

## **CITIZENS OF THE NATION AND CITIZENS OF THE WORLD: THE IMPORTANCE OF CONSTITUTIONAL CHANGE IN RESHAPING THE AUSTRALIAN IMAGINATION**

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### **I THE PRESENT**

In the shadow cast by the terrorist attacks in New York on 11 September 2001, the war in Afghanistan and the present crisis over asylum seekers in Australia, it seems impossible to write on matters relating to constitutional reform in Australia without first making some observations about current events. In many ways, they raise questions which have direct relevance to issues associated with the reform of our political institutions.

In the 1990s, Australians considered how they might recast their constitution in a manner which would more accurately reflect their contemporary national identity. Perhaps recent events beg a different question. How might a republican constitution, and a new constitutional preamble, reflect Australia's future obligations in a global community? In other words, how might the reform of our political institutions help us not only to be better citizens of the nation, but better citizens of the world?

Two issues, in particular, raised by current events bear relevance to this discussion: the question mark that has been placed over our ability to engage in frank and open discussion in our democracy, and the apparent ease with which the major political parties have been able to retreat behind the borders of the nation state in their application of Australian values such as the 'fair go'.

Both the Liberal-National Coalition and the Australian Labor Party are presently asking the Australian people to accept a fundamental contradiction. They insist that Australia must embrace a globalised economy, and take part in the so-called 'international coalition against terrorism', yet they refuse to accept Australia's moral obligation to a global community. Turning boats laden with desperate people out to sea, and farming what is, in comparative terms, a relatively small number of asylum seekers out to our poor neighbours in the South Pacific, reeks of 19<sup>th</sup> century colonialism rather than responsible participation in the globalised world of the 21<sup>st</sup> century. It diminishes our status internationally, and is entirely consistent with the xenophobic nationalism

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promoted by Pauline Hanson's One Nation. If you believe this to be far-fetched, consider the following.

Cast your mind back to Pauline Hanson's maiden speech in federal Parliament after the 1996 election.<sup>1</sup> This was the speech that created a political furor, both in Australia and overseas, largely because of Hanson's comment that Australia was in 'danger of being swamped by Asians'.<sup>2</sup> While we have remembered Hanson's comments concerning Asian immigration, we have forgotten the sentences that followed that remark. Hanson went on to say: '[I]f I can invite whom I want into my home, then I should have the right to have a say in who comes into my country'.<sup>3</sup>

Move forward to Prime Minister John Howard's campaign launch on 28 October 2001. Howard received the most tumultuous applause from his audience when he made the following declaration: '[W]e and no one else will decide who comes to this country, and the circumstances in which they come'.<sup>4</sup>

Recent polls demonstrate that over 70 per cent of Australians support the Government's current policy on asylum seekers. But the truth is that this level of support does not represent consensus on specific aspects of Howard's policy, such as the 'Pacific Solution', but agreement with the underlying message in Howard's rhetoric: 'keep them out!', 'they shall not land!'. This is the message that taps into the historical psychology of White Australia, and aligns Howard with the worse traditions in Australian political culture. More than any other political leader in the post-Menzies era, Howard has proved adept at exploiting the traditional prejudices of the Australian people.

Joining Howard, at least in its support for the Government's policy on asylum seekers, if not in Howard's Hansonite rhetoric, is the Australian Labor Party. When asylum seekers allegedly threw their children overboard in October 2001 in an effort to force the Australian Navy to take them on board, the response of Howard and Beazley was identical: 'We can't have people who would throw their children overboard coming into this country'.<sup>5</sup>

The implication was that the life of asylum seekers and that of mums and dads in the Australian suburbs were no different. The fact that the economic and political context from which the asylum seekers had taken flight presented them with different moral choices was, for Howard and Beazley, a bridge too far. Instead, they castigated the asylum seekers, failing to mention that before Australia adopted the policy of defending its borders against leaky boats by ordering them back out to sea, asylum seekers did not throw their children overboard.

When 360 asylum seekers drowned in the same month en route to Australia, Phillip Ruddock, Minister for Immigration, suggested that there could be an

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1 Commonwealth, *Parliamentary Debates*, House of Representatives, 10 September 1996, 3860 (Pauline Hanson).

2 Ibid 3862.

3 Ibid.

4 See Tony Wright, 'Born-Again John', *The Bulletin* (Sydney), 6 November 2001, 18, 19.

5 See, eg, 'Boatpeople "Moral Blackmailers"', *Herald Sun* (Melbourne), 8 October 2001, <<http://www.heraldsun.news.com.au>>.

'upside' to the tragedy.<sup>6</sup> Apparently, aware of the dangers involved in boarding the people smugglers' boats, asylum seekers would now realise they were much safer at home, hiding from oppressive regimes. If Australia still has a sense of public morality, it now applies only within the borders of our nation state. In late October 2001, the Australian government offered the government of Papua New Guinea AUD\$38 million in aid if it agreed to accept the human cargo of asylum seekers that Australia refused to take.

As with the current conflict in Afghanistan, public discussion concerning asylum seekers and Australia's refugee intake has been shut down. Questioning the war in Afghanistan is equated with condoning the terrorist attacks in New York on 11 September 2001. Criticising the 'Pacific Solution' is equated with being 'soft' on refugees. The Australian people, who are told they live in a democracy, are presented with a situation in which certain lines of argument are taboo. When the major parties decide to 'agree', election campaigns are reduced to photo opportunities in front of the Australian flag. Patriotism has little tolerance of democracy.

## II THE FUTURE

There are several crucial questions raised by the course of recent political events in Australia. While I do not pretend to know the answers to these questions, I do believe that it is now impossible to discuss issues of constitutional reform in Australia without considering the following issues.

First, how might the future office of the Australian presidency seek to provide an alternative voice, in situations where the major political parties, often for no other reason than political expedience, close down debate on issues of fundamental national importance? While the role of the Australian Governor-General has changed considerably over the last three decades, the silence of the present Governor-General, the Rev Dr Peter Hollingworth, throughout the present crisis has drawn attention to the potential benefits of a directly elected President. Such a President would carry the necessary democratic legitimacy to provide an alternative view to the major parties, if he or she desired. At present, Australian democracy is impoverished by the narrow self-interest of political parties, self-interest which clearly extends to ensuring the appointment of a Governor-General who will not pass comment on politically sensitive issues. A directly elected President would at least create the potential for a different model of political leadership in Australia.

Second, how might a new preamble to the *Australian Constitution* ('Constitution') reflect the values and principles of Australian democracy in a manner which demonstrates that we hold these principles for all human beings, rather than those who reside exclusively within the 'borders' of the nation state? For example, if we were to speak of noble values in a new preamble such as 'the

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6 Phillip Ruddock, as quoted in '350 Boatpeople Drown', *SBS Nightly News Bulletin*, 23 October 2001, <<http://www.sbs.com.au>>.

dignity of the human person', 'the liberty and welfare of all' and 'the equality of all regardless of colour, race, gender or creed', how might we apply these values in our relations with other nations and peoples? And how might the preamble express that desire? If a preamble cannot express that desire adequately, is a Bill of Rights a more appropriate vehicle for doing so?

The debate surrounding Prime Minister Howard's proposal for a new constitutional preamble in 1999 demonstrated how the preamble was imagined as a vessel for distilling the national character rather than the articulation of principles which might have linked Australia to a broader international community. Media discussion focused on issues such as the meaning of 'mateship', the need to be proud of our country, and the existence of God. The Prime Minister saw the preamble as his personal version of the Jerilderie Letter. Perhaps the 'Wolstencraft Letter' would be a more appropriate description. The lack of consultation was the outstanding feature of the debate on the preamble. Indigenous Australians, for example, were not consulted in the drafting of the preamble proposed at the 1999 referendum.

After the experience of the referendum in 1999, the tensions and contradictions evident in proposing a new constitutional preamble in contemporary Australia are clear. For the preamble to be relevant to Australia in the future, we need to discard the illusion that the preamble is a distillation of national identity. In a multicultural society of almost 20 million people, any attempt to do so is doomed to failure. There is no colonial overlord or oppressive monarchy to define our identity against. There is no agreed definition of Australian identity. Yet perhaps it is possible to find agreement on the fundamental democratic principles which inform our civic culture. And in seeking to identify those principles, perhaps we should ask ourselves how they might also help to provide a framework for our role in an increasingly connected global community. If we pretend that the task of writing a new preamble is one which concerns our internal political identity only, then we are writing a preamble for the late 18<sup>th</sup> century. This is the Jeffersonian illusion. A similar point could be made with the republic debate.

While the present Constitution, at least in its written form, if not in its contemporary practice, is outmoded, the imagined Constitution which we have sought to put in its place has often been characterised by concepts of national sovereignty which were forged in the late 18<sup>th</sup> century.

The declarations of national and popular sovereignty, which emerged from the French and American Revolutions, still have an enormous influence over the way in which we think about our Constitution in the 21<sup>st</sup> century. They were written in the wake of the Enlightenment, the beginning of a period of decline for the old monarchies of Europe and the dawn of independence for the English colonies in America. In Australia, a country that has yet to cast off the last vestiges of colonialism, debate surrounding the prospect of an Australian republic has constantly harked back to the old paradigms, despite the fact that Australia has long been an independent nation. These paradigms are familiar – Australia needs to break free from Britain, and demonstrate its maturity, its

independence, its unique national identity and the sovereignty of its people in place of the sovereignty of the Crown.

Because the theatre of English monarchy still lingers on Australian soil, the republic debate in the 1990s focused primarily on juxtaposing the Australian identity of a future President with the foreign monarch that is currently Australia's Head of State. Republicanism in Australia has been imagined as an assertion of national identity rather than a means of reforming democratic government or overhauling the Constitution.

The contribution of Prime Minister Paul Keating, between 1991 and 1996, ensured the republic debate was conducted along a traditional axis – the Young Tree Green of Australian nationalism versus the Old Dead Tree of Imperial toadyism. Although Australia has inhabited a post-colonial world for some time, the framework of much of the public debate around our Constitution is fixed firmly in another era. In general terms, our vision of a republic has looked inward rather than outwards. We live in the globalised world of the 21<sup>st</sup> century, unable to finish the business of the 19<sup>th</sup> century. And for this reason, we must discover a new republican language. One which does not place discussion of a republic exclusively within the framework of national identity, but also within the framework of democratic and global republicanism.

Australian republicanism in the 21<sup>st</sup> century will be defined as much by the way in which we become a republic as it will by the model we eventually choose. The essence of our republican democracy is not the nationality of our Head of State; it is the democratic process we put in place to discuss issues of constitutional change. The only way to end the so-called 'culture of distrust' in the republic debate is to work towards achieving consensus on an open and fully democratic framework that will allow the arguments about respective models to be aired in a legitimate forum. Republicanism will not be defined successfully by republicans working away like architects in a design studio, searching in vain for the model that will win the most votes.

Finally, by global republicanism, I refer to something quite straightforward. In the past, we have imagined an Australian republic as a declaration in opposition to various aspects of our colonial past. Hence, the need to 'break away', 'cast off' and be uniquely Australian. After the referendum on the republic in November 1999, it is clear that this language will not realise an Australian republic in the future. Rather than seeking to define a republic in opposition to our past, we need to define our vision of a republic through our connection with other nations and peoples. The paradox being that our identity will be defined through our common humanity rather than our allegedly unique national identity. Citizens of the world and citizens of the nation.