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**Over a decade of despair:  
the Howard Government and Indigenous Affairs 1996-2007**

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**Abstract**

Upon being elected in 1996, the Howard Government inherited a number of reforms from previous Labor Governments in four key areas of Indigenous Affairs – self-determination, reconciliation, native title and the stolen generations. In this paper, I provide an account of how the Howard Government was largely successful in their efforts to oppose and wind back these reforms throughout their eleven years in power.

## **Introduction**

The Howard Liberal/National Commonwealth Government was elected on 2 March 1996. This Government won four successive elections until being defeated on 24 November 2007. During their eleven and a half years in power, the Howard Government undertook a radical approach to the policy area of Indigenous Affairs.

The Howard Government came to power soon after the previous Hawke (1983-1991) and Keating (1991-1996) Labor Governments had implemented substantial reforms in several key areas of Indigenous Affairs. In 1989, the Hawke Government established the Aboriginal and Torres Strait Islander Commission (ATSIC), which, despite several concerns relating to government influence, was nevertheless a substantial advancement for Indigenous self-determination. In 1991, the Hawke Government created a ten-year formal reconciliation process that aimed to educate the wider community about Indigenous issues, address Indigenous socio-economic disadvantage and develop a document of reconciliation. In 1993, the Keating Government passed the *Native Title Act* which attempted to protect the native title rights of Indigenous people recognised by the 1992 *Mabo and Others v Queensland (No 2)* (*Mabo*) decision. In 1995, the Keating Government commissioned the Human Rights and Equal Opportunity Commission (HREOC) to investigate past Government practices of separating, or stealing, Indigenous children from their families.

The Howard Government rejected the approach taken by these previous Labor Governments to these four key areas of Indigenous Affairs: self-determination, reconciliation, the stolen generations and native title. In this paper, I provide an account of how the Howard Government opposed these key areas and attempted to significantly diminish the effects of these areas on Indigenous Affairs policy. These four areas dominated the approach of the Howard Government to Indigenous Affairs with other issues, such as the 'history wars' and Indigenous socio-economic disadvantage, generally being subsumed within one or more of these four areas. I argue that the Government has been largely successful in its determination and has consequently been able to demonstrably change the landscape of Indigenous Affairs during its time in office from 1996 to 2007. I conclude by briefly discussing the impact, if any, of the new Rudd Labor Government on the legacy of the Howard Government's radical approach to Indigenous Affairs.

## **Self-determination**

From 1972 to 1996, the Whitlam, Fraser, Hawke and Keating Governments had a bipartisan approach to supporting, albeit in a limited form, a policy of Indigenous self-determination. While in opposition, John Howard had expressed strong opposition to policies of Indigenous self-determination and separateness. He strongly condemned the efforts of Labor Governments to recognise the unique status of Indigenous peoples within the wider Australian community, such as passing the ATSIC Act and recognising the Aboriginal flag (Howard 1989, 1328; Howard 1995). The election of the Howard Government in 1996 quickly saw the abandonment of the twenty-four year old policy of Indigenous self-determination. Upon becoming Prime Minister, Howard pandered to the Australian electorate, which he believed was critical of Labor's support of special interest groups and political correctness, by attacking any notion of separateness within the Australian community (Howard

1996a; Howard 1996b). He particularly criticised the previous Labor Government's policy of Indigenous self-determination. The Prime Minister first accused ATSIC of misusing public money and lacking public accountability, and then followed these accusations by implementing significant budget cuts to ATSIC of approximately \$400 million (Howard 1996c; Howard 1996d). Further, these budget cuts were implemented only on ATSIC's 'political' programs such as acquiring land, promoting cultural activities and encouraging self-determination rather than on other programs in housing or employment.

There have been a number of other examples of such attacks by the Howard Government on Indigenous self-determination and separatism over the past eleven years. In 1996, Senator John Herron, the then Minister for Aboriginal and Torres Strait Islander Affairs, responded to public concerns of financial mismanagement by several Aboriginal legal services by commissioning an audit of the legal services and proposing to abolish Aboriginal legal services (Herron 1996a; Herron 1996b; see also Nicoll 1998, 179). Also in 1996, the Howard Government rejected both the previous Keating Government's Social Justice Package and the Council for Aboriginal Reconciliation's (CAR) submission to the Package and instead stated a commitment to improve Indigenous socio-economic conditions (CAR 1997, 13; Tickner 2001, 46). In 1998, Alexander Downer, the then Minister for Foreign Affairs, requested that the term 'self-determination' be removed from the United Nations *Draft Declaration of the Rights of Indigenous Peoples* (Forbes 1998, 7). In 2004, the Howard Government introduced Shared Responsibility Agreements (SRA's), which required Indigenous communities to implement better social practices, such as washing their children's faces or improving school attendance, in order for the Howard Government to implement community infrastructure, such as petrol bowsers or swimming pools (see McCausland 2005 for a discussion on SRA's).

The most significant and notorious example of the Howard Government's attack on Indigenous self-determination was the Government's decision to abolish ATSIC. On 15 April 2004, in announcing this decision, the Prime Minister argued:

We believe very strongly that the experiment in separate representation, elected representation, for indigenous people has been a failure. We will not replace ATSIC with an alternative body. We will appoint a group of distinguished indigenous people to advise the Government on a purely advisory basis in relation to aboriginal (sic) affairs. Programmes will be mainstreamed, but arrangements will be established to ensure that there is a major policy role for the Minister for Indigenous Affairs ... it [ATSIC] has become too preoccupied with what might loosely be called symbolic issues and [has showed] too little concern with delivering real outcomes for indigenous people (Howard 2004).

Following this announcement, a number of Indigenous leaders, such as Bill Jonas and Jackie Huggins, as well as a Senate Select Committee established by the Opposition parties, criticised the Howard Government decision and argued that if ATSIC were to be abolished, it must be replaced with another Indigenous representative body (Maddison 2006, 14-16). However, the Howard Government ignored these criticisms and instead passed the *Aboriginal and Torres Strait Islander Commission Amendment*

*Bill 2004* on 16 March 2005. Further, the Howard Government did not replace ATSIC with another Indigenous representative organisation, but rather simply created a non-representative and government-appointed advisory board called the National Indigenous Council.

## **Reconciliation**

In 1996, half way through the ten-year reconciliation process and following its election, the new Howard Government prioritised ‘practical’ reconciliation – such as improving Indigenous socio-economic conditions – rather than ‘symbolic’ reconciliation – such as apologising to the stolen generations or developing a document of reconciliation (Howard 2000a; Herron 1996c, 3). This attempt to redefine the 1991 aims of the reconciliation process, (which were legislated with bipartisan support), to concern primarily practical matters rather than symbolic acts was most famously articulated during Howard’s speech to the 1997 Australian Reconciliation Convention, a speech that resulted in many in the audience booing him and turning their backs on him:

Reconciliation will not work if it puts a higher value on symbolic gestures and overblown promises rather than on the practical needs of Aboriginal and Torres Strait Islander people in areas like health, housing, education and employment. It will not work if it is premised solely on a sense of national guilt and shame. Rather we should acknowledge past injustices and focus our energies on addressing the root causes of current and future disadvantage among our indigenous people ... we need a renewed national focus on the true causes of Aboriginal and Torres Strait Islander disadvantage. For my Government, this is the cornerstone of the reconciliation process ... This practical, on-the-ground approach will remain a primary focus of our policy making (Howard 1997a).

This redefining of the aims of the reconciliation process by the Howard Government initiated fierce debates amongst political commentators concerning the appropriateness or otherwise of both practical reconciliation and symbolic reconciliation. Several conservative commentators agreed with Howard that practical reconciliation, rather than any acts of symbolism, was required to address Indigenous issues. McGuinness (2000, 239) argued, ‘the dreadful hopelessness and mounting suicides in Aboriginal communities ... do not require a peace treaty or a formal statement of reconciliation. What is needed is some real effort at overcoming actual problems by practical means’ (see also Hughes 2003, 11).

However, there were also numerous critics of the Howard Government’s prioritising of practical reconciliation over symbolic reconciliation. The Government’s emphasis on practical reconciliation was criticised as reducing the meaning of reconciliation to simply one of assimilation (O’Donoghue 1997, 19). The Prime Minister was also accused of failing to comprehend the importance of both symbolic and practical reconciliation to the overall reconciliation process (Naidoo 1998, 142). Practical reconciliation was also argued to be simply concerned about the citizenship rights of Indigenous people to access quality education, health and housing services (Dodson, M. 2000). A number of commentators accused Howard of emphasising practical

reconciliation for political purposes, such as to avoid being criticised for failing to substantially address Indigenous socio-economic disadvantage (Langton 2000, 28; Behrendt 2003, 10; Altman and Hunter 2003, v). The emphasis on practical reconciliation by the Howard Government was also argued to be an attempt to avoid debate about the need to implement significant structural and institutional reforms to the wider Australian society (Clark 2000, 229).

Whilst these debates focussed on practical and symbolic reconciliation, a number of Indigenous political leaders, including past and present Chairpersons of CAR and ATSIC, such as Pat Dodson, Geoff Clark and Gatjil Djerrkura, advocated the need for substantive reconciliation (Dodson, P. 2000, 270-272; Clark 2000, 233; Djerrkura 1999, 6-7). The Indigenous peoples who articulated this approach to reconciliation included those who worked within the formal reconciliation process as well as those who were marginalised by the process due to their non-nationalist goals. They argued that substantive reconciliation would address those issues, such as Indigenous rights – including sovereignty, self-determination, a treaty and land rights – and the transformation of existing power relationships, which were almost never discussed by the proponents of either symbolic reconciliation or practical reconciliation (Gunstone 2005, 25; see also Gunstone 2007a, 142-146). However, the arguments for substantive reconciliation were largely ignored by the Howard Government, the Labor Opposition and the wider non-Indigenous community due to the fierce debates, mentioned above, concerning symbolic and practical reconciliation. Thus, the Howard Government's emphasis on practical reconciliation not only diminished the importance of symbolic reconciliation, it also assisted in preventing any widespread discussion on substantive reconciliation.

### **Native Title**

Both the High Court's 1992 *Mabo* decision and the Keating Government's 1993 *Native Title Act* did not resolve whether grants of title, such as pastoral leases, issued by previous governments, would extinguish native title. This issue was resolved by the High Court's 1996 decision in *The Wik People and the Thayorre People v State of Queensland and Others (Wik)*. This decision stated that the granting of pastoral leases did not give exclusive possession to pastoralists and consequently, native title would not necessarily be extinguished by the granting of these pastoral leases, but rather, in certain cases, could co-exist with the pastoral leases (ATSIC 1998, 13; Markus 2001, 42). The High Court decision stated that native title would only be extinguished in those cases when it could not co-exist with the rights of pastoralists (Reynolds 1998, 8).

This decision sparked outrage and hysteria from pastoral groups, conservative commentators and Liberal/National politicians. There were claims of judicial activism and demands for 'certainty' and for the 1993 *Native Title Act* to be amended (Edgerton 1998, 21-22). Conservative opponents, including Donald McGauchie, the National Farmers Federation President, Tim Fischer, the Deputy Prime Minister in the Howard Government, and George Savell, the chief executive of the Association of Mining and Exploration Companies, claimed that the *Wik* decision in particular and native title claims in general had destroyed reconciliation and that native title was the 'biggest disaster' for mining investment in Australia's history (Nicoll 1998, 172-178; Lavelle 2000, 101-103).

Instead of attempting to allay the fear, hysteria and ignorance concerning the *Wik* decision, like Keating had done with the *Mabo* decision by delivering his 1992 'Redfern Speech', Howard claimed the pendulum had swung too far to the Indigenous side and developed his Ten-Point Plan that largely ignored the *Wik* decision (Attwood and Markus 1999, 280). This Plan clearly discriminated against Indigenous people by increasing the range of activities that pastoralists could perform on their leases, restricting the common law rights of Indigenous people to access their lands, limiting the right of Indigenous people to negotiate over proposed mining and development activities and including a sunset clause that required all claims to be made within a certain timeframe (Howitt 1998, 28; ANTaR 1998, 8).

Further, at a meeting of concerned pastoralists at Longreach, Queensland on 17 May, 1997, Howard clearly demonstrated his commitment to winding back native title rights secured by Indigenous people through the *Mabo* and *Wik* decisions. Howard argued:

Under the guarantees that will be contained in this legislation [the 10-point plan] the right to negotiate, that stupid property right that was given to native title claimants alone, unlike other title holders in Australia, that native title right will be completely abolished and removed for all time in relation to the activities of pastoralists carrying on not only strictly defined pastoral activities, but also the full extent of primary production activities which you can possibly imagine (Howard 1997b).

For the next two years Howard attempted to obtain the support of the Commonwealth Parliament to pass legislation that addressed his Ten-Point Plan. In July 1998, following substantial negotiations with both the mining and pastoral industries and the Independent Tasmanian Senator Brian Harradine, but with minimal negotiations with Indigenous political leaders (Bennett 1999, 43-44), he finally secured the passing of this legislation, the 1998 *Native Title Act Amendment Act*, through the Commonwealth Parliament. As Lavelle (2000, 101) has argued, this Act 'substantially reduced the likelihood of native title recognition by toughening the already strict registration process for native title claimants contained in the Keating Labor government's Native Title Act (1993)'.

A number of prominent Indigenous political leaders were appalled at this regressive approach by the Howard Government that significantly wound back their native title rights. Noel Pearson described the Howard Government as 'racist scum' and the Government's 10-point plan as 'absolutely obscene' (Attwood and Markus 1999, 354). Galarrwuy Yunupingu stated that 'the Ten Point Plan amendments extinguish common law Native Title rights' (Yunupingu 1998, 12). Charles Perkins argued that 'we've slipped back, at least ten years, in terms of race relations' and Marcia Langton stated that 'these blokes are re-inventing the 19<sup>th</sup> Century' (Markus 2001, 108).

### **Stolen Generations**

In May 1997, the HREOC's 'National Inquiry into the Separation of Aboriginal and Torres Strait Islander Children from their Families' released their report entitled

*Bringing them Home*. This report stated that the forcible removal, or stealing, of Indigenous children from their families, had a devastating and continuing effect upon both the individuals directly affected and their communities (HREOC 1999, 4-15). The National Inquiry also found that the stealing of Indigenous children from their families by State, Territory and Commonwealth Governments constituted an act of genocide, and that this genocide continued until the 1980s (Tatz 1998, 2-3; see also Langton 2008, 221-222). The Inquiry developed 54 recommendations, including an acknowledgment and an apology from all Parliaments, police forces and churches; the establishment of a National Compensation Fund; the introduction of a national self-determination framework; and the implementation of national standards for Indigenous children under state care (Dodson 1999a, 34).

Consistent with their emphasis in Indigenous affairs on 'practical' reconciliation – addressing Indigenous socio-economic conditions – the Howard Government's reaction to the *Bringing them Home* report was to focus primarily on the welfare-related recommendations, such as assisting in family reunions and improving counselling services (Dodson 1999b, 352-354). However, also consistent with their approach to Indigenous Affairs of largely ignoring symbolic issues and Indigenous rights, the Howard Government rejected the recommendations for an apology, compensation, self-determination and compulsory introduction within school curricula of the histories of the forcible removals, arguing that such measures encouraged both separatism and guilt (Howard 2000b).

In particular, the rejection by the Howard Government of the National Inquiry's recommendation for an apology from the national parliament caused substantial controversy. Howard was criticised when he stridently refused to apologise to the stolen generations at the 1997 Australian Reconciliation Convention, instead expressing his personal 'deep sorrow' (Howard 1997a), and both the Federal Opposition and a number of commentators called upon his Government to accept the recommendation (Antonios 1998; Beazley 1997, 4114). The Howard Government justified its refusal to support an apology to the stolen generations with three main arguments. These arguments were: first, the concerns over the financial and legal implications for the nation if an apology were made by the Commonwealth Parliament; second, the irrelevance of an apology to the substantial number of Australians who were not born in Australia and thus did not know anything about the stolen generations; and third, that the Howard Government did not believe in national guilt and shame (Wright 1997, 8; Woodford 1997, 3; Howard 1997a). However, by the end of 1997, two of these justifications had been removed, as the Howard Government admitted there were no legal obstacles to a formal apology and several ethnic community groups acknowledged that they were part of the present Australian society and had formally apologised to Indigenous peoples (Millett, Kingston and Bui 1997, 6). Further, the denial of national guilt fails to recognise that guilt is broader than simply physical or criminal guilt but should also incorporate political and moral guilt (see Gunstone 2008, 5).

In addition, the Howard Government, along with conservative commentators such as Ron Brunton and Peter Howson, attempted to discredit the National Inquiry's key claims of stolen generations and genocide by attacking the credibility of the Inquiry itself (see Tatz 1998, 5; Manne 2001, 31-66). The Howard Government also vigorously opposed claims for compensation by members of the stolen generations

“by distorting the historical record, resurrecting the assimilationist philosophy and congratulating itself on the wisdom and humanity of removing Aboriginal children of mixed descent from mother, family and world” (Manne 2001, 80). Further, Herron (2000, 15) even questioned whether the total numbers of children stolen was sufficient to justify the term ‘generation’. Although both Herron and Howard later apologised for this statement in Parliament, Markus (2001, 110) argued that the apology was made ‘not, however in acknowledgement that the submission was misconceived, but for the distress caused to Aboriginal people’.

Since 1997, there have been numerous formal apologies to the stolen generations from State, Territory and Local Parliaments, as well as from churches, police and the judiciary. However, the Howard Government obstinately refused to offer a formal apology from the Commonwealth Parliament. This refusal from the highest authority in the land significantly hindered the healing process for Indigenous people by failing to acknowledge their trauma (Dodson 1999b, 353; Attwood and Markus 1999, 280).

## **Conclusion**

During the eleven and a half years of the Howard Government, the policy area of Indigenous Affairs underwent substantial changes. In particular, the four key areas that had experienced significant reform in the years leading up to the election of the Howard Government in 1996 – self-determination, reconciliation, native title and the stolen generations – were all either largely diminished or abolished by the end of the Howard Government in 2007. The Howard Government was most successful in achieving their aim to substantially wind back nearly all the significant advances won by Indigenous peoples from the late-1980s to the mid-1990s. Self-determination, and ATSIC, was no longer Commonwealth Government policy. Reconciliation largely meant addressing the socio-economic disadvantage of Indigenous people. The native title rights of Indigenous people were significantly wound back. A Commonwealth Government apology to the stolen generations remained firmly off the agenda. At the conclusion of their time in office, the Howard Government had, in some manner, managed to return the policy area of Indigenous Affairs to an era where policies of assimilation significantly reduced the chances for Indigenous people to determine their own future and Governments developed policies in Indigenous Affairs without ever genuinely listening to, and addressing the needs and aspirations of, Indigenous peoples.

This changed approach to Indigenous Affairs was dramatically illustrated towards the end of the Howard Government’s time in office. Following the release of a landmark report into Indigenous violence, *Little Children are Sacred*, the Howard Government announced in June 2007 that it would significantly intervene in the management of Northern Territory Indigenous communities. This Intervention occurred despite the Howard Government largely neglecting Indigenous socio-economic disadvantage in the Northern Territory for over a decade, including virtually ignoring the impact of the Northern Territory mandatory sentencing regime. Some of the measures of the Howard Government’s Intervention included passing legislation that temporarily suspended the *Racial Discrimination Act (Cth) 1975*, withholding Commonwealth Government benefits from Indigenous people but not non-Indigenous people, dismantling many key aspects of the Northern Territory land rights regime and largely refusing to consult and negotiate with Indigenous leaders about the Commonwealth

legislation and its implementation (see Behrendt 2007; Mansell 2007; see also Dodson 2007, 21-22; Dodson 2008, 28-29). Further, the Intervention, implemented shortly before the 2007 Commonwealth election, seems likely to have been motivated, at least in part, by a desire of the Howard Government to gain some electoral advantage (see Behrendt 2008, 25).

With the new Rudd Labor Government having been in power for just on six months, it remains too early to determine what the long term legacy of the Howard Government will be in Indigenous Affairs. However, there have been some initial indications of the Rudd Government approach to Indigenous Affairs. In regards to self-determination, the Rudd Government has a policy on creating a new national and representative body for Indigenous peoples but Rudd has argued that it is not a high priority. In regards to reconciliation, the focus still seems to be on addressing socio-economic disadvantage without recognising that addressing symbolic issues and Indigenous rights are of critical importance not just in their own right but also in alleviating disadvantage. In regards to native title, the new Labor Government has failed to make any substantial commitment to legislative reform to ensure the native title rights of Indigenous peoples is brought back to those enjoyed prior to the passing of the 1998 *Native Title Act Amendment Act*. In regards to the stolen generations, while Rudd formally apologised on 13 February 2008, on behalf of the Commonwealth Parliament, the Rudd Government has categorically ruled out establishing a compensation scheme for the stolen generations, despite this being called for in the *Bringing them Home* report. Finally, despite calls from Indigenous leaders to abolish the Northern Territory Intervention, the Rudd Government is determined to continue the Intervention, albeit with some minor reforms. These early examples of the Rudd Government's approach to Indigenous Affairs raises substantial concerns about whether the Rudd Government will adequately address the radical and assimilationist Indigenous Affairs policies of the Howard Government.

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