Indigenous affairs after the Howard decade: An administrative revolution while defying decolonisation

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INTRODUCTION

How will the Indigenous affairs policies of the first decade of the Howard government be remembered in years to come? No doubt Prime Minister Howard and his first three ministers for Indigenous affairs, John Herron, Philip Ruddock and Amanda Vanstone would like them to be remembered as constructive and reformist. Indeed in early 2005 Amanda Vanstone used the phrase the 'quiet revolution' to describe the recent development of new arrangements in Indigenous affairs after the abandonment of the Aboriginal and Torres Strait Islander Commission (ATSIC). It is not hard to imagine a history of the Howard government's Indigenous affairs policies being written which is indeed quite positive. It would tell of how Minister Herron tried from 1996 to 2001 to improve the public accountability of ATSIC and the Indigenous sector organisations which it funded. It would possibly then tell of how, in the face of still not achieving sufficient public accountability, and in the face of conflicts of interest among elected ATSIC representatives, Minister Ruddock in 2003 took away from these representatives their power to make financial decisions in Commonwealth Indigenous affairs programs. Finally it would tell of how Prime Minister Howard and Minister Vanstone eventually moved, in 2004, to get rid of ATSIC altogether, and to put in place a series of new arrangements in Indigenous affairs.

One of the key sources in this imagined history would be a media conference in April 2004 in which Howard and Vanstone refer to ATSIC as an 'experiment in separate representation, elected representation, for Indigenous people' which has been a 'failure' and which they will not 'replace'. They will be able to be quoted as saying that instead the Government will appoint 'a group of distinguished indigenous people to advise the Government', while ATSIC's former programs will be 'mainstreamed' into line government agencies, though 'a major policy role' will be retained for the Minister for Indigenous Affairs. Howard and Vanstone will then be able to be quoted as saying that:

> This will not result in less money for indigenous affairs. It will in fact result in more resources being focused on challenging areas of indigenous need (Howard & Vanstone 2004: 1).

This imagined policy history could possibly go on to say that all this did indeed occur. By citing budget figures for Indigenous-specific programs over the next few years, it might even show that the foreshadowed increase in resources directed to Indigenous need did occur. This will, of course, contribute to the Indigenous affairs policies

of the Howard government being seen in a positive and reformist light. The writer of this imagined history may even pick up on Amanda Vanstone's language and argue that the Howard government did indeed preside over a quiet administrative revolution in Indigenous affairs, with the abandonment of ATSIC and the move to greater 'mainstreaming' of Indigenous–specific programs in line government departments.

This imagined policy history will, for me, be partly true, but also largely inadequate. It will miss the larger historical and sociological context in which Australian Indigenous affairs policy has been occurring, not only under the Howard Government but also over the previous fifty years. That context is, in a phrase, one of a movement worldwide towards decolonisation. In this paper I want to argue that while the Howard government, during its first decade in office, has been building up to its administrative revolution in Indigenous affairs, it has at the same time been defying decolonisation.

To make this argument I need first to establish some understandings about colonisation and decolonisation as major movements and institutional patterns in world history. Then I need to show how a movement towards decolonisation had in fact been slowly working its way into Australian Indigenous affairs policy over the fifty years before the Howard government came to power. The third step in the argument is to show that the Howard government tried to do something quite different, which amounted to a defiance of decolonisation. Only then can it be seen that the Howard government has been defying decolonisation while building up to its administrative revolution in Indigenous affairs. In the concluding section of the paper I speculate again on alternative imagined future histories of the Howard government's Indigenous affairs policy written perhaps fifty years hence.

COLONISATION AND DECOLONISATION

Colonialism was a major movement in world history for perhaps four or five hundred years until the middle of the twentieth century. Mainly European countries scoured the globe looking for other territories and societies which could be brought into their national empires of public institutions and commerce. In doing so they believed strongly in the beneficence of their mission, bringing higher forms of society and economy, indeed of civilization, to less-advanced people and territories. While wanting to embrace these people and territories in their national empires, the colonising powers also wanted to keep them somewhat apart and separate from their metropolitan centres and citizenry. Typically, the colonising powers established legal estate systems which conferred different, usually lesser, rights on members of the colonised group compared to members of the colonising group who were present in the colonised territory. These legal estate systems often became quite complex, distinguishing not only between members of the colonised and colonising social groups, but also between other social groups (for example third party nationals such as Indians or Chinese who had been drawn into the colonisation process) and individuals of mixed descent of all these various groups (Rex 1970). The resulting societies in areas of colonial settlement could in many ways be portrayed as pluralistic, both socially and legally. However, it was a pluralism dominated by the colonisers' values and institutions, in which other social groups had restricted levels of autonomy, influence and rights.

During the first half of the twentieth century, in the course of two world wars and a depression, this long-established pattern of self-confident, mainly European colonisation came under increasing threat and challenge. Rather than socially-differentiated legal estate systems, there were calls for equal rights across social groups within colonial territories, empires, or even—through ideas of universal human rights—worldwide. In addition, there were calls for the recognition of the colonised territories and peoples as societies and political entities in their own right. These social and political entities saw themselves as predating and surviving colonisation and now, in an increasingly decolonising world, wanted to be recognized anew as nations or countries, alongside and equal in status to the colonising powers.

Much of world history since the end of World War II can be seen as a working through of this emerging very large historical trend towards decolonisation. It has been a complex institutional and conceptual task occurring at a number of different levels. First there has been the identification of colonial territories and societies to become recognized as self-governing nations or countries in the newly decolonising world. Second there has been the push for equal rights between social groups within countries, and to some extent also across countries or universally. Third, there has had to be a re-rendering of colonial history in the light of newly emerging, perhaps even newly dominant post-colonial values. No longer can colonisation be seen so unproblematically as a positive process of beneficent settlement.

This process of decolonisation has been particularly interesting and challenging for countries like Australia, where the colonising social group had well outnumbered the Indigenous, or colonised, group by the time colonisation as a historical movement was being called into question and the movement towards decolonisation was being established. Clearly, as a matter of brute political reality, these small Indigenous minorities in settler- majority societies were highly unlikely to become nation states in the expanding world system of post-colonial countries. But this did not mean that the issues and concerns of the decolonisation movement were of no relevance to these Indigenous minorities and to the settler majority societies that engulfed them. In many ways these Indigenous minorities were the most thoroughly colonised of peoples and hence had very strong claims to, in some way, being decolonised.

INDIGENOUS AFFAIRS POLICY IN THE FIFTY YEARS BEFORE HOWARD

If we look at Australian Indigenous affairs policy in the fifty years before Howard, we can see the working through in that policy of the two great pushes of the decolonisation movement; equal rights for all through the abolition of separate legal estate systems and the acknowledgment of Indigenous groups as social and political entities which preexisted and survived colonisation and now wish, in the light of the rise of decolonising values, to be recognised anew.

In relation to equal rights in Australia, we could look back to the 1948 Commonwealth *Nationality and Citizenship Act* which, contrary to earlier legislative practice at this level of Australian government, did not explicitly exclude Aboriginal people from the rights it was establishing (Chesterman & Galligan 1997) . We could also note amendments to the Commonwealth *Social Services Act* in 1959 and 1966 which overturned an earlier pattern of exclusion of Aboriginal people from the provisions of income support legislation and instead, included them—except for the 'nomadic and primitive' in 1959 and then without any exception in 1966. The *Commonwealth Electoral Act* also moved from exclusion to inclusion of Aboriginal people in 1962, though it retained a distinctive provision for voluntary enrolment until 1984. Then in 1967, the Australian Constitution was amended so that Aboriginal people would no longer be excluded 'in reckoning the number of the people of the Commonwealth'.

At the State and Territory levels of Australian government too there were moves towards equal individual rights across social groups. Former legislative and administrative regimes which had set Aboriginal people apart with lesser rights than others, ostensibly for their protection and welfare, were gradually abandoned from the 1950s to the 1980s. Also in a number of State and Territory jurisdictions in the 1960s Aboriginal people gained the right to vote in general elections for the first time, although in others they had never been formally excluded (Chesterman & Galligan 1997: 165-182, Sanders 2005). This move towards equal individual rights was however only the first element of the push towards post-colonial values in Australian Indigenous affairs policy.

The second element of the move towards post-colonial values involved the recognition of group-specific rights of Indigenous people. Most prominently this was in the area of land, where various schemes for recognizing Indigenous traditional ownership were developed in different State and Territory jurisdictions during the 1970s and 1980s, and then at the national level through the Mabo decision and the concept

of native title in the early 1990s. But this push towards recognizing Indigenous group-specific rights was not restricted to land. Under the rhetoric of self-management and self-determination, there was also policy support for Indigenous people to incorporate as groups and to provide for the own services and internal affairs. This push led also to the establishment of Australia-wide, elected representative bodies of Indigenous people, of which ATSIC was the third from 1990 to 2005. The first such body had been the National Aboriginal Consultative Committee from 1973 to 1977 and the second the National Aboriginal Conference from 1977 to 1985. ATSIC's legislatively-entrenched executive power over elements of Commonwealth Indigenous affairs policy and budget, held in conjunction with the Minister, was a response to the perceived inadequacy of the purely advisory power of these first two national, elected Indigenous representative bodies. ATSIC was seen as giving teeth to Indigenous group recognition, in line with the decolonising values of group self-government and self-determination, while also paying attention to that other important governmental value of accountability to the larger Australian public (Sanders 1994).

This push in Australian Indigenous affairs policy during the fifty years before Howard towards both equal individual rights across social groups and recognition of Indigenous group rights in both land and self-government had not always been easy. It had sometimes involved considerable tensions between these two post-colonial values, which called for considerable creativity and ingenuity in policy making and resulted in some quite delicate balancing acts. One instance I have written about has been the individual eligibility of Indigenous people for unemployment payments within the social security system, particularly in relation to Indigenous people in remote areas (Sanders 1985). In the 1970s a program was developed, called the Community Development Employment Projects (CDEP) scheme, which effectively converted this individual right to unemployment payments to a group right of Indigenous self-management and part-time employment (Sanders 1988). That scheme has proven very popular and successful, but it has had to continue to carefully re-balance these equal individual rights and Indigenous group rights considerations over the years since (Sanders 1998, 2001).

A third element of the decolonisation push in Australian Indigenous affairs in the years before Howard's had been a re-writing of Australian history. Attwood has recently written about how Australian historiography, from about the 1960s, moved away from the single grand narrative of British, antipodean nation building to a multiplicity of more democratized and diverse histories, including Aboriginal history of various sorts (Attwood 2005). This new Aboriginal history has been very much about the relevance of the past to present issues of social justice for Indigenous people and it has, as Attwood notes, been quite 'unsettling' for the settler majority. Some of that settler majority, including some professional historians, began reacting against this new unsettling history during the late 1980s and Attwood's recent book is largely about how that reaction has gained pace and strength under the Howard government and the influence of the 'new conservatives' in Australian life (Attwood 2005: 2). Attwood sees this recent history war as something of a rearguard action against a well established earlier trend towards Australian histories which reflect decolonising values. He wants to further develop the trend of writing multiple histories which accommodate both diverse settler and Indigenous points of view, rather than supporting that rearguard action. As he writes in the final paragraph of his recent book:

> It seems to me that there is no alternative to telling the truth about Aboriginal history and working through its consequences. What should be done instead? Re-enact the oppression and indignities of the past simply because some settler Australians find it difficult to admit the failings of the Australian nation? Try to build national pride by a deliberate denial of that past? If anyone is going to take pride in what is truly good about their nation's past, they must also be prepared to accept what is truly bad in it. One can celebrate as well as mourn. Acknowledging the bad does not diminish the good. On the contrary: telling the truth about Aboriginal history can actually help us to pinpoint what was good in the past, the conditions that enabled this good to be achieved, and the lessons this has for us today. This would be a history to help realize a better future (Attwood 2005: 195-6).

I will return to alternative imagined future histories in the final section of the paper. But first let us focus on the crux of this paper, Indigenous affairs under the Howard government.

INDIGENOUS AFFAIRS POLICY UNDER HOWARD

Early in the Howard decade, I was inclined to the view that the Howard government would not be able to resist the push towards decolonising values in Australian Indigenous affairs, even if it wanted to. So great was the momentum of the previous fifty years, I thought, that the Howard government would just have to learn to live with Indigenous group-specific rights, such as native title and ATSIC, as well as with equal individual rights across social groups. In the case of native title and land rights, this could possibly still be seen to be the case. However, in the case of ATSIC and the Indigenous group-specific rights which it conferred, this has not proven to be the case at all. The Howard government during its first decade was able, over time, to increasingly mobilize ideas of accountability to the larger non-Indigenous Australian public to undermine the legitimacy of ATSIC and eventually to abolish it. Some other commentators on and participants in Indigenous affairs were quicker than myself to see the dangers, or potential abuses, of this unerring focus on public accountability, without a counter-balancing focus on Indigenous self-management and self-determination (O'Donoghue 1998, Ivanitz 2000). This latter principle, of course, defends Indigenous people's right to be involved in Indigenous affairs policy not just as its subjects or objects but also in terms of decolonising values: the right to be recognized as social and political groups which preexisted, endured and have survived colonisation and which wish to be recognized as such anew.

This right for Indigenous peoples to be recognized as enduring political entities is something which Howard, individually, and the Howard government more generally, has always had trouble accepting. In 1989, when the creation of ATSIC was being debated in the House or Representatives, Howard as Opposition leader condemned the idea of ATSIC as 'a monumental disservice to the Australian community' which 'strikes at the heart of the unity of the Australian people', which it is the 'sacred and absolute duty' of the Parliament to preserve (Commonwealth Parliamentary Debates, House of Representatives, 11 April 1989: 1328). Ten years later Minister Herron urged the dropping of the term 'self-determination' from the United Nations Draft Declaration of the Rights of Indigenous Peoples because it suggested 'forms of Aboriginal sovereign self-government' (Herron 1999: 11). There has thus been a long-standing hostility to group-specific Indigenous rights of political recognition within the Howard government, which the abolition of ATSIC reflected.

In an earlier paper, entitled 'Never even adequate', I have provided a chronology of strained relations between the Howard Government and Indigenous Australians during its first four terms (Sanders 2005b). That chronology cannot be repeated here. Suffice to say that strained relations started early and have continued unabated since. Recall that one of the first acts of the Howard government on coming to power in March 1996 was to appoint a special auditor to examine the accountability of organizations funded by ATSIC. Recall also that it was in early 1997 that the Howard Government reacted against the findings of the Human Rights and Equal Opportunity Commission's inquiry into the separation of Aboriginal and Torres Strait Islander children from the families and refused to apologise for these past governmental practices. The litany of strained relations goes on from there.

In that earlier article, I analysed the inadequacy of the Howard government's approach to Indigenous affairs and Reconciliation in terms of three sets of ideas relating to equality, practicality and history. The Howard government, I argued, has had too simple a view of equality, relating primarily to the socioeconomic status of individual Indigenous Australians compared to other Australians. It has seen this focus on comparative socioeconomic status as 'practical' and 'real', and denigrated other focuses of

Indigenous affairs policy activity as of little or no value. Hence treaties, possible recognition of Indigenous peoples in the Australian constitution and even just separate, elected representation for Indigenous people under normal legislation (i.e. ATSIC) have all been condemned as 'symbolic', unreal or impractical; or where tried, like ATSIC, condemned as a failure because they were not making enough difference, quickly enough to the socioeconomic status of Indigenous people. The Howard government has also insisted that Australian history must be overwhelmingly told as a positive story, with the past treatment of Aboriginal people acknowledged as a 'blemish', but not one that detracts fatally, or even that significantly, from the great Australian narrative of nation building. These three sets of ideas seem, together, to effectively defy the move towards decolonising values in the second half of the twentieth century. Decolonising values must admit a far more negative reading of the history of colonial settlement. They also must admit a far more complex and historically contextualised view of equality and inequality; between groups as well as individuals, and in political as well as socioeconomic terms. They also contemplate the idea of the recognition of pre-colonial groups as enduring post-colonial social and political entities, alongside the more general liberal commitment to equal individual rights across social groups. Such group recognition, be it in the form of land rights, self-government rights, or ideas of treaty and constitutional recognition, is taken seriously by those who adhere to decolonising values as a 'real' and effective part of Indigenous affairs policy.

Hence the Howard government's troika of ideas underlying its continually strained relations with Indigenous Australians can be seen as not just a coincidental threesome, but an integrated ideology which stands coherently against the very idea of decolonisation. The various elements of the movement towards decolonisation are systematically rejected, as a package. Colonial history must be kept overwhelmingly positive. The recognition of Indigenous groups as enduring social and political entities must be rejected as symbolic, in favour of a singular, practical focus on the comparative socioeconomic status of Indigenous individuals. Even equal individual rights across social groups can sometimes be called into question, as we have seen in recent welfare reform debates concerning Indigenous people, though this is perhaps harder for universalising liberals to contemplate and follow through on than non-recognition of Indigenous groups.

I do not mean to suggest here that the Howard government is completely out of step with all liberal political thought in the decolonising world. As Canadian political philosopher, Will Kymlicka, has explained, many liberal thinkers since World War II have reverted to being 'abstract ...universalisers' who are focused only on individual rights and who argue that, in relation to 'cultural' groups, governments or states should adopt policies of 'benign neglect'. However Kymlicka has argued persuasively against this view, noting that state practices often entrench and protect aspects of majority cultures. To be equal to these majority cultures within multicultural states, minority cultures also need 'group-differentiated rights' and recognition (Kymlicka 1995). This is the sort of sophisticated equality argument that takes history and demography into account and which recognizes the rise of decolonising values in the world in the latter half of the twentieth century. It embraces the decolonisation movement and its values rather than defying them.

IMAGINED FUTURE HISTORIES

Let me return, in conclusion, to the idea of imagined future histories of the Howard government's Indigenous affairs policies written perhaps fifty years hence, in say 2056. One such history, that Howard himself might like, might be that the worldwide trend toward decolonisation values in the latter half of the twentieth century was a bit of an over-reaction to the down sides of colonialism and that during the first half of the twenty first century colonialism went through a somewhat more positive re-evaluation, of which the Howard government's Indigenous affairs policies were a minor but significant part. Another history, which I might predict, would be that the worldwide movement towards decolonisation continued apace during the first half of the twenty first century and that Australian governments after Howard's had, perforce of this, to return to ideas of self-determination and Indigenous group recognition in Australian Indigenous affairs policy. If this is the more convincing history, then the Howard government will be seen as perhaps having presided over an administrative revolution in Indigenous affairs with the abolition of ATSIC, but at the same time as having defied for a brief period the historical trend towards decolonising values in Australian Indigenous affairs policy.

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