jan and Parekh, Bhikhu, (1995) *The Decolonization of Imagination*, Zed Books, London.

Porter, James, (1983) Australia, House of Representatives, *Debates, Aboriginal Affairs*, Vol. 134.

Prasser, Scott and Starr, Graeme (eds), (1997) *Policy and Change: the Howard mandate*, Hale and Iremonger Pty Ltd, NSW.

Price, Charles, A. (ed.), (1991) *Australian National Identity*, The Academy of the Social Sciences in Australia, Canberra.

Pritchard, Sarah (ed.), (1998) *Indigenous Peoples, the United Nations and Human Rights*, The Federation Press, NSW.

- Read, Peter, (1997) "Aborigines making history", in Hudson, Wayne and Bolton, Geoffrey (eds), *Creating Australia: changing Australian history*, Allen & Unwin, Sydney, pp. 61-70.
- Reay, Marie (ed.), (1964) *Aborigines Now*, Angus and Robertson, Sydney.
- Research Institute for Humanities and Social Sciences, (1997) *Sharing Country: land rights, human rights and reconciliation after Wik*, University of Sydney, Sydney.
- Rex, John, (1996) *Ethnic Minorities in the Modern Nation State*, Macmillan Press, London.
- Reynolds, Henry, (1987) *Frontier*, Allen & Unwin, Sydney.
- _____, (1990) "Did George Augustus Robinson negotiate a treaty with Tasmanian Aborigines?", paper given at AHA History 90 Conference, Brisbane.
- _____, (1992) *The Law of the Land*, Penguin Books, Victoria, 2nd ed..
- _____, (1996) *Aboriginal Sovereignty: reflections on race, state and nation*, Allen & Unwin, NSW.
- _____, (1998) "Sovereignty", in Peterson, Nicolas and Sanders, Will (eds), *Citizenship and Indigenous Australians*, Cambridge University Press, Cambridge, pp. 208-215.
- Reynolds, Margaret, (1996a) Australia, Senate, *Debates*, Vol. 178.
- _____, (1996b) Australia, Senate, *Debates*, Vol. 179.
- Rintoul, Stuart, (1999) "The black mark on our soul: reconciling reconciliation", in Waldron, Murray (ed.), *Future Tense: Australia beyond election 1998*, Allen & Unwin, NSW, pp. 176-190.
- Robbins, Jane and Summers, John, (1997) "Aboriginal Affairs Policy", in Woodward, Dennis, Parkin, Andrew and Summers, John (eds), *Government, Politics, Power and Policy in Australia*, Longman, Melbourne, 6th ed., pp. 510-530.

Roberts, David, (1993) "Towards the future: policies and practice", in Brougham, Barbara (ed.), *Aboriginal Studies: windows on Indigenous Australia*, University of South Australia, Underdale, pp. 239-261.

_____, (1994) "Self-determination and the struggle for Aboriginal equality", in Bourke, Colin, Bourke, Eleanor and Edwards, Bill (eds), *Aboriginal Australia*, University of Queensland Press, Queensland, pp. 212-236.

Robertson, David, (1993) *Dictionary of Politics*, Penguin Books, London, 2nd ed.

Robertson, E.A., (1980) Australia, Senate, *Aboriginal Land Rights (NT) Amendment Bill*, Vol. 85.

Ronen, Dov, (1979) *The Quest for Self-determination*, Yale University Press, New Haven.

Rowley, C.D., (1970) *The Destruction of Aboriginal Society*, Australian National University Press, Canberra.

_____, (1971a) *Outcasts in White Australia*, Australian National University Press, Canberra.

_____, (1971b) *The Remote Aborigines*, Australian National University Press, Canberra.

Rowse, Tim, (1992) "Strehelow's strap: functionalism and historicism in a colonial ethnography", in Attwood, Bain and Arnold, John (eds), *Power, Knowledge and Aborigines*, La Trobe University Press, Victoria, pp. 88-103.

_____, (1998) *White Flour, White Power*, Cambridge University Press, Cambridge.

Ruddock, Philip, (1977) Australia, House of Representatives, *Appropriation Bill (No. 1)*, Vol. 107.

_____, (1978) Australia, House of Representatives, *Debates, Aboriginal and Torres Strait Islanders Bill*, Vol. 108.

- _____, (1998) speech on Reconciliation delivered to the annual conference of the Federation of Ethnic Communities Councils of Australia, Brisbane, 20 November.
- Rumley, Hilary, (1979) "Political Participation by Aborigines", in Jaensch, Dean and Loveday, Peter (eds), *Election in the Northern Territory 1974–1977*, NARU, Darwin.
- Rutledge, Martha, (2000) "O'Connor, Richard, Edward, (1851–1912)", in Millar, Ann (ed.), *The Biographical Dictionary of the Australian Senate, Vol. 1, 1901–1929*, Melbourne University Press, Australia, pp. 27-30.
- Ryan, Mark (ed.), (1995) *Advancing Australia: the speeches of Paul Keating, Prime Minister*, Big Picture Publications, Sydney.
- Sanders, Will, (1982) "From Self-determination to Self-management", in Loveday, Peter (ed.), *Service Delivery to Remote Communities*, North Australia Research Unit, Darwin, pp. 4-10.
- Scott, L., (1994) Australia, House of Representatives, *ATSIC Amendment Bill 1994*, Vol. 195.
- Seton-Watson, Hugh, (1977) *Nations and States: an enquiry into the origins of nations and the politics of nationalism*, Westview Press, Boulder, Colorado.
- Shorter Oxford English Dictionary.*
- Sinclair, Ian, (1988) Australia, House of Representatives, *Debates, Aborigines and Islanders*, Vol. 162.
- Singleton, Gwynneth (ed.), (2000) *The Howard Government: Australian Commonwealth Administration 1996–1998*, University of New South Wales Press, Sydney.
- Smith, B., (1980) "The Spectre of Truganini", ABC, Sydney.
- Smith, D. Anthony, (1986) *The Ethnic Origins of Nations*, Basil Blackwell, Oxford.

Snowdon, Warren, (1987) Australia, House of Representatives, *Debates, Appropriation Bill (No. 1) 1987-88*, Vol. 156.

_____, (1988a) Australia, House of Representatives, *Debates, Aboriginal Affairs*, Vol. 163.

_____, (1988b) Australia, House of Representatives, *Debates, Aboriginal and Torres Strait Islanders*, Vol. 164.

Spruyt, Hendrik, (1994) *The Sovereign State and its Competitors*, Princeton University Press, Princeton.

Stanner, W.E.H., (1968) *The Boyer Lectures 1968: after the Dreaming*, Australian Broadcasting Corporation, Sydney.

Stanton, John, (1990) "Autonomy and dependency", in Tonkinson, Robert and Howard, Michael (eds), *Going It Alone? prospects for Aboriginal autonomy*, Aboriginal Studies Press, Canberra, pp. 219-233.

Stokes, Geoffrey (ed.), (1997) *The Politics of Identity in Australia*, Cambridge University Press, Cambridge.

Stratton, Jon, (1998) *Race Daze*, Pluto Press, NSW.

Sullivan, Patrick (ed.), (1996) *Shooting the Banker: essays on ATSIC and self-determination*, North Australia Research Unit-ANU, Darwin.

Summers, John, (2000) *The Parliament of the Commonwealth of Australia and Indigenous Peoples 1901-1967*, Department of the Parliamentary Library, Information and Research Services, Research Paper No.10 2000-2001, Canberra.

Sydney Morning Herald, 5 June, 9 July, 10 July, 11 July 1945; 12 July 1949.

Tatz, Colin, (1979) *Race Politics In Australia: Aborigines, politics and law*, University Of New England Publishing Unit, NSW.

_____, (1999) "Genocide in Australia", *Research Section Occasional Papers*, No 8, Australian Institute of Aboriginal and Torres Strait Islander Studies, Canberra.

Taylor, Charles, (1994) "The Politics of Recognition", in Gutmann, Amy (ed.), *Multiculturalism*, Princeton University Press, Princeton, pp. 25-73.

Tickner, Robert, (1991) *Aboriginal Reconciliation: a discussion paper*, AGPS, Canberra.

_____, (1992) Australia, House of Representatives, *Debates, Aboriginal People—Twenty-Fifth Anniversary of 1967 Referendum*, Vol. 184.

_____, (1993a) Australia, House of Representatives, *Debates, Aboriginal And Torres Strait Islander Commission Amendment Bill*, Vol. 188.

_____, (1993b) Australia, House of Representatives, *Debates, Aboriginal And Torres Strait Islander Commission Amendment Bill (No. 2) 1993*, Vol. 189.

_____, (1993c) Australia, House of Representatives, *Debates, Aboriginal Reconciliation and the Constitution*, Vol. 190.

Tonkinson, Robert and Howard, Michael, (1990) "Aboriginal autonomy in policy and practice", in Tonkinson, Robert and Howard, Michael (eds), *Going It Alone? prospects for Aboriginal autonomy*, Aboriginal Studies Press, Canberra, pp. 67-81.

Truss, Warren, (1994) Australia, House of Representatives, *Debates, Aboriginal Land Rights (Northern Territory) Amendment Bill 1994*, Vol. 194.

Vasta, Ellie and Castles, Stephen (eds), (1996) *The Teeth Are Smiling: the persistence of racism in multicultural Australia*, Allen & Unwin, NSW.

Viner, Ian, (1976a) Australia, House of Representatives, *Debates, Aboriginal and Torres Strait Islanders*, Vol. 98.

_____, (1976b) Australia, House of Representatives, *Debates, States Grants (Aboriginal Assistance) Bill*, Vol. 99.

_____, (1977) Australia, House of Representatives, *Debates, National Aboriginal Conference*, Vol. 105.

- _____, (1978) Australia, House of Representatives, *Debates, Department of Aboriginal Affairs Report*, Vol. 112.
- Waldron, Murray (ed.), (1999) *Future Tense: Australia beyond election 1998*, Allen & Unwin, NSW.
- Waterson, D.B., (2000) "Ferguson, John (1830-1906)", in Millar, Ann (ed.), *The Biographical Dictionary of the Australian Senate, Vol. 1, 1901-1929*, Melbourne University Press, Australia, pp. 89-92.
- Weekend Australian*, 24-25 April 1999.
- White, Richard, (1981) *Inventing Australia: images and identity 1688-1980*, George Allen & Unwin, Sydney.
- _____, (1997) "Inventing Australia revisited", in Hudson, Wayne and Bolton, Geoffrey (eds), *Creating Australia: Changing Australian History*, Allen & Unwin, Sydney, pp. 12-22.
- Willard, Myra, (1967) *History of the White Australia Policy to 1920*, Melbourne University Press, Melbourne, 2nd ed..
- Willis, Anne-Marie, (1993) *Illusions of Identity: the art of nation*, Hale & Iremonger, Sydney.
- Wilson, Sir Ronald, (1997) *National Inquiry into the Removal of Aboriginal and Torres Strait Islander Children from Their Families, Bringing Them Home*, Human Rights and Equal Opportunities Commission, Sydney.
- Windschuttle, Keith, (October 2000) "The myths of frontier massacres in Australian history", Part I: "The invention of massacre stories", *Quadrant*, October, pp. 8-21.
- _____, (November 2000) "The myths of frontier massacres in Australian history", Part II. "The fabrication of the Aboriginal death toll", *Quadrant*, November, pp. 17-24.

- _____, (December 2000) "The myths of frontier massacres in Australian history", Part III, "Massacre stories and the policy of separatism", *Quadrant*, December, pp. 6-20.
- _____, (2001) "Why there should be no Aboriginal Treaty", *Quadrant*, October, pp. 15-24.
- Wood, G.A. and Leland, L.S. (eds), (1997) *State and Sovereignty: is the state in retreat?*, University of Otago Press, New Zealand.
- Woodley, John, (1996) Australia, Senate, *Debates*, Vol. 179.
- _____, (1998) Australia, Senate, *Debates*, Vol. 193.
- Woodward, Dennis, Parkin, Andrew and Summers, John (eds), (1997) *Government, Politics, Power and Policy in Australia*, Longman, Melbourne, 6th ed..
- Yarwood, A.T. and Knowling, M.J., (1982) *Race Relations in Australia: a history*, Methuen, Melbourne.
- Young, Robert, J.C., (1990) *White Mythologies: writing history and the west*, Routledge, London.
- _____, (1995) *Colonial Desire: hybridity in theory, culture and race*, Routledge, London.
- Yunupingu, M., (1994) *Voices From The Land*, Boyer Lectures, 1993, ABC Books, Sydney.