Experimental Governance in Australian Indigenous Affairs: From Coombs to Pearson via Rowse and the Competing Principles

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Competing Principles in Indigenous Affairs: Simple 2009

- Equality of Opportunity
- Socioeconomic Equality
- Autonomy/Choice
- Individual Legal Equality
- Guardianship

+ Difference & Diversity
-
Equality of Opportunity

Socio-economic Equality in Population sub-groups (& Guardianship?)

Group Choice/Autonomy

Individual & Household Difference & Diversity ±

Individual Legal Equality (& Choice?)

Group Guardianship

1930s

1960s
1967 Constitutional Alteration Referendum, s128 ..... >90% in favour, majority in all states, most successful referendum of 8/44 in 20\textsuperscript{th} century

51. The Parliament shall, subject to this Constitution, have power to make laws for the peace, order and good governance of the Commonwealth with respect to:-

   (xxvi) The people of any race, other than the aboriginal race in any state, for whom it is deemed necessary to make special laws;
   (xxvii) Immigration and emigration;
   (xxviii) The influx of criminals;
   (xxix) External affairs;……

127. In reckoning the numbers of the people of the Commonwealth, or of a State or other part of the Commonwealth, aboriginal natives shall not be counted.

Commonwealth national role in Indigenous Affairs, through race power.
1967 - End of individual legal equality push

Social security 1959, 1966
Vote Cwlth 1962, (1983), Qld and WA 1964-65

Beginning of community self-determination and land rights push  
(Rowse 2002 Indigenous Sector, Choosing Selves can be Individuals, Family Households and Communities)

Rise of Peoplehood approach from about 1960 (Rowse 2012)  
Balanced by Socio-Economic Equality Population Approach

Regional to National role for Commonwealth  
-Precariously built on ‘race’ power in Commonwealth Constitution  
- Limited self-government delegated to NT in 1978
Equality of Opportunity

Population Idiom

Socio-economic Equality in Population sub-groups

1960s

Peoples Idiom

Group Choice/Autonomy

Group Difference & Diversity

Group Guardianship

1970s-1990s

Individual Legal Equality
• 1967 Office of and Council for Aboriginal Affairs – 1976 Coombs Chair
• 1968 Aboriginal Enterprises (Assistance) Act
• 1968 State Grants (Aboriginal Advancement) Act - 1974
• 1972 Whitlam Labor establishes Department of Aboriginal Affairs (DAA)
• 1973 National Aboriginal Consultative Committee (NACC) elected
• 1976 Aboriginal Councils and Associations Act - Fraser Coalition
• 1977 NACC becomes National Aboriginal Conference (NAC)
• 1977 Community Development Employment Projects (CDEP) Scheme
• 1985 NAC abolished (opposition to Hawke national land rights backdown)
• 1986 Aboriginal Employment Development Policy
• 1987-90 Royal Commission into Aboriginal Death in Custody
• 1989 Aboriginal and Torres Strait Islander Commission Act
• 1990 Council for Aboriginal Reconciliation Act - 2000
• 1995 ATSIC gets NGO status at United Nations, works with others on Draft Declaration of the Rights of Indigenous Peoples
• 1997 HREOC Bringing Them Home report
Indigenous Land Policy 1970s-90s

- 1972 McMahon Australia Day leases in NT, prompts Aboriginal Embassy
- 1973 Whitlam Labor establishes Woodward Royal Commission to inquire into how Aboriginal land rights will be recognised – focus on NT, but...
- 1976 Aboriginal Land Rights (NT) Act passed - Fraser Coalition (Cwlth), focus on ‘reserves’ and ‘unalienated crown land’
- 1981 SA passes Pitjantjatjara Land Rights Act
- 1983 NSW Aboriginal Land Rights Act
- 1984 SA passes Maralinga Tjarutja Land Rights Act
- 1987 Vic Aboriginal Land Act (Cwlth)
- 1991 Qld Aboriginal Land Act, Torres Strait Islander Land Act
- 1992 Mabo High Court Decision on Common Law Native Title
- 1993 Native Title Act (Cwlth)
- 1995 Tas Aboriginal Land Act
- 1996 Wik High Court Decision opens up ‘co-existence’ possibilities
- 1998 Amendments to Native Title Act (Cwlth) following Wik
A Peoples Approach Through Indigenous-Specific Structures and Programs: The Howard Coalition Pushback

- 1997 refusal to apologise, as recommended in *Bringing Them Home*
- 1997 Lack of support for re-appointment of Pat Dodson as CAR Chair
- 1998 Withdrawal of support for use of ‘self-determination’ in UNDDRIP
- Greater ministerial direction of ATSIC, ‘Practical’ reconciliation
- Delay of election of ATSIC Chair from 1996 to 1999

Cartoon following Howard Speech at Convention to mark 30th Anniversary of 1967 Constitutional Alteration Referendum
Developments from 2000 to 2005: The Phase Change Building (Generational Revolution)

• 2000 Noel Pearson publishes *Our Right to Take Responsibility* and begins economic responsibility & welfare reform push
• 2000 Aden Ridgeway becomes Democrat Senator for NSW - 2006
• 2000 Elected ATSIC Chair, Geoff Clark, develops national profile, encourages debate around Treaty
• 2002 NT Indigenous Minister, John Ah Kit, ‘dysfunctionality’ speech
• 2002 ATSIC Chair and Deputy re-elected, despite legal proceedings
• 2003 Review of ATSIC – Collins, Hannaford, Huggins
• 2004-05 Abolition of ATSIC and ‘Mainstreaming’ of Indigenous-specific programs into ‘line’ departments.
• CDEP to Department of Employment and Workplace Relations (DEWR)
• Community Housing and Infrastructure Program (CHIP) to Department of Families and Community Services(FaCS)

• More cartoons
Hey! No need to throw out the bathwater with the babies!
A new generation of policies, programs and organisations: Welfare Reform, Contractualism and ‘Normalisation’

- 2004-2007 DEWR ‘contracts’ CDEP to remote, closer to Job Network
- 2006-2007 FaCSIA reviews CHIP, abolished.
- 2008 Rudd Apology to Stolen Generations and Closing the Gap
- 2008/09 National Partnership Agreement on Remote Indigenous Housing – building program in select
- July 2009 - New CDEP participants on Income Support Payment
- June 2010 - Income Management regime that complies with RDA
- 2013 - CDEP replaced by Remote Jobs and Communities Program
- Abbott government brings Indigenous-specific programs and RJCP into Department of Prime Minister and Cabinet

- Re-invigoration of guardianship principle, some equality efforts?
- Loss of group autonomy, choice and peoplehood ideas?
Equality of Opportunity

Population idiom

Socio-economic Equality in Population sub-groups

Individual Legal Equality

Peoples idiom

Group Choice/Autonomy

Group Guardianship

+ Group Difference & Diversity -

2000s
Peoples idiom: not disappeared entirely

- Sept 2007 - Coalition votes against UNDRIP in General Assembly
- April 2009 – Labor announces support for UNDRIP
- November 2009 – Labor announces support for National Congress of Australia’s First Peoples
- Jan 2012 publish - *Recognising Aboriginal and Torres Strait Islander Peoples in the Constitution: Report of the Expert Panel*
- November 2012 - Joint Select Committee on Constitutional Recognition of Aboriginal and Torres Strait Islander Peoples appointed - reports in January 2013, June 2013, July 2014

- Can Peoples be the group subject of the Guardianship Principle? Yes Rowse - Pearson is on about Peoples (and Community Guardianship)
- How much of the bottom of the triangular Indigenous Affairs policy space is included in the Peoples idiom? (Rowse danger of loosing Peoples)
Equality of Opportunity

Population idiom

Socio-economic Equality in Population sub-groups

Peoples idiom

Group Choice/Autonomy

2000s

Group Guardianship

+ Group Difference & Diversity -

Individual Legal Equality

‘Women and Children’
‘Vulnerable Social Groups’

‘First Nations Communities’
WE WILL DECIDE WHO COMES TO THIS COUNTRY AND THE CIRCUMSTANCES IN WHICH THEY COME....

BUT... BUT... BUT THAT'S INHUMANE!!!