

*Borders of the Soul: exploring the limits and evaluating diversity*

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**Introduction**

Acknowledgement to traditional owners, the first peoples of this land, to conference organisers for your hard work and to sponsors, in general a thank you for the invitation to speak.

Evaluation specifically is not my thing, or what I should say is that I work in either the broader or more narrow framework (depends on how you look at it I guess) as a lawyer, academic writer, activist and critical commentator, so my contribution and reflections here today will be general, critical and hopefully provide material for positive and useful debate of the question diverse voices in evaluation.

**Voice and how can I speak**

I always like to begin by locating my voice or where I speak from, my ancestors are of the Tangane-kald and Meintangk peoples of the south east of this state and our old people were removed from their lands during the early stages of colonial invasion/settlement. Policies of genocide, removal, and assimilation are my lived experiences, from living and being raised in the city of Adelaide. However movement to city did not sever connections to country, connections which have been retained through much effort and struggle by myself, family and kin.

In locating my voice I should state that it should not be deemed or constructed as a voice which provides an Aboriginal perspective, for there are many diverse Aboriginal views and the challenge for the dominant culture is how to give recognition to the diversity of Aboriginal voices.

That is how to give recognition in a way that goes beyond simply recognizing only those Aboriginal voices that best fit the dominant paradigm or the dominant way of knowing the world. How do you include all the peoples voices even those that are most challenging to some of the more conservative and comfortable ways of knowing the world? So the challenge as I see it is to consider how it is we provide the opportunity to look at the world differently, from different perspectives. For there are many ways of coming to know the world, there is not simply one horizon from which to look at the world.

These are issues that are not given much thought, for in general Aboriginal peoples are considered to be a part of the general matrix. Or that we are one nation that is filled with one view, and one vision for the future. We are all deemed 'equal'.

The overriding presumption is that there is one way of knowing the world, and that there is or should be one homogenous cultural landscape in Australia.

The accommodation of difference is contained in the safe zones of cultural tourism, the living of difference is hard to do, and is not done easily or without great poverty, threat of violence, poor health, poor access to essential services.

The Australian landscape and what predominates in terms of culture is apparent. For those who are different they are relegated to outsider status, and divisions emerge between the haves and the have nots, and as George Bush said those who will also have some more.

Alternative ideas are occupying less and less space, Aboriginal issues occupy less and less space, the idea is we are part of the one Australian landscape, we are its indigenous citizens. But where do we fit in that overall oneness of Australian society? What relevance is our Aboriginal status, beyond the statistics of poverty and exclusion?

The dominance of the one nation identity politics is apparent even though governments espouse policies of multi-culturalism and special measures to address disadvantage for Aborigines. In the face of policies on the recognition of diversity, we are nevertheless moving more and more to a oneness of perspective, to a place where difference and diversity of view is becoming further marginalised.

So how does this affect the work of evaluation? Does it disallow, diversity? Can we speak as many Aboriginal peoples, as diverse peoples, can Aboriginal people even have a voice that is distinct from the mainstream voice? Do we have to accommodate our lives to the dominant liberal conservative views, what place can we remain and be Aboriginal does that place exist?

And when Tony Abbott in his address in September this year to the Bennelong Society announced, "We've all moved on from "identity politics"" I am not quite sure what he meant. The politics of Aboriginality will always be a question of identity, not unless there is an acceptance of the absorption of the Aboriginal being into the idealised one nation of Australia.

The current federal government policy of practical reconciliation is a clear indicator of the disallowance of an ethics of diversity. Practical reconciliation is seen by its critics to embrace assimilationist policies through the mainstreaming of Aboriginal organisations and communities.

**Evaluation and the historical relationship of Aboriginal peoples to settled Australia.**

To get a picture of where we are located now in our practices of evaluation, I suggest we reflect on the historical relationships between Aboriginal peoples and Australia's settler groups.

In recent years considerable controversy has grown up in relation to the talking up of Australia's colonialist history, and over the growing writings and Aboriginal voices, perspectives and versions of Australia's settler/invasion history. The expression of Aboriginal views of history have been negatively labeled the black arm band view of history, and have been heavily critiqued for their accuracy. We have come to the trivia of counting the bodies, how many deaths as a result of massacres etc.

Reference to the past has been demeaned by the federal government as simply considering the problems and not focusing on the solutions. But I disagree. I am of the view that solutions will not be found in a vacuum or without an understanding of how we got here. Understanding how we got here makes history and a critique of colonialism a necessary aid.

How do we examine that we were once 100% of the population and in less than 200 years were reduced to just 1% of the population? Other peoples call it genocide. Yet some of the 'experts' refute the claim, for a range of reasons that I will not go into in this paper.

So how do you look at the impact of a colonial history, when we have a federal government that is in denial, or shuts down any critique of the colonialist history of Australia and its relations with Aboriginal peoples.

Without the historical background, how do we then understand the incarceration rates of young Aboriginal people, in Perth for example 90% of the population of young people incarcerated in juvenile detention centers are Aboriginal. How do we understand a statistic such as this in isolation on colonialism, genocidal policies of removal and racism? If you isolate history then you take away a substantial part of the picture, so how can you truly understand what is going on?

Tony Abbott stated in September this year at the Bennelong society conference;

“ the facts of history cant be changed, the challenge is to learn from them, not to dwell on them.....but to move on and look at the real issues.

Those real issues he argues are highlighted by Noel Pearson, as being “idleness ...which in turn feeds drunkenness and drug addiction” But Tony Abbott doesn't consider how some Aboriginal people got there. He simply asserts that we focus on solutions, good idea but is it that simple to fix? I wish it were. So can we simply isolate and ignore the impact of history?

What role will the impact of Australia's colonial history have in the evaluation process? Can it be ruled out, as though it never occurred? Can solutions be found without reference to the past? Without history will we have the full picture to complete the

Aboriginal landscape? Can you understand the incarceration statistics of Aboriginal peoples in isolation of history?

In his Bennelong address Tony Abbott went on to suggest;

“The early settlers’ hostility, indifference or sympathetic curiosity (as to a dying friend) towards indigenous culture reinforced the “otherness” between indigenous and European Australians which subsequent goodwill has not fully resolved. Indeed, a new problem has been created: the “idealization” of Aboriginal ways of life and the treatment of Aboriginal individuals and entities as artifacts to be displayed, preserved and sometimes excused.”

Here I understand Tony Abbott to again be shifting the sands of time, by removing the impact of history, in his reference to white guilt – that is the suggestion that the goodwill of white people, and white guilt over Australian history has gone too far.

Suggesting white guilt is responsible for the idealization of Aboriginal ways, in its attempt to correct history.

Tony Abbotts comment regarding the white guilt being misplaced to the extent that it is used to excuse Aboriginal peoples, I assume here Abbott means Aboriginal peoples are being excused for what we should otherwise take responsibility or blame for.

Tony Abbott goes on to grasp Noel Pearsons critique of romantic foolishness and uses this idea to give further force to his following statement that,

We owe it to our Aboriginal fellow Australians to treat them as human beings with the same vices and virtues, strengths and weaknesses, capacities and limitations as anyone else in similar circumstances. Heritage is important to Aboriginal people but, like everyone else, they also have lives to get on with”.

In the above statement Tony Abbott makes a number of ideological jumps,

- That we should be treated equally
- That while heritage is important to Aboriginal people, we like all others in this one nation also have lives to get on with.
- Abbott applies the same measure, that is we are all equal, and all have lives to get on with.
- But where does Aboriginal Heritage fit?
- Under the principle of equality, is Aboriginal heritage seen as irrelevant?
- What heritage of Australia is measured as relevant?

By depreciating Aboriginal heritage as a romantic ideal, Abbott privileges;

‘getting on with ones life’

over the importance to Aboriginal peoples of Aboriginal heritage culture and history.

- But what happens to the quality of Aboriginal life when culture and heritage are deemed by the government as irrelevant

- What kind of Aboriginal life is lived beyond the one nation that we are all equal and share the same ideas and values.
- Under this regime what then would become of the Aboriginal soul of this country?
- If Aboriginal connections to country and culture become secondary to getting on with 'ones life' where will the soul life of Australia live
- Will Aboriginal heritage and culture become limited to museum displays and cultural tourism events or will it occupy a lived space in the lives of Aboriginal peoples?

Do we need governments to take responsibility for the recognition of Aboriginal culture and heritage for it to become and remain in the future a lived experience in Aboriginal life?

Can Aboriginal people do it alone, that is guarantee the continuing life of Aboriginal culture? I don't think we can, for if governments fail to protect and support Aboriginal culture how do we do it in the face of developments that are building over top of the life of our culture and heritage?

It is impossible to do without the recognition and support of government, and when a government Minister pronounces heritage as being secondary to getting on with ones life, it is clear that that Minister has little understanding of Aboriginal peoples and of what is required for us to survive as distinct peoples.

In his Bennelong address Tony Abbott rejoices in the Noel Pearson rhetoric of "the right to take responsibility". But in taking that direction how do we evaluate the role of the individual, the Aboriginal community and the state, in the apportioning of the 'rights to take responsibility'?

Also is there an inclination or a will to monitor this policy shift, and to monitor the impact upon Aboriginal peoples of letting government off the hook from their obligation to take responsibility?

And yet if Australia's colonial history is distinguished and excluded from the discourse, then are we not already heading in the direction of the state diminishing its obligation to take responsibility?

It is also important to know that many Aboriginal people, do already take responsibility. To suggest otherwise is a racist generalisation, that is based on what evidence? Is it based on a racist stereotype that all Aboriginal peoples are drunks, druggies, and violent aggressive bashers and abusers of their wives and children. Is that the picture which has emerged?

Is this the stereotype that the federal government relies on when it calls for the Aboriginal community to take responsibility?

What is it that Aboriginal people are expected to take responsibility for? Why is it assumed that we don't already take responsibility, and that we have done so forever before.

This call to take responsibility has risen at the same time the principle of Aboriginal self-determination has been demonised and set aside as a possible policy direction by government.

In this policy shift for myself there appears a deep contradiction. Self determination is about giving recognition to peoples rights to empowerment to empower peoples to grow into a position where one can take responsibility for their political, social, economic and cultural development. It gives communities the opportunity to take responsibility. So that to take responsibility one needs the tools first to do the act of taking responsibility.

Without the tools one remains isolated in a remote location, in despair about ones inability to act. So without the principle tools of recognition of self determination how do we move forward? If the principle of self-determination is undermined than how is it peoples will ever be placed in a position to in reality take responsibility?

### **Legal foundation: its historical roots**

The failure to give recognition to principles of self-determination of Aboriginal peoples is historical, for in the past we were considered terra nullius to be non-existent or to be so backward in our social identity as to have no political or legal identity, comparative to other human societies. That principle remained as many of you know, the foundation of this country until 1992.

It is therefore important to consider what changes have occurred in relation to Aboriginal peoples and our position in Australian society since the 1992 judgement of the High Court in Mabo. In the court reassessing the legal foundation of this country what impact has flowed from that changed assessment?

In my view very little, if I focus on the incarceration rates of Aboriginal people for example there has been no change for the better, there are indicators that in many places the levels of incarceration have risen.

So what conclusion can be drawn? I could answer: A change in the law does not automatically improve or remedy the historical disadvantage caused by the racist doctrine - terra nullius.

Should we then attempt to critically evaluate this event, or non/event, this failed effort to bring justice to Aboriginal peoples? I think it is a necessary process to do so.

### **Practical reconciliation**

But instead the government response has been a policy shift to practical reconciliation, also described as mainstreaming otherwise known in the past as assimilation.

In our efforts to take responsibility what has been the Aboriginal response to practical reconciliation, there have been many tired voices and overall a voice that has been diluted in the absence of any co-ordinated national voice. The absence of an audible Aboriginal voice or a national voice has arisen from the recent suspension by the federal Howard government of the national body the ATSIC Commission.

So how do we respond to the return of assimilationist policies? Where can we see and find the diversity of voice of Aboriginal peoples in a response to these changes? How will the Aboriginal critique be monitored evaluated and included in the discourse of change and a return to assimilation policies?

If the Aboriginal voice is assimilated – in the future where will that Aboriginal voice be found? What regional, national or other identifying body will give it voice, and give it a voice that is heard?

Aboriginal communities in the past have struggled under the policy of assimilation to live as diverse communities, and the impact of the policy of assimilation was identified by the Royal Commission into Aboriginal Deaths in Custody as an underlying cause of the high incidence of Aboriginal incarceration rates.

At the completion of the RCIADIC inquiry into the death of Malcolm Smith, Commissioner Wooten referred to the removal of Aboriginal children under the assimilation policy as amounting to genocide.<sup>1</sup>

Malcolm Smith had been removed from his family as a young child, where he spent the majority of the remainder of his life in placements in state children's institutions foster care homes eventually graduating to the adult prison system. Very little of his life was returned to community and family. Malcolm Smith committed suicide in custody. Commissioner Wooten held the assimilation policy responsible for his death, he described that policy as being akin to the Genocide Convention provision which refers to the forcible removal of children from their communities as a crime of genocide.

Today incarceration rates of young Aboriginal people is high and has increased since the findings of the RCIADIC, Aboriginal children are still being detained in juvenile institutions throughout Australia at levels incomprehensible to white Australia.<sup>2</sup>

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<sup>1</sup> Royal Commission into Aboriginal Deaths in Custody, Report into the Death of Malcolm Charles Smith, by Commissioner Wooten, 1989, Canberra AGPS.

<sup>2</sup> Australian Associated Press, reported on Friday April 9 1999; a complaint to Western Australia's Police Commissioner Bob Falconer, that more than half the Aboriginal youths in custody were beaten. An Aboriginal Legal Service (ALS) submission to a state parliamentary committee on crime reported 52 per cent of Aboriginal youths in custody were beaten and only a third were informed of their rights. Eighty-five per cent of Aboriginal youths in custody were verbally abused and 65 per cent were assaulted. The ALS survey also showed Aboriginal youths made up only four per cent of the youth population, but accounted for 20 per cent of juvenile court appearances.

Yet the claim of forcible removal of Aboriginal children as constituting the crime of genocide was dismissed by the High Court in *Kruger*.

The Royal Commission into Aboriginal Deaths in Custody recommended processes to reduce incarceration levels but they have not been implemented. What is the responsibility of government, and what is that of community and families?

Is it as simple as Tony Abbott has suggested - to shift the burden of responsibility entirely to Aboriginal peoples remedy the situation? Or is more as I argue there is required?

There is no evidence that the incarceration of Aboriginal children will stop or even decline in the near future. The Commonwealth government followed the Deaths in Custody Commission by establishing another inquiry which resulted in the Bringing Them Home Report. The final report concluded that the forcible removal of Aboriginal children from their families and communities,<sup>3</sup> was in conformity with the policy of assimilation of which culminated in the crime of genocide against Aboriginal peoples.

Many recommendations were made, some steps have been supported however there has been no recognition on behalf of government of the damage caused by the forced removal of Nunga children, no compensation or restitution has been made to Aboriginal peoples who have been injured by the assimilation policies of removal.

The government has denied the impact of the assimilation policy upon Aboriginal people and denied any subsequent damage as a result of that policy. Yet in its moving on beyond the pale of denial it has gone on to declare a new policy shift, one that is a return to mainstreaming or assimilation, but is freshly named as the new policy of practical reconciliation.

Yet this shift has been coming for some time, in fact I even doubt we truly experienced a reprieve from assimilation, as is declared we did from the mid 1970s onwards. (This is an area that requires further study, that is the truth of a policy shift to self determination) .

That absorption of Aboriginal identity can be found in numerous contemporary examples and found scattered throughout Commonwealth 'Aboriginal Affairs' policy. For example the Department of Employment Education and Training, and their 'Abstudy' policy, relating to Aboriginal education, construct 'traditional' and 'non traditional' Aboriginal identity, where it was deemed that an Aboriginal youth coming from a 'traditional' community could be entitled to an independent allowance, due to their traditional status and induction through tradition into the status of adult. However this same allowance was not available to Nunga youth of the same age residing in 'non-traditional' communities. This policy excludes Nunga youth from Victoria, NSW, and Tasmania. It is a policy which reflects past definitions on 'Aboriginality' which distinguished between 'half-caste', and 'Aboriginal native'; as in the past, the 'non-traditional' is expected to

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<sup>3</sup> Wilson, R, 1997, see *The National Inquiry into the Separation of Aboriginal and Torres Strait Islander Children from their Families*.



become further absorbed into white Australia, while the 'traditional' is treated differently separated by policy from the constructed 'non traditional'.

Many other examples are scattered throughout Aboriginal Affairs policy, and more recently those same distinctions are made with respect to native title policy and jurisprudence.

#### **Future of assimilation – what about difference**

- What is the future of Aboriginal identity under this confident shift to practical reconciliation?
- will historical disadvantage and the impact of colonialism be considered within the framework of the new shift to practical reconciliation?

If we are all treated equal - then what obligation has government to consider historical disadvantage, and the impact of colonialism upon Aboriginal peoples? If it is not considered than what are the future possibilities for Aboriginal peoples?

#### **The past established**

Disadvantages suffered in the past have been established,

- RCIADIC have established that there is high incidence of Aboriginal incarceration rates
- HREOC established that there are high levels of racist violence experienced in Aboriginal communities
- Stolen Generations Inquiry reported on the removal of Aboriginal children from their families, describing the assimilation policy as an act of genocide.
- Numerous other studies have criticised the high morbidity, poor health and housing profile of Aboriginal peoples.

But what has been the response to this abundance of studies on the social disadvantage of Aborigines? How do we evaluate the progress of those responses?

One measure taken to monitor trends has been established through the office of Aboriginal and TSI Social Justice Commissioner, and yet in 2003 the Federal Government introduced a Bill that would remove that specialist position from HEROC and also curtail substantially the powers of any generalist HREOC commissioner, from having any independent role to that of the federal government in their inquiries into questions of human rights abuses.

What lays ahead of us, will the federal government re-introduce legislation, that is, in the same form that was attempted in 2003, can we look forward to legislation that would substantially remove powers of inquiry currently held by HEROC commissioners?

If the Aboriginal Social Justice Commissioner's position was to lapse or be further diluted the opportunity to monitor and evaluate Aboriginal Affairs would stand to be further weakened and disabled.

What can be expected of a practically reconciled Aboriginal landscape, I have taken some direction on this question from my reflections of the address made by Amanda Vanstone in September this year to the Bennelong society conference;

- Children in remote communities can expect assistance in learning english, technology, and understanding the western world
- The parents will take responsibility for teaching their own language, culture and traditions, clearly this is an area government consider they have no responsibility for.
- Can we then expect assistance for the maintenance of language, culture and heritage will become the responsibility of community entirely.
- Will this mean the continued erosion of support from the federal government for the maintenance of culture and heritage.
- Will the government support community development, Vanstone tossles with this question and I quote;

“The very remoteness of some communities makes the provision of water, power and sewerage very problematic for state governments. Other critical services like health labour under the same difficulty. Some say the solution is for remote communities to leave the traditional lands and shift near or into towns where there are better services and many more jobs. Large numbers of Aboriginal people have already made this move. Some with success but many were not equipped to cope. Such a transition cannot happen overnight. We can't ignore the practical reality facing so many in very remote communities today. Little education, little if any work experience, little hope of comfortably walking in the white man's world. As time marches on, young Indigenous children will want to move to the towns and capital cities. Remote communities will face a very difficult time as their young people choose to move away. This transition will be difficult. It is a difficulty communities will have to face and to manage and we must be there to help with that. Successive governments at all levels and of all persuasions have tried to respond to this complexity. Sometimes the best of intentions have only lead to results that are now profoundly regretted.

It is not clear what direction Vanstone is advocating, and as a result raises a number of critical questions;

- Who will take responsibility for the delivery of essential services, particularly since the demise of ATSIC, and this new found policy of the community taking responsibility?
- Will there be an exodus from Aboriginal communities due to lack of essential services.
- Will the possibility of an Aboriginal exodus be the assimilationists icing on the cake?
- How will culture and tradition remain connected to country if there is an exodus
- What resources will we have to take responsibility?
- The High Court in Kruger stated the policies of removal of Aboriginal children from their families and communities, was at the time considered to be in the best interests of the children.
- For all the good intent Vanstone has described, what can we foresee, now as being in the ‘best interests’ of the Aborigine.
- Is it to assimilate, what is in our best interest?

These are critical questions we should be engaging with in Aboriginal Affairs now.

Vanstone goes on to speak of a partnership between governments and ‘their indigenous citizens’, arguing that we must change and I quote;

“If parents do not send their kids to school their future will be bleak and we will not be able to do much to help. It is far more effective for people to change behaviours than for governments to invest in patching up problems. It is a great disrespect to Indigenous Australians if we do not allow them the opportunity to change behaviours, take responsibility and to be real partners. For too long we have left ideological positions like self-determination prevent governments from engaging with their Indigenous citizens.

It's about getting the relationship right, getting States and Territories involved and the private sector---and most importantly our Indigenous citizens must be equal partners allowed the opportunity to shape their own destinies. Unconditional welfare will become a thing of the past.

Our agreements for funding will need to include incentives and in some cases sanctions targeted at changing behaviours”.

What behaviours will be targeted for change? And what does Vanstone mean when she refers to the need for an ideological shift from self-determination. Is the identity politics of self determination to be eradicated, the idea of Aboriginal independence, difference and diversity to be rooted out. Is its rooting out to be done under the premise of moving from passive welfare recipient to passive work ethic citizen of the one nation Australian landscape.

I am not suggesting that Aboriginal people are without a work ethic, but that the stereotype of lazy Aborigine is being utilised by government to demonise the principle of self determination. While the call to the state to recognise for example, special measures, as set out under the Racial Discrimination Act, appear to be disappearing from sight.

Can the government so easily release itself from taking responsibility, by insisting the problem is the failure of Aboriginal people to;

- engage in gainful employment,
- to send our children to school
- desist in substance abuse

Is that the problem entirely? Through what lens is the federal government looking at the problem? And can we change, expand or re-focus that lens? What kind of change do we need, for Aboriginal peoples but also the one nation Australia.

Assimilation has been and is still directed entirely at us, Aboriginal peoples, can it be re-directed, can assimilation occur from another direction, is there a call for the assimilation of Aboriginal ways of knowing this country into the greater Australian one nation.

Can we assimilate a different understanding of relationship to country, family, culture and law. Can non-Aboriginal people engage more, in this process of assimilation.

What could change then do you think, what then would be the character and soul of the Australian landscape?