

# THE DENIAL OF SEPARATE RIGHTS: POLITICAL RATIONALITIES AND TECHNOLOGIES GOVERNING INDIGENOUS AFFAIRS AS PRACTICES OF WHITENESS

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## **ABSTRACT**

It has been a political imperative of the current Australian Federal Government to respond to what are seen as the excesses of previous Federal policy in the area of Indigenous affairs. The discursive construction of "the pendulum having swung too far" in the direction of Indigenous Australians has legitimated intervention (Howard 1997). Political objective has been to wind back the perceived 'benefits' that Indigenous rights and self-determination had unfairly bestowed on Indigenous Australians. Reform is based on the assertion that all Australians be treated equally, ensuring that no one group of Australians is privileged over another.

In the paper, I establish that the discursive construction of separate rights as privilege achieves a particular end. Here an essentialising epistemological whiteness operates through the denial of separate rights. Whiteness as a set of discursive practices renders as 'natural' what is an historical and contingent social construction.

## **1 INTRODUCTION**

The paper contributes to the existing whiteness scholarship in that it examines the discursive effects of whiteness (Hartigan Jnr 2000; Brodtkin 2001; and Trechter and Bucholtz 2001) through an analysis of neo-liberal discourses about Federal Indigenous affairs. This is a timely analysis given the growing interest in the relationship between neo-liberalism and whiteness (Apple 2001; Goldberg 2006 and Sands 2006). Goldberg (2006) argues, for example, that whiteness scholars need to identify the shifts associated with neo-liberalism, their effects, and implications and the relationship to whiteness.

Methodologically and theoretically, this approach differs considerably from the dominant theoretical direction currently taken in whiteness studies though. It assumes an interconnection between discourses and practices of whiteness, power relations and the production of subjectivities. The observation of the normative function of whiteness emerges from a Foucauldian awareness of power relations, rather than out of a sociological understanding of racism, such as Omi and Winant's racial formation theory (McWhorter 2005: 534). Foucault's reformulation of the notion of power is of particular importance in the consideration of whiteness studies; power relations and whiteness are almost interchangeable (Bhabha 1998). Through analysing whiteness as one would

analyse power relations, the epistemological privilege of whiteness and the normativity of whiteness can be examined. Like Foucault's study of power relations, one can study the operation of whiteness in contrast to defining whiteness as a definitive social phenomenon.

Importantly, it is the normative aspects that Frankenberg (1997), Bhabha (1998) and Moreton-Robinson (2000) draw my attention to and inform the move into an analysis of whiteness as *positive*, rather than simply repressive. Arguably, whiteness does not seek to simply repress, but change behaviours in accordance with a set of normative values and beliefs. Whiteness is ever constitutive of the subjectivity of the agents of power relations. Therefore, whiteness is not analysed in terms of an all-important essence, but in terms of its specific conditions of existence and their effects in terms of social relations and practices. Whiteness is a mode of action on actions (Foucault 1994: 343). Consequently, in adopting this methodological and theoretical approach, the normative content of discourses and the boundaries that they construct around the subject can be given more detailed consideration. We can explore how whiteness sets such boundaries and creates subjectivities, and how discourses of whiteness have normalising effects and operate as technologies of power, demonstrating how whiteness is not an aberration but a normalised discourse about human relations. Such a position argues that whiteness, its taken for granted rules of conduct and its norms, shape interactions; whiteness produces realities and domains of objects and rituals of truth (see Foucault's definition of power relations 1977: 194).

The observation of neo-liberal rationalities governing Indigenous affairs as constitutive compliments this analysis as it too emerges from a Foucauldian methodology. Foucault's governmentality approach examines the practices that constitute, define, organise and instrumentalise the strategies used to govern others (Foucault 2003). For example, a governmentality approach turns its attention not only to the programmes of governing, but the language of governing. As Miller and Rose (1990: 4) note: 'Governmentality has a discursive character: to analyse the conceptualisations, explanations and calculations that inhabit the governmental field requires an attention to language'. Adopting this method, allows one to examine the type of objectives, the instrumental modes, the forms of institutionalisation and the degrees of political rationalisation used to govern, which are embedded in language (Foucault 1994: 344). By engaging with this approach, one can argue, for example, that neo-liberal rationalities are constitutive in that they set out to establish a new normative order for the governance of Indigenous affairs. It is a normative order in which individualism and a universalising logic of *absolute* individual rights replace a substantive liberal logic of separate and collective rights, such as Indigenous rights. The importance of analysing such rationalities of governing as discourses and practices of whiteness is that it exposes what appear as neutral discourses about Indigenous affairs as normalising moral discourses and regimes of truth. Thus, In focusing on the discursive fields in which rule emerges and operates through an analysis of neo-liberal rationalities and technologies of governing, it is the procedures of normalisation exercised in the name of the power of the state that can be given consideration, such as the construction of equal subjectivities and the denial of separate rights.

## **2 DISCUSSION**

Neo-liberal discourses and policies, for example, have intensified the contradictory relationship between the neo-liberal state and its dealing with Indigenous rights, evidencing a shift in the discursive logic of 'rights'. The Federal Government's policy position concerning an apology to the Stolen Generation; the rejection of the High Court *Wik* decision; its review, restructuring and eventual abolition of ATSIC; were sustained by a view towards redressing the privileged status Aborigines had achieved by the

indulgence of previous Federal governments. In their different ways, these policies conformed to the view that "the pendulum had swung too far" (Howard 1997) and that the state was resetting policy to align with the general interest. The rejection of the special status of separate rights for Aborigines was manifest in a number of other Federal Government policy decisions, such as those relating to reconciliation, Aboriginal and Torres Strait Islander heritage protection and Aboriginal and Torres Strait Islander legal services. The rejection of special privileges was a discursive logic that formed the basis of the spectacular success of a new political consensus on Indigenous issues.

Neo-liberal rationalities are, therefore, significantly different to the ethical logics of rights as a synthesis between individual and collective rights, or even rights as collective rights, such as Indigenous rights. It is an ethic in which its normalising impulse is individualism and formal equality (Lloyd 1997: 79). For instance, neo-liberal rationalities emphasise individualism, freedom, liberty, equality before the law, and the primacy of market forces. Nonetheless, at the same time, they reposition equality and rights within a moral logic of absolute rights, consistent with the ideas and principles of key neo-liberal exponent Friedrich von Hayek (1976), denying privilege and special rights and destabilising, for example, substantive equality and Indigenous rights. Hayek argued for the 'denial of all privilege' in terms 'of the state granting and protecting rights to some which are not available on equal terms to others' (Hayek 1976: xxxvi).

The repositioning of Indigenous rights through the denial of privilege and separate rights is a consistent theme in Federal Government discourses about Indigenous affairs. The Prime Minister, for example, opposed the Senate's proposed amendments to the Native Title Amendment Bill 1998 by arguing that the proposed amendments privileged one group of Australians over another:

The [Native Title Amendment] Bill as amended by the Senate will not treat farmers and Aborigines equally. The Bill as amended by the Senate gives special *privilege* to *one group of Australians denied to others*. It contains provisions, which are not available to other sectors of the Australian community and are specifically available to one group, and that group of Australians alone. It is a fundamental of our kind of society, and it is certainly a fundamental of the approach of my government, that all Australians should be treated equally before the law (Howard 1998: 2959 – emphasis added).

In his speech, the Prime Minister not only marks farmers as a group that needs to be treated the same as Aborigines, but also attempts to erase the evident difference between these groups, arguing that each group is entitled to be treated equally. Aborigines become just another interest group. The concern with 'special privileges' has as much to do with impediments to market forces, as to the implementation of new subjectivities through moral, political and cultural reforms. The Prime Minister's discourse created the imagining of a unified Australian subject.

Neo-liberal rationalities, thus, inculcate new moral discourses and ethical practices of inclusion and exclusion. Consistent with the ethics of neo-liberal governance, this new morality functions as a unifying, yet individualised system, which imposes particular requirements on individuals of the nation-state (Lloyd 1997: 80). This is evidenced in statements made shortly after the formation of a new government:

Australia is by any comparison a *united, tolerant and internally harmonious nation*. The goal of my government will always be to focus

on those things which *unite* Australians (Howard 1996a: 8218 – emphasis added).

Unity is constitutive of a particular kind of national subject. Unity stands in for uniformity, sameness and a homogenous nation (Schech and Haggis 2001: 146). The changes are recast in terms of nationalism and maximising political stability in a period of economic transformation. However, the Federal Government's call for all Australians to be treated equally operates as a universalising discourse in which whiteness is unmarked, invisible and essentialist in its expectation of sameness. It is what Brewster (2005) refers to as a new ethics of relationality, which is an index, in part, of a shift in the morality of whiteness.

The reference to a united and internally harmonious nation is a reference to the erasure of collective group rights in the form of Indigenous rights. This was reinforced in the Prime Minister's historic speech at the Reconciliation Convention in 1997. The Prime Minister argued that "we" as a nation could not move forward together if different people had different rights. The Prime Minister constructed rights as follows:

*...We all have rights and obligations as Australians.*

...We cannot share a common destiny if these *rights* are available to some Australians, but not all.

Likewise, we cannot share a common destiny together as Australians if different groups in our society have different standards of conduct and different systems of accountability... (Howard 1997: 1 – emphasis added).

The speech constitutes new moral codes for society and operates as a technology for regulating social relations. Separate rights, institutions and practices, such as a legal treaty or native title, are in effect antithetical to the epistemological and moral codes underpinning neo-liberal regimes of governing. The speech goes on to refer to the ruptures in Australian society created as a result of the *Wik* decision.

...You will all be aware that I have spent a great deal of time in trying to find a just, *fair and workable outcome* in response to the decision of the High Court of Australia in the *Wik* case. In working towards that solution, my Government's primary goal has been to *strike a fair and reasonable balance between the rights of indigenous people and the rights of other Australians*, in particular those in the pastoral and mining industries...

...I believe that the plan which I have put forward provides an *equitable balance* between respect for the principles of Native Title, as laid down in the *Mabo* decision, and the very legitimate interests of pastoralists and others in securing certainty in carrying on and planning their activities.

I understand the heat and passions that this issue has generated on both sides of the debate and I believe that it provides a fair and equitable outcome and I believe that my ten point plan provides the only basis of a proper approach... (Howard 1997: 1 – emphasis added).

Native title rights are separated from reconciliation and *problematized* as an obstacle to the healthy functioning of the economy. The Federal Government had a moral imperative to act, as native title rights were seen as an impediment not simply to the economy, but also to the unity of the nation. Fairness and unity were about an ethics of conduct, yet the latter passing of legislation to 'strike this balance' was a moral injunction.

An essentialising epistemological whiteness (Wiegman 2003: 22) operates here through the denial of separate rights, neo-liberal notions of equality, and the elevated status of mainstream values. In normalising social and historical dominance separate rights are denied context. Indigenous agendas of social existence and history are without relevance. Hence, through the standardising and homogenising tendencies of neo-liberalism and the denial of separate rights, whiteness is epistemologically privileged. Thus, the moral logics of neo-liberalism, such as individualism and the denial of privilege, are ethical motives that privilege an epistemological whiteness. The discursive construction of separate rights as problematic involves the normalisation of particular ideals or principles of equality and fairness – ideas or principles that privilege the moral rationalities of an epistemological whiteness.

For example, in the *Executive Summary of the Commonwealth Government Response to the Council for Aboriginal Reconciliation Final Report – Reconciliation: Australia's Challenge*, the Federal Government repositions Indigenous affairs policy and Indigenous rights more generally:

The Indigenous affairs agenda being pursued by the Government is laying the foundation for lasting improvements in the lives of Indigenous peoples; for those of current and future generations. This is the best contribution governments can make to reconciliation. We believe there can be no more powerful symbolism than building a society in which Indigenous people have not just a right to work, to good health, to a sound education, and to a decent home, but a society in which this is the norm for Aboriginal people (Commonwealth of Australia 2002: 1).

This is a document built around the 'normalisation' of Indigenous communities in the image of mainstream values and norms. The right to pressure public institutions to reflect and incorporate the specific social demands of Indigenous peoples has no place in this new vision. Reconciliation was no longer about reparations for past wrongs or symbolic and practical gestures recognising Indigenous rights. The old symbolism of reconciliation that recognised separate rights has been constructed as *divisive*. Reconciliation is limited to symbolic gestures of goodwill, such as the Reconciliation Walk across Sydney Harbour Bridge or Corroboree 2000. Reconciliation now is about moving forward as a *united* nation. Yes, we have a shared history, but 'we' move forward together in *unity*. Symbolic acts of reconciliation are now those acts that *unite* all Australians. Practices of inclusion are practices of goodwill and tolerance. It is an ethics of white Australia. Moreover, the practical measures that put in place Indigenous rights are now obsolete. 'True' reconciliation is now a form of 'practical' reconciliation limited to addressing Indigenous 'disadvantage'. The Federal Government's role is to remove the barriers that prevent Aborigines from participating in Australian society. Rights 'to work, to good health, to a sound education, and to a decent home' emerge from the principles of formal equality.

These are not neutral observations; they are calculations and strategies. This is a discursive field in which power is rationalised via the production of equal subjectivities. Through such discourses whiteness, as a discursive practice, constructs itself as the norm (Montag 1997: 284), is reproduced and functions as the norm (Olson 2002: 389). Here whiteness does not have an exclusively repressive or negative function; it has productive and positive capacities. Whiteness, like power relations, *is* productive.

The denial of separate rights and tactics to incorporate Indigenous Australians into the mainstream have been and remain a consistent theme in Federal Government statements about Indigenous Affairs. Recently, in announcing the Federal Government's Blueprint for Action in Indigenous Affairs in December 2006, the Hon Mal Brough MP, stated the following:

Sadly, too many Indigenous Australians are not leading independent lives. They are not sharing the opportunities and choices. The standard of health and low life expectancy are unacceptable. Too many are trapped in an intergenerational cycle of dependency, a welfare trap that needs to be broken...

...Today I intend to outline the government's direction for Indigenous affairs and talk you through the principles that underscore this approach - respecting culture; setting high standards and expectations; focusing on individuals and families; improving access to services and opportunities based on need and doing all of this via effective partnerships...

...As with other Australians we must celebrate difference and at the same time ensure that Indigenous Australians are treated equally and are able to enjoy what this country has to offer...

...The much misunderstood concept of collective self determination and separateness meant to help Indigenous Australians lead independent lives has in fact for many achieved the opposite. Local people have been disempowered. ATSIC was not the answer despite the good intentions of those that worked within it. Now it has gone, we can move on... (Brough 2006).

Reformulation of Indigenous policy and legislation has involved a direct attack on the integrity and process of Indigenous rights, resulting in significant reforms to Indigenous affairs, including the abolition of the Aboriginal and Torres Strait Islander Commission and other symbols of self-determination. It is a rationality in which whiteness is omnipresent, normalising and taken-for-granted and a rationality that undermines Indigenous claims for separate rights through its erasure of difference within a particular historical frame. Operating within this cultural framework of whiteness not only maintains the status quo, but also continues to undermine the notion of Indigenous rights in the form of separate rights, such as self-determination and institutional representation.

### **3 CONCLUSIONS**

Neo-liberal rationalities are, therefore, constitutive in terms of whiteness and processes of subjectification in that they inscribe or establish a particular moral code and map out the ethical territory for calibrating and evaluating Indigenous affairs (Rose 1989: 241). They are played out in ethical scenarios, and these ethical scenarios become 'the apparatuses and contexts in which moral codes are administered and the means by which they are enjoined' (Rose 1989: 241). These ethical scenarios have the object of social regulation and cultural manipulation in that they produce a demand for equality and the erasure of separate rights (Rose 1989: 256). Whiteness and power are continuously composed through the production of such knowledge and such representations. Whiteness and power are discursively produced at a domain of strategic relations (Foucault 1997: 88).

### **4 REFERENCES**

Apple, M. 2001. "Gender Meets Neo-liberalism" in *Discourse: Studies in the Cultural Politics of Education*, Vol. 22, Issue 1: 115 - 118

Bhabha, H. 1998. "The White Stuff", *Art Forum International*, Vol. 36, Issue 9: 21-22.

Brewster, A. 2005. "Writing Whiteness: The Personal Turn", in *Australian Humanities Review*, Issue 35, June 2005, accessed 10 September 2005,

<<http://www.lib.latrobe.edu.au/AHR/archive/Issue-June-2005/brewster.html>.>

Brodin, K. (2001) 'Discourses of Whiteness', *Journal of Linguistic Anthropology*, Vol. 11, No.1, pp.147-150.

Brough, M. 2006. Blueprint for Action in Indigenous Affairs, National Institute of Governance, Indigenous Affairs Governance Series, 5 December 2006. <http://www.facsia.gov.au/internet/minister3.nsf/content/051206.htm>

Commonwealth of Australia. 2002. Executive Summary of the Commonwealth Government Response to the Council for Aboriginal Reconciliation Final Report – Reconciliation: Australia's Challenge, September, 2002, Australian Government Printing Service: Canberra.

Foucault, M. 1977. *Discipline and Punish: The Birth of the Prison*, Penguin Books: London.

Foucault, M. 1994. 'The Subject and Power', in *Power – Essential Works of Foucault 1954 – 1984*, Volume 3, Edited by J. D. Faubion, Penguin Books: London, England.

Foucault, M. 1997. "The Birth of Biopolitics", in Michel Foucault, *Ethics: Subjectivity and Truth*, Edited by P. Rabinow, The New Press: New York, pp.73-79.

Foucault, M. 2003. "Governmentality", in *The Essential Foucault: Selections from Essential Works of Foucault, 1954-1984*, Edited by P. Rabinow and N. Rose, The New Press: New York and London: 229-245.

Frankenberg, R. 1997. "Introduction: Local Whitenesses, Localizing Whiteness", in *Displacing Whiteness: Essays in Social and Cultural Criticism*, Edited by R. Frankenberg, Duke University Press: Durham: 1-33.

Goldberg, T. D. 2006. "Neoliberalising Race", Keynote Speech at Borderpolitics of Whiteness Conference, Sydney, 11-13 December 2006.

Hartigan Jr, J. 2000. "Establishing the Fact of Whiteness", in *Race, Identity and Citizenship: A Reader*, Edited by R. D. Torres, L. F. Miron, and J. X. Inda, Blackwell Publishers: Massachusetts and Oxford: 183-199.

Hayek, F. A. 1976. *The Road to Serfdom*, The University of Chicago Press: Chicago.

Howard, J. 1996. Ministerial Statements: 1996 Progress Report to the People, *House of Representatives Hansard*, 11 December, pp.8218-8226.

Howard, J. 1997. Speech given at the 1997 Reconciliation Convention in Melbourne, 27 May, 1997.

Howard, J. 1998. 'Native Title Amendment Bill 1997 [No.2] Consideration of Senate Message', *House of Representatives Hansard*, 9 April, pp.2959-2962.

Howard, J. 2004. Transcript of the Prime Minister, the Hon John Howard MP, interview with John Laws, Radio 2UE, 16 April, accessed 25 April 2005, <http://www.pm.gov.au/news/interviews/Interview797.html>

Lloyd, M. 1997. "Foucault's Ethics and Politics: A Strategy for Feminism?" in M. Lloyd and A. Thacker (eds.), *The Impact of Michel Foucault on the Social Sciences and Humanities*, Macmillan Press: Basingstoke; St Martin's Press: New York: 78-101.

McWhorter, L. 2005. 'Where Do White People Come From: A Foucaultian Critique of Whiteness Studies', *Philosophy and Social Criticism*, Vol.31, No's. 5-6, Sage Publications: London, Thousand Oaks, California and New Delhi, pp.533-556.

Miller, P. and Rose, N. 1990. 'Governing Economic Life', *Economy and Society*, Vol.19, No.1: 1-27.

Montag, W. 1997. "The Universalization of Whiteness: Racism and Enlightenment", in *Whiteness: A Critical Reader*, Edited by M Hill, New York University Press, New York and London: 281-293.

Moreton-Robinson, A. 2000. *Talkin' up to the White Women: Indigenous Women and Feminism*, University of Queensland Press: Brisbane.

Olson, J. 2002. "Race and Homelessness: Contemporary Dynamics of Inclusion and Exclusion", *Political Theory*, Vol.30, No.3: 384-409.

Rose, N. 1989. *Governing the Soul: the Shaping of the Private Self*, Routledge: London and New York.

Sands, T. 2006. "Beseiged Whiteness, or, the Queer Logics of Neoliberalism", in proceedings of Fifth Annual Meeting Cultural Studies Association (US), October 2006; accessed 30 October 2006, <http://www.csaus.pitt.edu/conf/viewabstract.php?id=712&cf=4>

Schech, S. and Haggis, J. 2001. "Migrancy, Multiculturalism and Whiteness: Re-charting Core Identities in Australia", *Communal/Plural*, Vol.9, No.2: 143-159.

Steyn, M. 2001. "Whiteness Just Isn't What it Used To Be": *White Identity In A Changing South Africa*, State University of New York Press: New York.

Trechter, S. and Bucholtz, M. 2001. "White Noise: Bringing Language into Whiteness Studies", *Journal of Linguistic Anthropology*, Vol.11, No.1: 3-21.

Wiegman, R. 2003. "My Name is Forrest, Forrest Gump': Whiteness Studies and the Paradox of Particularity", in *Multiculturalism, Postcoloniality, and Transnational Media*, Edited by E. Shohat and R. Stam, Rutgers University Press: New Brunswick: 227-255.