
INDIGENOUS CONSTITUTIONAL RECOGNITION AND THE POLITICS OF DISTRACTION

by Jason O'Neil

INTRODUCTION

Constitutional recognition and change for the benefit of Australia's First Peoples has recently emerged as the focus of Indigenous politics. This article will critique the 'top-down' nature of the constitutional recognition movement, specifically the Recognise campaign. It will highlight the campaign's contribution to the 'politics of distraction' which dominate the mainstream discussion of Indigenous issues, detracting from ongoing calls from Indigenous communities for increased self-determination, land rights, and practice of culture. This article argues that the Recognise campaign functions to further Australia's settler colonial agenda through the 'politics of distraction' and that it will ultimately fail to substantively empower Indigenous peoples or affect Indigenous disadvantage.

RECOGNISE: A TOP-DOWN MOVEMENT

The concept of changing the constitution to recognise and benefit Indigenous Australians has only entered the mainstream public consciousness within the last decade. Its origins in government discourse, however, can be traced to the 1988 Constitutional Commission Report¹ and subsequently the final report of the Council of Aboriginal Reconciliation ('CAR') in December 2000.² Following the failure of the 1999 referendum, which included a proposed symbolic recognition of Indigenous people through a new preamble, it was not until 2007 that the Howard Government re-affirmed its commitment to recognise Indigenous Australians within the Constitution.³ The issue has received bipartisan support ever since, resulting in the current Recognise campaign, a product of the government-funded Reconciliation Australia, and the Expert Panel on Constitutional Recognition of Indigenous Australians.

There has been significant backlash towards the Recognise campaign and the push for constitutional change within Indigenous communities. Critiques vary from concerns over being recognised as a part of the settler-colonial nation-state, to criticisms of the Recognise campaign as a 'government-sponsored ad campaign removed from grassroots Indigenous opinion'.⁴ Within the Wiradjuri Nation of Central New South Wales, there

has been a wide array of responses to the movement. While some community members support the idea in principle, others view it as a distraction. One Elder describes reconciliation as something to be achieved by the individual person, not something for the government to legislate. This echoes the criticism of the 'top-down' nature of the campaign. The proliferation of the case in favour of recognition, through the support of government and corporate funding, marginalises the arguments against recognition to the point of obscurity. This 'top-down' nature is visible within Recognise itself, with the web page detailing the background of the campaign outlining the long history of the government-level push for constitutional recognition for several paragraphs, before concluding that: 'a grassroots movement of Australians is growing steadily to build the community support needed'.⁵ The necessity for awareness and engagement with this campaign to trickle down into Indigenous communities that it will purportedly benefit raises the question as to why, if not in response to calls from the Indigenous community itself, the government and private companies are spending millions of dollars to aggressively promote constitutional recognition.

THE POLITICS OF DISTRACTION

The Recognise movement and its origins as a heavily government supported campaign is an example of what Graham Smith terms the 'politics of distraction'.

This is the colonizing process of being kept busy by the colonizer, of always being on the 'back-foot', 'responding', 'engaging', 'accounting', 'following' and 'explaining'. [...] [If] the 'natives' are kept busy doing 'trivial pursuits' there will little time left to complain, question or rebel against the 'status quo' conditions.⁶

As a 'top-down' movement, Recognise draws the general public, politicians and Indigenous communities into a debate which fails to engage with what Indigenous peoples are truly seeking. In this way, all Australians are 'kept busy' by the constitutional recognition debate and its government-funded campaign. This shifts the focus from substantive, structural, and community-based reforms that are sought by Indigenous people to a focus on a 'mere

surface, decorative or cosmetic change.⁷ This is a common theme within Indigenous politics, with a similar argument available for the establishment of CAR and the reconciliation movement's emergence in response to intense Indigenous campaigning for land rights and a treaty.⁸ Jeff Cornthassel particularly highlights reconciliation as one of the main themes in the politics of distraction to 'push us towards a state agenda of co-operation and assimilation',⁹ rather than directly addressing Indigenous aspirations.

For the Wiradjuri Nation, the resurgence of their language and culture is an important and ongoing battle in their process of self-determination.

THE REAL FIGHT: PRACTICING CULTURE AND SELF-DETERMINATION

The fight for Indigenous self-determination and governance has been ongoing since the first appearance of European settlers, but the public political debate surrounding a treaty, land rights and self-determination peaked during the 1960s-80s, before a shift towards the Howard Government's rhetoric of practical reconciliation in the mid-90s. For Indigenous peoples, there is possibly no right more fundamental... than that of self-determination,¹⁰ a right which has been internationally recognised.¹¹ Its central role in empowering Indigenous peoples to combat the negative conditions of colonialism has always been clear.¹²

Whilst the meaning of self-determination varies according to the wants and desires of each Indigenous community, issues such as land rights and the ability to continue language and culture remain fundamental. These issues are grounded in Indigenous peoples' desire to exercise their sovereignty against the tides of settler colonialism and its devastating impacts. For the Wiradjuri Nation, the resurgence of their language and culture is an important and ongoing battle in their process of self-determination. While Wiradjuri people fight with limited resources and support to proliferate their language amongst their communities, a process which will potentially have an immeasurably positive effect within those communities, government and corporate interests are pouring money into the Recognise campaign to achieve a symbolic act of recognition for Indigenous Australians within the settler colonial framework.

THE OUTCOME DISPARITY

At the very heart of self-determination is the empowerment of Indigenous communities to address their issues and work towards

their ideal future. There is no doubt that Indigenous people have faced significantly exceptionally tough circumstances and outcomes throughout Australia's history. Some statistics faced by Indigenous people currently include:

- a life expectancy ten years shorter than non-Indigenous people
- a suicide death rate almost twice that of non-Indigenous people
- an increasing incarceration rate which is thirteen times that of non-Indigenous people
- a household median gross weekly income half that of non-Indigenous households
- a significantly lower rate of year 12 attainment.¹³

With the Department of Finance's description of 'dismally poor'¹⁴ returns from the government's annual \$3.5 billion Indigenous-specific expenditure and claim that 'past approaches to remedying Indigenous disadvantage have clearly failed',¹⁵ the importance of effective programs and approaches towards Indigenous disadvantage has never been more clear.

Returning to the example from the Wiradjuri Nation, community members recognise the wide array of flow on effects which could improve the lives of the Wiradjuri people and the strength of their Nation through the stronger sense of cultural identity, self-worth and pride which comes with the practice of language and culture. The benefits of people being able to engage with their culture are widely accepted¹⁶ and help to address issues such as youth suicide, unemployment and Indigenous incarceration. In their effort to empower their communities and people, Wiradjuri language teachers have looked to Aotearoa and the historical development of Māori language schools and universities. Graham Smith highlights this progress in Māori language and education as a result of breaking free from the 'politics of distraction', Māori people have instead entered into a new 'revolution', fighting for and achieving their own goals in a process of decolonisation.¹⁷

Rather than actively partnering with Indigenous communities to 'facilitate the development of structures that support Indigenous peoples'¹⁸ in their efforts to empower themselves and remedy their disadvantage, the government is spending tens of millions to further its own settler colonial agenda. It is likely that the constitutional recognition process, if successful, will have very little if any substantive impact upon the daily lives of Indigenous people or the systematic issues they face. Regardless of any good intentions of reconciliation and recognition behind the Recognise campaign, the continued expense of a 'top-down' symbolic campaign, in the face of systematically ineffective Indigenous expenditure and a failure of the settler colonial state to address Indigenous disadvantage, shows that the Recognise campaign may not be for Indigenous Australians after all.

CONCLUSION

The recent Recognise movement and the ongoing debate surrounding constitutional change for Australia's Indigenous peoples is consuming the Indigenous political scene, and this is likely to continue until the referendum finally eventuates. Despite any good intentions behind the campaign, its contribution to the 'politics of distraction' and role in detracting from substantive social and legal issues to Indigenous people is undeniable. This government and privately funded 'top-down' campaign is overpowering not only the marginalised voices of opposition to the campaign, but also the voices of other important Indigenous issues. People and Elders of the Wiradjuri Nation are engaged in a grassroots fight to revitalise their language and build the capacity of their communities. This fight, which is not unique to the Wiradjuri Nation in its own practice of self-determination and sovereignty, receives minimal government support or media focus while the Recognise movement is bolstered by high-profile media attention and both government and corporate sponsorship. This is a result of the movement's palpability to the settler colonial agenda. There is no great moral dilemma in recognising Indigenous people within the Constitution, it is not as difficult (nor as important) to address as the issues it draws attention from: sovereignty, land rights, self-determination or the continuation of culture. It is therefore important that we do not allow this latest development in the settler colonial 'politics of distraction' to subside our determination or capacity to achieve substantive change for Australia's Indigenous peoples.

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- 2 Council for Aboriginal Recognition, *Final report of the Council for Aboriginal Reconciliation to the Prime Minister and the Commonwealth Parliament* (December 2000) <<http://www.austlii.edu.au/au/orgs/car/finalreport/index.htm>>.
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- 4 Celeste Liddle, 'I don't want your Recognise campaign – it's nothing but a sham' *The Guardian* (online), 18 August 2014 <<http://www.theguardian.com/commentisfree/2014/aug/18/i-dont-want-your-recognise-campaign-its-nothing-but-a-sham>>.
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- 7 Rauna Kuokkanen, 'Sami Higher Education and Research Toward Building a Vision for Future' in Henry Minde (ed.) *Reclaiming Indigenous Voice and Vision* (Eburon, 2008) 267, 278.

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- 10 Lowitja O'Donoghue, 'Keynote Address: Australian Government and Self-Determination, in Christine Fletcher (ed), *Aboriginal Self-Determination in Australia* (Aboriginal Studies Press, 1994) 4, 10 quoted in Australian Human Rights Commission, 'The Declaration Dialogue Series: Paper No. 2 - Self-determination – the fundamental right of Aboriginal and Torres Strait Islander peoples to shape our own lives' (Discussion Paper No 2, Australian Human Rights Commission, July 2013) 9.
- 11 See, eg *United Nations Declaration on the Rights of Indigenous Peoples*, GA Res 61/295, UN GAOR, 61st sess (13 September 2007) art 3.
- 12 O'Donoghue, above n 10.
- 13 Steering Committee for the Review of Government Service Provision, *Overcoming Indigenous Disadvantage: Key Indicators 2014* (2014) Productivity Commission.
- 14 Department of Finance and Deregulation, *Strategic Review of Indigenous Expenditure* (February 2010) 11 [F.1].
- 15 Ibid [F.3].
- 16 See, eg Culture is Life, *Elders Report on Preventing Indigenous Self Harm and Youth Suicide* (2014) <<http://bepartofthehealing.org/EldersReport.pdf>>.
- 17 Smith, above n 1.
- 18 Australian Human Rights Commission, 'The Declaration Dialogue Series: Paper No. 4 - Ensuring the ongoing survival of the oldest living culture in the world' (Discussion Paper No 4, Australian Human Rights Commission, July 2013) 13.

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