

30 April, 2004

Pointing the Bone:
Reflections on the Passing of ATSIC

Peter Howson

On 21 August, 1968, Soviet tanks rolled into Prague; First Secretary Alexander Dubcek and several of his colleagues were arrested and taken to Moscow to be threatened and humiliated; and the Prague Spring turned overnight into winter again.

In Australia disaffection within the CPA at these turn of events caused amongst other things, the resignation of Phillip Adams from the Party¹, but more generally created the need for a new lodestar from which the Australian pro-communist Left could take its bearings. Two alternatives emerged as vehicles for their political energies and emotions – the environmentalist movement which they captured with the takeover of the Australian Conservation Foundation in 1972; and the Aboriginal Land Rights and Self-Determination Movement, which H C Coombs energised when he was appointed to the chairmanship of the newly created Council for Aboriginal Affairs, established by PM John Gorton, in 1968.

Coombs had done a deal with PM Holt not long before Holt's tragic death in December 1967. The Liberal back-bench had long wanted Coombs sacked from the Reserve Bank and Coombs agreed to resign in return for the positions of the Chairman of the Arts Council and of the Aboriginal Affairs Council, which was to be created following the referendum in 1967 (which gave power to Canberra to legislate for Aborigines throughout the Commonwealth). Coombs had never shown any interest in Aboriginal issues prior to this date.

Twenty one years after Dubcek's humiliation and subsequent indefinite house arrest, the end of the Soviet Empire, and communism as a legitimising ideology, came with a rush. The capacity of a great military and imperial power to sustain its legitimacy and authority on the foundation of an economy which eschewed markets and relied on GOSPLAN for its life and direction, eventually crumbled, at first slowly but then with exponential speed. All of a sudden the Communist Party of the Soviet Union lost all authority.

So it is with the movement for Aboriginal Self-Determination, which was to supposed to finally culminate in an Aboriginal sovereign State, carved out of Australian territory. In its first issue for 1988, the bicentennial year, the Communist Party weekly, "Tribune", then still extant, carried a cover page with a picture of the First Fleet at anchor in Botany Bay. Superimposed over the ships was the Aboriginal Land Rights flag with the banner headline "Sovereignty in 88". A subsequent manifestation of this ambition was published in a letter to the Melbourne Age on 27 March 1993 from K J Everett, Aboriginal Provisional Government, South Hobart. It was headed "Conciliation out until blacks have own state". It stated, inter alia,

*"Until we are free, a separate people with our own nation recognised as a state in the United Nations, until the Australian people can agree to that notion and be humble in handing control back to the legal owners of this land, until they can rid themselves of the notion that we **must** all be Australians, any hope of conciliation is beyond reach of all of us."*

These are but two examples of a persistent campaign stretching over twenty years. A full description would require a major thesis.

One of the most important but officially undisclosed purposes of ATSIC was to provide an institution with which an Australian Government could negotiate a Treaty. That was the point of conducting elections, a political process totally alien to Aboriginal custom and tradition. A Treaty would have put a sovereign Aboriginal state onto the domestic political agenda in the same way that it had an important place in the debates going on in the UN, during the 80s and 90s, over the Draft Declaration on the Rights of Indigenous Peoples. It was in this context that the Howard Government first became aware of the implications of the Aboriginal policy it had taken over from the Keating Government. At a cabinet meeting in Bendigo, held not long before the 1998 elections, and fearful of the inroads which One Nation was making on its traditional constituency, the Government rejected DFAT advice to accept the phrase “self-determination” in the Declaration on the Rights of Indigenous Peoples, which was then about to be approved in UN forums, and unleashed a deeply satisfying (to the Government) storm of protest from the Aboriginal industry as a consequence.

Prime Minister John Howard and Minister Amanda Vanstone announced jointly on 15 April 2004 that the Government would introduce legislation into the House during the forthcoming Budget session to repeal the ATSIC Act, and would not contemplate an elected body to succeed ATSIC. A few days previously Opposition Leader Mark Latham had announced that a Labor Government would abolish ATSIC and replace it with a different but nonetheless elected body, which could be reasonably called “Son of ATSIC”. ATSIC was created by the Hawke Government in 1989, with Minister Gerry Hand persuading caucus, by a narrow margin, to agree to his proposal for an elected body, with a constituency comprising a racially based, Australia-wide, electoral roll (non-collegial); to be funded with substantial annual allocations (but not accountable to the Minister or the Parliament for the disbursements of those funds); and free to roam the world (particularly Geneva) promoting the political agenda of self-determination which was central to the Left’s ambitions for a sovereign Aboriginal state.

In looking back over the debates which have taken place since Coombs became Chairman of the Aboriginal Affairs Council, what is most striking is the way in which the anti-socialist forces in Australia were, with very few exceptions, struck dumb by the power of the Rousseauvian fantasy of the innocent and noble savage (who had to be isolated for his own protection from the corrupting influences of Christianity and capitalism), and by the socialist fantasy of collective property and collective rights, an ideal which had been decisively rejected by mainstream Australia during the arguments which raged over the nature of communism during the Cold War period.

During the 1970s the Left invested substantial energy and commitment to the Aboriginal Land Rights movement, beginning with the Gove Land Rights Case (*Milirrpum v. Nabalco Pty. Ltd. and the Commonwealth of Australia*). Justice Richard Blackburn, in a landmark decision, decided the Gove case against the appellants in 1971². It is noteworthy that A E Woodward QC (the appellants’ barrister), having been appointed by Prime Minister Whitlam in February 1973 to advise on how best to overturn the Blackburn judgment of 1971, in his first report of July 1973 commented at length on the relationship between Aborigine and land

in very similar terms to the observations which Pastor Paul Albrecht has made.³ Woodward wrote

45. The spiritual connection between a clan and its land involves both rights and duties. The rights are to the unrestricted use of its natural products; the duties are of a ceremonial kind - to tend the land by the performance of ritual dances, songs and ceremonies at proper times and places.

Woodward then considered a “*method of allocation . . . which would give land to the traditional land-holding groups. . . . Such a system has been supported by most anthropologists who have responded to my request for information and opinions*” (para 111)

He then spent the next seven paragraphs outlining the difficulties which would attend such an allocation. In para 119 he stated “*However, inalienable communal title is quite basic to the Aboriginal system and so seems to provide the only possible way of dealing with the reserve lands in the NT today.*” Here was socialism triumphant indeed.

The Fraser Government passed the NT Aboriginal Land Rights Act in 1976 in which native title was to be communal, inalienable, freehold – a double oxy-moron. The Minister, Ian Viner, derided the concerns of the miners and the pastoralists who protested at the legislation, claiming that 8 percent, at most, of the NT would be affected. The proportion of the NT now claimed under the Act exceeds 50 percent. The NT Act began the process of creating a chain of Aboriginal museums, which are today characterised by the most appalling conditions of lawlessness, violence, suicide, and substance abuse. These Aboriginal museums are kept as largely secret places because those running them are able to keep visitors, notably journalists or tv crews, out, a method of political control upheld by the High Court in *Gerhardy v. Brown*.⁴

An important breakdown of this rule occurred in April 2004, when the Premier of SA, Mike Rann, took a team of journalists to the Pitjantjatjara lands in northwestern SA, and defied the Pitjantjatjara authorities to keep him and the accompanying media out of “their” territory. This was the first time the media had had access to the Pitjantjatjara Lands since the SA legislation was passed by the Tonkin (Liberal) Government in 1981. The resulting furore in the Adelaide press has added significantly to our understanding of the awful horror of the social disintegration which is now the norm in these places.

The Aboriginal Land Rights movement enabled the relocation of the socialist fantasy in its territorial manifestation from Russia, Cuba or North Korea, to Aboriginal communities in remote parts of Australia. The ambition to establish an independent sovereign Aboriginal state was, in large part, an attempt to revive the “socialism in one country” vision, albeit in darker hue.

But the socialist vision which still energised the Left was disguised in religious garb for the general public; the word “sacred” was successfully used as an RPG against all critics. A long line of Coalition ministers and shadow ministers succumbed to the newly fashionable separatist doctrine. The legacy of Paul Hasluck⁵ was hidden from sight, and the word “assimilation” was changed from a word of hope for the future to a synonym for genocide. It

was an extraordinarily successful enterprise from the Left's perspective, and by the time the Berlin Wall crumbled in November 1989, the failure to achieve federal Land Rights legislation was more than compensated for by the passage of the ATSIC Bill and the clear prospect of an historic High Court win in the Mabo case. If the term "aboriginal socialism" had, for example, been applied to the NT Aboriginal Land Rights Act, Coalition ministers might have paused before applauding and promoting the processes of separatism and self-determination which have created so much horror and social disintegration, and which now confront us with a tragedy of huge proportions. But where the word "socialism" would have failed, the word "sacred" carried all before it.

An important element of the Left's fantasy for an Aboriginal sovereign state was the idea that the 400,000 Australians described as "Aboriginal" in the census, would fall in behind this project. Of that 400,000, three quarters have rejected separatism by joining mainstream Australia in the cities and provincial towns and, above all, by marrying out.

The proportion of indigenous adults married (de facto or de jure) to non-indigenous spouses was 69 per cent in 2001, up from 46 per cent in 1986, and the majority of Aborigines are now of mixed descent. Over 70 per cent profess Christianity (a fact which infuriates the Left) and only about 12 per cent speak an indigenous language at home. It is evident, too, that the vast majority of Aborigines do not want to live in separate communities away from the rest of the Australian population: in 2001 about 30 per cent were living in major cities and another 43 per cent in or close to rural towns, a considerable increase compared with the 46 per cent living in urban areas in 1971. Similarly, with over one in three owning their homes there has been a move away from traditional communal-type living.

The fact that the majority of Aborigines have consistently not voted in ATSIC elections also suggests little enthusiasm for separate political representation, let alone a sovereign Aboriginal state.

However, for the 100,000 or so Aborigines (50,000 being under the age of 20) who are living mostly in remote or extremely remote communities, the story is one of unrelieved tragedy and horror.

During Prime Minister John Howard's visit to Cape York in August 2003, he was told by ATSIC regional councilor, Tania Major, that she had been the only one of 15 pupils to finish school, that all the other girls in her class were pregnant at 15, that seven of the boys had been incarcerated, and that four had committed suicide. In May 2002 the Prime Minister had noted that "*the state of Aboriginal communities remained disgraceful*" and "*part of the problem was that many Aborigines were physically separated from the rest of society*"⁶

The Reverend Steve Etherington, who has lived in a traditional Aboriginal community for 23 years, probably best summarised the seriousness of the problem when he wrote two years ago that "tribal Aborigines in Australia are a 'kept' people: they are no longer required to grow or find their own food, are never required to become educated, never required to build their own homes or buy their own vehicles ... the vast majority are never required to learn anything or to do anything. Erosion of the capacity for initiative and self-help are virtually complete

In South Australia, following multiple youth suicides caused by an endemic petrol-sniffing

problem and factional feuding on the Pitjantjatjara lands governed by an Aboriginal Council, Treasurer/Police Minister Kevin Foley announced on 15 March that an Administrator would be installed to take over control. He declared that

“self-governance in the Anangu Pitjantjatjara lands has failed and this Government has said we will not tolerate an executive unable to administer civil order, community service, social justice and quality of life.”

Three years ago Richard Trudgen in his book *Why Warriors lie down and die*, concerning the Yolngu Clans in Arnhem land, suggested that "unless current policies among these communities is changed, the great warriors of Arnhem Land will just lie down and die." My recent check on the Yolgnu situation suggested that not dissimilar developments may be occurring there as those reported by an anthropologist researching conditions in the West Musgrave Ranges, where in one clan he found "No males between the age of 25 and 40"

John Ah Kitt, Minister assisting the Chief Minister on Indigenous Affairs said on 7 Mar 2002, in the NT Legislative Assembly.

Aboriginal Territorians are facing a stark crisis. To say anything else would be to lie – and I believe that now is the time for the truth to be told . . . many Aboriginal people acknowledge that the rot lies within their own communities. The high rates of sexual assault, domestic and other violence, are no more acceptable to Aboriginal people than they are to anyone else. Aboriginal people feel enormous shame at the anti-social behaviour of their countrymen and women,; of drunks and beggars in the streets; and of the lack of will from so many aboriginal people to take charge of their own lives . . . The simple fact is that it is almost impossible to find a functional Aboriginal community anywhere in the Northern Territory.

In 1999 a report was presented to the Queensland Government by a Women’s Task Force, chaired by Boni Robertson, detailing horrific acts of violence and child abuse in the State’s communities⁷. This was followed by the Fitzgerald report, commissioned by Premier Beattie, and which effectively confirmed the Robertson report. At the August 2002 Bennelong conference held in Brisbane, Doug Gladman, a former Queensland health worker, described research he had undertaken amongst Aboriginal communities in Cape York, concluding that the rate of head injury experienced there was the highest in the world and attributing the cause to the “loss of the role of the male in these remoter communities”

Nicholas Rothwell wrote in *The Australian* on 12 May 2003 that in a community in the East Kimberleys

children .. were running without parental guidance, no rules, no controls, ... the fathers are often absent, drunk or dead. The kid money or family allowances ... for the upkeep of each child ... is not unusually ... claimed by mothers who drink it away far from their families

Michael McKinnon wrote in *The Australian* on 6 June 2003 that on Mornington Island
“there is a permanent cycle of despair created as children ..grow up with drug abuse and domestic violence as part of the normal family environment”

These testimonies give us some idea of the dimensions of the tragedy which now confronts

the Australian people and our political leaders. The Left has to accept responsibility for this tragedy, together with those Coalition ministers and shadow ministers who supported the Left in promoting the separatist doctrines which became the bipartisan wisdom of an era⁸.

One of the crucial facts that has been used to persuade the Government to wind up ATSIC has been the cost and corruption that has gone hand in hand with the delivery of “services” by ATSIC to remote aboriginal communities. The Government gives the impression that it believes that “mainstreaming” the delivery of these “services” will lead to a significant improvement in the quality of life in these places for those who live there, and that nepotism will vanish. This is rather like seeking to improve the quality of life in these anthropological museums by changing the personnel who run them. What is wrong with these remote communities are the communities. They began as ration depots, located on the edge of deserts and other strategic places, where Aborigines facing privation or even starvation, could find food. Having ration-depots permanently on tap, however, made hunter-gathering much less attractive as a life-style, and the ration-depots became, first, permanent camps and then “remote communities”, with housing, social amenities, landing-strips, tv, sewerage, etc provided by the taxpayer, at huge expense.

Minister Amanda Vanstone on 22 April, 2004, wrote

“Programmes and services run from ATSIC and ATSIIS will be retained but they will be delivered by mainstream government agencies . . . accountability will be strengthened under an innovative mainstream model. For the first time, whole of government leadership will be provided by a Ministerial Taskforce, chaired by me. Heads of Australian Government departments, who have responsibilities for delivering programmes and services to indigenous Australians will be held accountable for improved coordination and programme performance.”

Earlier, in a speech entitled “Connecting Government: Whole-of-Government Response to Australia’s Priority Challenges” Dr Peter Shergold, Secretary to PM&C, said

“Now comes the biggest test of whether the rhetoric of connectivity can be marshalled into effective action. The Australian Government is about to embark on a bold experiment in implementing a whole-of-government approach to policy development and delivery. It is an approach on which my reputation, and many of my colleagues, will hang. I refer to the abolition of ATSIC and the embrace of a quite different approach to the administration of indigenous-specific programmes and services . .

Mainstreaming, as it is now envisaged, may involve a step backwards – but it equally represents a bold step forward. It is the antithesis of the old departmentalism. It is a different approach, already piloted in a number of trial sites selected by COAG; eight communities have revealed a glimpse of what can be achieved through collegiate leadership, collaborative government and community partnerships.

These statements suggest that the Government and its key advisers may not yet be pointing the bone at root source of the problem. That fundamental problem is the communities, and

the fact that there is nothing for anyone to do there - except perhaps paint.

It is now beyond argument that within these “communities” the men treat their women and children in the most appalling way; that drunkenness and substance abuse are a cause of very high rates of premature death (mostly men), that there is no work, no reason for living and no purpose to life, and as Thomas Hobbes noted in Chap XIII of *Leviathan*, there is

*no Knowledge of the face of the Earth; no account of Time; no Arts; no Letters; no Society; and which is worst of all, continuall feare, and danger of violent death; And the life of man, solitary, poore, nasty, brutish, and short*⁹

The people who live in these former ration depots, if they are to escape from the horror of these places, will need to move to places where civilisation exists, where labour markets are operating, where effective schools are teaching literacy, numeracy, and the other skills which will enable the rising generation to take its place in mainstream Australian life. Ideally, these ration-depots should be shut down but, as a second best, every conceivable effort must be made to persuade them, especially the children and teenagers, to move. This should at least include the cessation of provision of infrastructure and other assistance to the 900 or so communities which have average populations of only fifteen.

The contrast between those Aborigines who have escaped into civilisation, and those who have not, is made clear from the census data. Those who have integrated have greatly improved their living standards. An analysis of 2001 Census data by Monash University academics, Bob Birrell and John Hirst, of education and income levels “*indicates that the economic situation of mixed race couples is far better than it is for dual Aboriginal couples*”. Those couples on very low incomes, and with considerably less schooling, were concentrated amongst dual Aboriginal couples. The analysis shows, moreover, that the latter are mostly located in regional areas of Queensland, the Northern Territory and Western Australia.¹⁰ Census data also showed that while the indigenous employment rate in major cities was not substantially lower than that for the non-indigenous (about 56 per cent compared with 64 per cent), the proportion of the indigenous labour force employed “*falls the further they live from major cities*”. Significantly, as the Productivity Commission has shown, in remote areas the indigenous employment rate was only 45-48 per cent compared with 69-71 per cent for the non-indigenous – and at least half of indigenous employment in remote areas is in the government funded Community Development Employment Programme (CDEP).

In education we find the same disjunction between Aborigines who have moved into mainstream Australia and those still living in the remote communities. The second *National Report to Parliament on Indigenous Education and Training* (2004) states that the latest year 3 and 5 literacy and numeracy results were the best ever in five out of six national benchmark areas; there was a 12.3 per cent increase in year 12 enrolments to a record 2,941 students; and this contributed to a record year 12 retention rate of 38 per cent in 2003, up from 29 per cent in 1996. But these overall results mask the reality that in the remote communities most of the children are not learning anything. The continued lower literacy and numeracy rates amongst Aboriginal children – with only 1 in 4 passing a basic Year 3 reading test and only 1 in 3 by Year 5 – has led the Government to announce a 20 per cent increase in funding (providing \$2.1 billion over the next four years) for Aboriginal education, including an extension of in-school tuition and a requirement that school providers set specific performance benchmarks. In announcing this program on 5 April 2004, Education Minister Brendan Nelson indicated

that priority would be given to *“those indigenous students whose needs, by any standard, are the greatest in this country – and they are Indigenous students in remote parts of Australia”*. The Minister did not consider the vital question of how the children living in the remote communities can be made to attend school, nor how competent teachers can be persuaded to spend even a small part of their lives, working in these awful places.

The same descriptions apply to standards of health. The closer an Aboriginal person is to a provincial town or city, the less likely he or she is to be suffering from serious health problems. The Commonwealth Grants Commission published statistics in 2001 demonstrating this point. The number of hospital separations for Aborigines is highest in rural and remote regions. For all other people the number of separations is highest in capital cities. Data on mortality rates by region show that for Aborigines, health status generally declines with remoteness. This is not a reflection of lack of resources, it is a reflection of the way people live.¹¹

A medical doctor tending the needs of remote Aborigines dying from all too common renal disease, stated in March 2003

What’s happening with the senior Aboriginal men and women of the desert is clear. Finally, they are understanding the extent of the passing of their traditional society – this is what underlies their health collapse.¹²

The demise of ATSIC is a major turning point. But there is still much intellectual ground to be recovered before new policy directions can offer hope for the future, particularly for the 50,000 or so children and teenagers now living in the remote communities; sociopathic ruins¹³ from which they have to be rescued.

The immediate focus of government policy must be on getting these children into schools where they will learn the basic skills of contemporary life. These schools will have to be based in regional towns or cities, and the existing structure of Aboriginal Hostels will have to be expanded greatly in order to provide appropriate accommodation for these children, from the age of 8 years and upwards. This will not be a low cost option. But there is no alternative.

1. Philip Adams has, arguably, been the most persistent and ubiquitous advocate of the illegitimacy of the European settlement of Australia,

2. The 150 page judgment can be summarised in this one paragraph:

"The question (whether NSW was a settled colony or otherwise) is one not of fact but of law. Whether or not the Australian aboriginals living in any part of New South Wales had in 1788 a system of law which was beyond the powers of the settlers at that time to perceive or comprehend, it is beyond the power of this Court to decide otherwise than that New South Wales came into the category of a settled or occupied colony."

4. Gerhardy v Brown 1985 159 CLR.

19. (1) A person (not being a Pitjantjatjara) who enters the lands without the permission of Anangu Pitjantjatjaraku is guilty of an offence and liable to a penalty not exceeding the maximum prescribed by subsection (2). (2) The maximum penalty for an offence against subsection (1) is - (a) where the offence was committed intentionally - a fine of two thousand dollars plus five hundred dollars for each day during which the convicted person remained on the land after the unlawful entry;

5. Hasluck argued that the only possible future for the Aboriginal people in remote communities was for them to merge into and become full members of the European community. He saw the purpose of settlements and the missions as being to move the nomadic people through various staging camps that would serve as training centres in social change and help move them towards economic self-sufficiency. Settlements and missions were not seen as an end in themselves and it was not the policy of government to isolate Aborigines in reserves. Hasluck also emphasized that settlements must not lead to the establishment of mendicant groups distinguishable purely by race or by colour and for whom special protection has to be provided. On the issue of the preservation of languages and culture, he said 'I think we must recognise in these matters we will not be able to have it both ways. If the reality is that Aborigines will remain a segregated and oppressed group, until they are able to meet the members of the wider Australian community on equal terms, then priority must be given to providing them with the opportunities they require to reach those standards, however we might wish it otherwise. The reality is that this is incompatible with full and active preservation of their language and culture.' (quoted by D Meagher in his final submission to the Cubillo-Gunner case in relation to Northern Territory Welfare Policies, page 111, 2000).

6. Reported in The Melbourne Age 6 May 2002.

7. The Aboriginal and Torres Strait Islander Women's Task Force on Violence Report

8. The separatist idea originated much earlier than the 1970s, as Keith Windschuttle shows in his book 'the Fabrication of Aboriginal History' (Volume One, Van Diemen's Land 1803-1847, Macleay Press 2002). He points out that, in the early 1830s in Tasmania, Lieutenant Governor Arthur was persuaded to establish a community of Aborigines on Flinders Island by George Augustus Robinson, who portrayed the separation as a means of protecting and at the same time civilising the Aborigines. In 1837 Robinson produced a glowing report claiming the settlement was a great success. This so impressed Lieutenant Arthur that he forwarded it to London and that led to Robinson achieving notoriety throughout the British Empire for (apparently) having established a way for British colonies to deal with native populations. But the succeeding governor, Franklin, appointed a board in 1839 to enquire into the conditions at the Flinders Island settlement. This rejected most of the claims made by Robinson and showed that the experiment that provided sanctuary for the natives was a failure, with all the Aborigines dying. Unfortunately, that report was never released and the myth created by Robinson continued to influence policy in Australia and elsewhere.

9. Thomas Hobbes, *Leviathan*, Introduction K R Minogue, J M Dent & Sons, 1973 London pp 64-65

10. see *Aboriginal Couples at the 2001 Census Data* in *People and Place*, vol 10, no 3, 2002.

11. These remarks are taken from Gary Johns' lecture "The Gulf between Aboriginal Policies and Aboriginal People in Australia" presented to the Libertad y Desarrollo Institute in Santiago, Chile on 6 June, 2003. The reference to the Commonwealth Grants Commission is from the Commission's paper Health Supporting Material Chapter 1.1

12. Ibid, quoting Dr Paul Rivvaland, a renal specialist based in the NT, *Weekend Australian*, March 29-30, 2003.

13. Roger Sandall, 2001, *The Culture Cult: Designer Tribalism and Other Essays*, Boulder CO, Westview.