

## Judith Wright memorial lecture

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# **JUDITH WRIGHT MEMORIAL LECTURE**

**Noel Pearson**

**Ngara: The Fourth Australian Poetry Festival  
Balmain Town Hall  
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## **Introduction**

I acknowledge the traditional owners of this land. I am honoured to have been invited to deliver the 2004 Judith Wright Memorial Lecture.

I didn't expect when I accepted your invitation that the federal election campaign would be underway. I expected there would hardly be a mention of Aboriginal affairs during the campaign, in spite of the fact that the Indigenous humanitarian crisis is not abating.

A few days ago this silence was broken when a major newspaper published a lecture by Tony Abbott about his vision for conservative Indigenous affairs policies. He argued that Indigenous affairs present an opportunity for the political Right and he was supportive of the policies I have advocated in my home region of Cape York Peninsula.

These policies have been based on our critique of the flawed analyses of Indigenous substance abuse, health and passive welfare that dominated progressive policy thinking in recent decades, and about what I see as the great flaws of the reconciliation debate.

That approach had a much greater political effect than a traditional program outlining the policies and symbols needed to achieve reconciliation; especially, it facilitated a bipartisan political interest in partnerships between governments and Indigenous leaders and organisations. The political dialogue and the fruitful partnerships between us and the public, private and philanthropic sectors have continued in spite of the talk about the death of reconciliation.

There has been a political response not only from the Queensland Labor Party but also from a large number of Coalition leaders including Brendan Nelson and Abbott, whose recent lecture I suppose summarises the conservative response to my initial challenges from 1999 up to now.

Today I want to discuss those questions concerning the place of Indigenous peoples in their own country, Australia, which have not been part of the dialogue which we have had with the Right in recent years.

The question which the speakers have been asked to answer at this festival are:

- How might the non-indigenous Australian be at home here?

- What might non-indigenous cultures learn from Indigenous ones about ways of living in this place?
- What, if anything, might Aboriginal people wish to take from the various settler cultures? What might they wish to keep and define as their own?

### **Peoplehood, nations and identity**

We usually do not reflect on the fact that it is quite remarkable that large collectives such as the Australian settler culture with Anglo-Celtic origins do exist: individuals who have only a few dozen or a few hundred relations and professional or personal relationships with other people, strongly identify with all their compatriots, almost all of whom they will never.

We live in the age of peoplehood. My ancestors quite recently lived under circumstances where the people they strongly identified with numbered not more than hundreds. Each individual knew or had met most other individuals amongst his or her people. Such was life in all parts of the world in ancient times.

On the other end of the spectrum, the idea has existed for a long time about a universal human community. However, migration between nations has hitherto had the effect that people identify with their new country rather than acquiring an outlook that is less based on cultural affinity.

Economic globalisation is perhaps currently increasing the number of people who feel like world citizens. Even if this is so, it is remarkable that the intermediate level between tribal organisation and a universal culture is so resilient.

From a philosophical point of view, the original small close-knit social units and a possible future united humankind may seem like more natural ways of organisation than our current state of peoplehood in between those two extremes.

My observations are not original and I will not discuss the hypotheses from evolutionary psychology and other academic disciplines that try to explain the phenomenon of peoplehood. However, peoplehood is a fact. It is the most important factor in modern history and contemporary politics.

Peoplehood is older than the modern concept of the nation state. Kingdoms and realms were originally not the expression of a people's quest for independence. The political units could comprise any number of subject peoples; the force behind the continued existence of a political unit was a central people strong enough to hold the multicultural realm together.

The idea of "one people, one state" revolutionised the map of Europe. Some border provinces and populations may have been the pretext of tragic conflicts, as have Alsace-Lorraine and the minorities in the Balkans, but numerically the discrepancy between the ideal and reality is small in contemporary Europe.

The ideal is however unattainable, much more so outside Europe because of the lesser role of national movements and the greater role of colonialism in the shaping of the borders of the current sovereign states outside Europe.

Almost every sovereign state is a shared state; almost every sovereign state has a domestic political question about the relationship between the peoples within the borders.

Iceland has no such domestic question. She was settled by a homogenous group of people. Every Icelander lives in Iceland except voluntary emigrants, and all residents are Icelanders except legal immigrants. Her borders have never changed and cannot change.

The relationship between a majority and a minority can be almost as harmonious as monocultural Iceland. The Swedes of Finland do not even consider themselves to be a distinct people from the majority Finns. Equality and absence of antagonism prevails.

Still, even in the exemplary democracy of Finland there is a perpetual process of accommodating the two cultures in one state. Linguistic equality is guaranteed in the constitution, and there are a multitude of arrangements that do not separate the minority from the mainstream, but make them at home in their own country.

The Commonwealth of Australia has never been like Iceland. The prolonged insistence that she was monocultural, has caused us great grief.

We have now realised that Australia is a country shared by two peoples. People often refer to the Aboriginal Australians as several nations, reflecting the smaller pre-contact social units I mentioned before, but it is obvious that colonisation has had a unifying effect on Aboriginal people and that is justified to regard us as one national minority with distinct subgroups. I recognise the special distinctness of the Torres Strait Islanders, but for simplicity I will in most of this speech refer to non-Indigenous and Indigenous Australians as the two Australian peoples.

My main thought about the policies for equality of Australia's peoples that I hope Indigenous and non-Indigenous Australians can unite behind, is this: we should think about the Indigenous Australians as a First World minority, or more precisely a First World indigenous minority, instead of an indigenous minority.

Our policies in Cape York Peninsula take as their starting point the ultimate context in which Indigenous people in Australia are situated: the economic context.

### **The economic context of the Indigenous peoples of Australia**

In much of the discussion and thinking about "indigenous peoples" there is an assumption that the Indigenous people of Australia is in a similar position to indigenous peoples elsewhere in First World countries (Maoris in New Zealand, Native Americans in the United States, Aboriginal Peoples of Canada, Samis in Scandinavia, et cetera) as well as indigenous peoples living in the Third World (Latin America, Sarawak, West Papua et cetera).

Whilst there are no doubt many commonalities between indigenous peoples living in these various circumstances, I am seeking focus on the fundamental difference

between indigenous peoples living in a First World country, in our case Australia, and in the Third World, whether they may govern their own nation state (such as in Papua New Guinea) or are minorities within a nation state which they do not govern (such as the people of Western Papua).

This fundamental difference is the economic context: it is a completely different thing for indigenous people to live within a welfare state provided by a First World country and in the absence of one in a Third World country. The economic context in which the Aboriginal and Torres Strait Islanders of Australia live, is completely different to that of our indigenous friends over the border in PNG. This difference between the Melanesians who are Australian Torres Strait Islanders and the Melanesians of Papua New Guinea is most starkly apparent on the northern-most islands of the Torres Strait, where both groups meet. PNG does not have a welfare state and is unlikely to develop one for the foreseeable future. Australia is a welfare state and is unlikely to cease being one in the foreseeable future.

The crucial thing about a First World welfare state is this: it can *completely replace* the traditional or post-colonial economies of indigenous communities, with income support through the government transfer system. The safety net guarantee of sustenance for all citizens means that indigenous peoples in a First World situation can cease their traditional economic activities – because their livelihood can be obtained from the government.

Whilst this complete replacement has not occurred and Indigenous communities in remote Australia live in “hybrid” economies – with some real traditional economic activity and some real modern economic activity – it must be admitted that what I have called “passive welfare” is today the predominant component of Indigenous economies in Australia. And the important point is that the welfare state could go on to become the sole source of sustenance for Indigenous people and their traditional economy could stop altogether – and my people would still have a livelihood.

This is the power of the First World welfare state: it has a complete alternative economic replacement for any real indigenous economy.

In my view this distinction, between the indigenous peoples living in a First World welfare state context and those who do not – is *decisive*, and is not properly comprehended when people think about “the survival of indigenous cultures and societies in a globalised world”. It may not be properly comprehended by Indigenous leaders contemplating the prospects of their people being able to retain their cultures in a changed and changing world.

When I have been observing the incredible cultural vibrancy and diversity of Papua New Guinea in spite of their severe problems, two thoughts have returned to me.

The first was that across the world cultural and linguistic diversity is being maintained because the lifestyles around which these cultures exist, still continue and traditional economic life still continues. It continues not just by the choice of the people of these societies, but by virtue of *necessity*. The sustenance and livelihoods of these societies is *intimately connected* with their lifestyle and their traditional cultural forms. Traditional culture and traditional economy are integrated. Or it may be that the

economy may not be “traditional” (in the sense of classical) but the current economy supports and is suited to the maintenance of traditional cultural forms. There was probably a time when the pastoral economy in which Aboriginal people were involved in northern Australia was conducive to the maintenance of traditional cultural forms, because it gave stock workers and their families access to their traditional country and economy.

The problem which indigenous peoples living in a First World welfare state face is this: there is now no longer any *necessity* to maintain the traditional economy or lifestyle. With the dominant economic base being passive welfare there is now a break between the economic base of Aboriginal society and the cultural forms of our society. There is no longer the necessary integration between economy and culture. The retention of traditional cultural forms then becomes a matter of *choice* rather than necessity.

The second thought was that passive welfare and traditional economy/lifestyle are not compatible. Indeed passive welfare undermines and ultimately unravels traditional relationships and values – and gives rise to social problems and ultimately, social breakdown. You cannot live a traditional lifestyle underwritten by passive welfare: it may seem possible in the short term, but in the long run passive welfare is socially and culturally corrosive.

I undertake this discussion of the economic context in which our people are located so that we can have some clarity in relation to the choices which we face as an indigenous people living in a First World welfare state. There are in theory three choices that I can think of.

One choice is “to remain where we are”: attempting to retain our traditions and cultures whilst dependent upon passive welfare for our predominant livelihood. For the reasons advanced earlier, I would say this is not a choice at all. If we do, the social and cultural pauperisation of Indigenous society in Australia will continue unabated, and we will not establish the foundations necessary for cultural vitality and transmission to future generations. We therefore need to confront and demolish the mistaken policy that passive welfare can subsidise the pursuit of traditional lifestyles in remote communities.

The second choice is to “go back”: to maintain our cultural and linguistic diversity in the same way as the peoples of PNG are able to, or other such indigenous peoples throughout the Third World. But this is hardly possible. Indigenous Australians are now *engulfed* by the Australian economy and society, and it is impossible to see how territories could be established where the welfare state no longer reached, and traditional economies could be revived (this is not to say we cannot *reform* the welfare state within Indigenous regions). For one thing, my people would simply refuse this course in practice.

The third choice is to “go forward” and find solutions to a bicultural and bi- and multilingual future. That is Indigenous Australians must face the challenge that comes with culture and traditions no longer being linked with our economy in a relationship of *coincidental necessity*, but rather one of conscious choice. This is what I have in mind when I suggest a First World Indigenous people, rather than a

Fourth World people. Some of the elements and requirements are as follows. Firstly, it is about being able to retain distinct cultures, traditions and identity, whilst engaging in the wider world. Secondly, Indigenous Australians will need to ensure that the economic structure underpinning my people's society is "real". This will require fundamental reform to the welfare system affecting my people so that we are rid of passive welfare. It will also mean that our people gain their livelihood through a combination of all available forms of "real" economic activities – traditional, subsistence, modern – and this will include the need to be mobile through "orbits" into the wider world and perhaps back to home base again. Thirdly, education will be key to enable bicultural and multilingual facility and maintenance – as well as to enable economic mobility. Fourthly, we will need to deliberately and decisively shift our cultural knowledge from its oral foundations to written and digitised foundations. We will need fundamental traditionalists to be learned in our languages and cultures to fight for cultural scholarship and maintenance that can withstand whatever social and economic changes we will confront.

This is a bare sketch of the kinds of policies we will need if we are to survive as an indigenous people within a First World nation.

### **The traditional loyalism of the conservatives**

The programme I outlined is obviously not a separatist programme. I advocate restoration of social order and a real economy, education and proficiency in English that make my people socially and economically completely integrated, national unity and geographic mobility. There should be much common ground for Indigenous people who agree with me and conservative and economically liberal people.

The Left often accuses the Right of using nationalism for political purposes but the conservatives are essentially loyalist rather than nationalist. Loyal, nowadays not to the sovereign but to the sovereign states with their often insufficient recognition of national minorities. This is where the discussion between Indigenous people and the political Right in Australia must be had.

It is becoming increasingly difficult for a people to retain their identity without having their own sovereign state, or without constitutional and other arrangements that support the preservation of their identity.

The Right has been generally reluctant to try to modify the often unfair outcomes of history, that have placed a large number of peoples in a precarious situation, in terms of the long-term survival of their distinct identities.

The arguments usually put forward in favour of the Right's policy is that a sovereign state must not risk instability and division, and that economic progress is the most important political goal next to defending the nation. Economic progress is seen as the best future for minorities, and aspirations in the direction of collective rights for a national minority are seen as possibly detrimental to the best interests of the minority because of the socially and economically marginalising effects of what might be called "identity politics".

The best way to take this discussion forward is, I think, to make clear that an advancement programme for Indigenous Australia cannot be based on a cultural relativism that denies the obvious fact that Indigenous Australians must fully engage with the English language, the European social and political institutions, Science, modern economic behaviour, national and global economic integration and geographic mobility.

The organisers of this festival posed the question: “What, if anything, might Aboriginal people wish to take from the various settler cultures? What might they wish to keep and define as their own?”

I understand that this question is an expression of a will to extend to Indigenous Australians the right to self-determination. This is right in principle, but the answer must be: “Everything that enables our younger generations in Cape York Peninsula to achieve their fullest potential, talent and creativity, so that they have the confidence and capacity to orbit between two worlds and enjoy the best of both.”

Let me now turn to the question of the so-called

### **‘Unfinished business’ of a treaty**

The person in whose memory I speak today, was at the forefront of the advocacy of some form of treaty between Indigenous and non-Indigenous Australians. She was a member of the Aboriginal Treaty Committee established in 1979 and chaired by HC ‘Nugget’ Coombs. Together with Coombs, Stewart Harris and others, Judith Wright led a vigorous advocacy between 1979 and 1983. She published a book *We call for a treaty* in 1985. The work of the treaty committee precipitated the inquiry by the Senate Standing Committee of Legal and Constitutional Affairs, commissioned by the Fraser Government and concluded after the election of the Hawke Government in 1983, into ‘the feasibility of a compact or ‘Makarrata’ between the Commonwealth and Aboriginal People’. The committee’s report, *Two Hundred Years Later*, recommended that there be an amendment to the Australian Constitution which would authorise the Commonwealth Government to negotiate and settle an agreement between the Commonwealth and Indigenous peoples covering an unspecified range of issues.

The work of the Aboriginal Treaty Committee and whatever consistency there was with the position of the Indigenous leadership in the then National Aboriginal Conference, was nevertheless shadowed and superseded by an alternative view of a treaty which became the campaign for a Treaty in 1988 – one of the most energetic advocates of which was the late Wiradjuri intellectual, Kevin Gilbert. Gilbert published blistering criticisms of the concept of the Makarrata describing it in 1980 in ‘Aboriginal way’ as follows:

“Makarrata’ is a dog deal, a Jacky Jacky deal, a pact with the devil on the devil’s terms”... and “the kiss of Judas”...<sup>1</sup>

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<sup>1</sup> Kevin Gilbert “Makarrata: NAC sellout”, *Aboriginal-Islander Message*, No 13 (1980), p.5, 12-13 ([http://www.aiatsis.gov.au/lbry/dig\\_prm/treaty/t88/m0019849\\_a.pdf](http://www.aiatsis.gov.au/lbry/dig_prm/treaty/t88/m0019849_a.pdf))

The differences between those who pushed for a compact or Makarrata and those who pushed for a treaty were profound, but perhaps not substantial. I will later explain how differences might be profound but not substantial.

The first difference was whether what was being sought was going to be called a treaty or some other form of agreement – such as compact or Makarrata.

The second difference was whether the proposed agreement was one premised on the assumption of Aboriginal sovereignty, and whether such agreement would be between two sovereign nations – the Australian nation and an Indigenous nation or nations. One approach – the Makarrata – was not proposed as a treaty within the meaning of international law, that is, a treaty between two sovereign nation states. The other approach, which became the approach of the Aboriginal Provisional Government in the 1980s, of which Michael Mansell was the most well-known proponent – was proposed as a treaty within the meaning of international law and was premised on the recognition that the Indigenous people's of Australia were sovereign and their sovereignty has not been lawfully extinguished, and a treaty would be an agreement between nations recognised in international law.

As to the substantive subject matter which would make up the terms of a 'treaty' or 'Makarrata' – the differences were less obvious. Both approaches contemplated that issues to do with land rights, jurisdictional rights, economic and political rights would form the subject of the agreements. So, putting aside the profound differences in (a) nomenclature and (b) international law status of the parties to the agreement and the agreement itself – the substantial issues that were sought to be covered by a Makarrata or a Treaty, were similar.

Of course, the Bicentenary target of 1988 remained unfulfilled, notwithstanding Bob Hawke's commitment to a treaty – subsequently called a compact – at the Barunga Festival in 1987.

The 1990s was the 'reconciliation' decade and talk moved from treaty, Makarrata and compact to 'unfinished business', 'document of reconciliation' and 'national settlement'. The High Court's *Mabo* decision in 1992 gave hope that there would be substance to reconciliation. However, the Centenary of Federation target of 2001 came and went unfulfilled.

Now is not the time for me to say whether or not a treaty, Makarrata or national settlement should be pursued and what purpose might be served for all Australians if we were to achieve an agreement between the descendants of the original and the newer Australians more than 200 years later. Too much confusion surrounds these questions, and little will be gained from either supporting or rejecting the concept of a national agreement, until we get much more clarity in the discussion.

I think that confusions and cross-purposes surround the following questions:

- The necessity and purpose of a settlement
- The fundamental legal premise of a settlement

- The nomenclature of a settlement
- The strategy for the achievement of a settlement

Let me make some brief comments on each of these.

### ***The necessity and purpose of a settlement***

Of course the Right questions the necessity and purpose of a settlement. Judith Wright and others, including people from the liberal Right such as Malcolm Fraser, have advanced the case for a national settlement. There are two comments I will make in relation to how cogent the case for the necessity and purpose of a settlement is. Firstly, advocates have often assumed that the achievement of a treaty is a precondition to Indigenous social and economic recovery. I do not accept this. We must and we can act now to confront and start to resolve the problems afflicting our people. We cannot allow the uncertain goal of achieving a national agreement leave us sitting on our hands. Secondly, I do not accept the assumption that the achievement of a legal/political settlement will automatically guarantee solutions to social and economic problems. Legal/political settlements can only be a part of any solution. The other part involves responsibility and hard work.

I think much more rigorous thinking is needed still on the construction of the case for the necessity and purpose of a settlement. There is far too much, and often justified, scepticism in the Australian community about what substantive gains will result from the achievement of what is currently seen as a ‘symbolic’ gain. The case must be made for how and why Indigenous and non-Indigenous Australians will gain from a national settlement.

### ***The fundamental legal premise of a settlement***

I have previously expressed my views on this in an article in the *Indigenous Law Bulletin* in 1993. My views remain unchanged. A national agreement would be a domestic legal agreement, between the Indigenous *peoples* of Australia and the Commonwealth Government on behalf of the Australian nation. Treaties in the United States, Canada and New Zealand have not had the character of international law agreements between nation states. This acceptance does not deny the fact that Indigenous peoples possessed sovereignty before colonisation and it does not deny the fact that Indigenous peoples did not consent to colonisation and the extinguishment of their original sovereignty. It also does not deny the possibility of sovereignty or jurisdiction in a domestic sense. It is an acceptance of the *Realpolitik* that talk about treaty in the sense of an agreement between two sovereign nation states is fantasy.

### ***The nomenclature of a settlement***

The implication that a treaty involves an agreement between sovereign nation states, is the source of much of the rejection of the proposal. Only if it were clear that the

treaty that is proposed is a *domestic treaty* would it be at all possible for the term ‘treaty’ to be acceptable. It is astounding to me how much the nomenclature of any proposed agreement represents a longstanding and as yet, unresolved, impediment to the identification of possible common ground. For many opponents the word ‘treaty’ represents a threat to the Australian nation. For many supporters any word less than treaty is not good enough (ever since I saw the Moir cartoon in the Sydney Morning Herald of an Aboriginal sitting in front of a mirror applying Bob Hawke’s new ‘compact’ – the word has not done a great deal for me either).

These opposing positions ignore three facts: firstly, that the word treaty has been used in its domestic meaning in North America and New Zealand; secondly, that most of the supporters of a treaty are in fact talking about a domestic agreement; and thirdly, that many of the opponents of a treaty would support a domestic agreement.

### ***The strategy for the achievement of a settlement***

This is where I believe proponents of a treaty have been the weakest: they have failed to articulate the necessary strategies to achieve their desired goal. Indeed they have not even faced up to basic considerations.

Almost all of the proponents of a national agreement, whether the Aboriginal Treaty Committee, the Senate Standing Committee that reported on the Makarrata – have all concluded that a treaty would require amendment to the Australian Constitution. Much of the discussion facilitated by the Council for Aboriginal Reconciliation around a ‘document of reconciliation’ during the 1990s was based on the hope that it would lead to a national agreement underpinned by constitutional amendment. Even the proposals put forward by Kevin Gilbert included amendment of the Australian Constitution which would set out a Bill of Aboriginal Rights.

Well the basic consideration in relation to any proposal to amend the Australian Constitution is this: you need *a majority of voters in a majority of the States* to support a referendum to amend the constitution. That is, you need the support of 80-90% of the Australian people at a referendum. In order to have any chance of securing 80-90% of the Australian people in support of constitutional amendment, you will need bipartisan political support – and furthermore, in the case of an amendment concerning Indigenous peoples, it will have to be championed by the conservative political parties if it is have any chance of succeeding.

I think it is as plain as day that unless a national agreement has the support from the most conservative (but decent) end of the Australian political spectrum – regional and rural Australia – and their political leaders, then any form of national settlement stands no chance at all of even being a possibility.

### **Conclusion**

The political truism that only Nixon could go to China, is the *Realpolitik* of any aspiration that we might fulfil the hopes of people like Judith Wright – that there be a fair and just settlement of the matters that remain ‘unfinished business’ between the original and the settler Australians. Only a highly conservative leader, who would be able to enjoy the confidence of the most conservative sections of the national community – those in rural and regional Australia – would be able to lead the country to an appropriate resolution of these issues. It will take a Prime Minister in the mould of Tony Abbott to lead the Australian nation to settle unfinished business with the other people who are members of this nation: the Indigenous people.