

Nationhood, National Identity and Democracy

Submission to the Australian Government, Legal and Constitutional Affairs References Committee, on Nationhood, National Identity and Democracy.

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On 29 July 2019 the Senate referred the following matters to the Legal and Constitutional Affairs References Committee for inquiry and report by the last sitting day of **May 2020**.

This submission will seek to address the terms of reference of this inquiry from both an anthropological perspective, by which is meant within the broad discipline of Australian anthropology including Indigenous and settler historiography, and from the view of a person whose family arrived on this continent among the first assisted skilled migrants under the NSW Governor Sir Richard Bourke's scheme in 1840.

The first thing that is noticed here is the heavy reliance on sociological theory in the idea of the nation state, ostensibly Australia as a nation state, by the proponent of this inquiry, Labor left wing Senator Kim Carr.

The proposal is curious, not least since the construct emerged from the Peace of Westphalia in 1648, putting an end to the Thirty Years War essentially between Catholics and Protestants in Europe, meaning continental Europe, and with it the Eighty Years War between Spain and the then Dutch Republic, requiring Spain to formally recognise the sovereign independence of the Dutch people over their colonial ambitions.

The proposal is interesting here because the Treaties of Westphalia recognised state borders along ethnic and racial grounds, read as nationality or people among whom one is born rather than among those to whom one is later obliged to swear fealty, and by which nationality territorial borders are defined.

None of which apply to Australia, itself inheriting the Westminster tradition not the Westphalian, and further subscribing to the Common Law not the Continental civil jurisdiction and with it an inquisitorial jurisprudence. In Australia, law is administered as neutral, disinterested arbitration in disputes between sovereign parties, not as judgemental inquisition.

In that, what is meant is not the ethnic group or nationality as sovereign, but each individual person, further constituted as the voting citizen enjoying suffrage in the broad state of affairs; leading is to define the 'state' not as a reified entity in itself merely the prevailing state of affairs within the territory depending on the outcome of regular elections by said sovereign citizens to represent them in our parliaments.

Aside from a relatively brief period of 70/230 years under an imposed White Australia policy favouring immigration from Europe specifically, and aside from the multinational Indigenous

presence across the broad territorial expanse, Australia has always hosted a multiracial, multi-cultural immigrant population.

According to the Australian Bureau of Statistics:

The 2016 Census shows that two thirds (67 per cent) of the Australian population were born in Australia. Nearly half (49 per cent) of Australians had either been born overseas (first generation Australian) or one or both parents had been born overseas (second generation Australian).

While England and New Zealand were still the next most common countries of birth after Australia, the proportion of people born in China and India has increased since 2011 (from 6.0 per cent to 8.3 per cent, and 5.6 per cent to 7.4 per cent, respectively).

Of the 6,163,667 people born overseas, nearly one in five (18 per cent) had arrived since the start of 2012.

In 2016, 83 per cent of the overseas-born population lived in a capital city compared with 61 per cent of people born in Australia. Sydney had the largest overseas-born population.

In 2016, there were over 300 separately identified languages spoken in Australian homes. More than one-fifth (21 per cent) of Australians spoke a language other than English at home. After English, the next most common languages spoken at home were Mandarin, Arabic, Cantonese, and Vietnamese. Tasmania had the highest rate of people speaking only English at home with 88 per cent, while the Northern Territory had the lowest rate at 58 per cent.

Meanwhile, the number of people identifying as being of Aboriginal or Torres Strait Islander origin is on the rise, increasing from 2.5 per cent of the Australian population in 2011 to 2.8 per cent (or almost 650,000 people) in 2016.¹

It is as interesting to proceed further down the list to include, after Vietnamese, languages as diverse as Italian, Greek, Filipino, Hindi, Spanish and Punjabi.² When we speak of Australia being multicultural, what we mean in view of the empirical reality is that aside from diverse Indigenous nationality we also intend that Australia represents multiple nations in the clear Westphalian sense. Australia is not separately a sovereign nation state by their definition, but representing them all as such.

It becomes difficult to conceive of Australia as being a nation at all. Given further that the place is governed from the few old colonial state capitals perched tentatively around the rim of the continent, under an imposed federation executed from the artificially new city of Canberra located strategically between the two predominantly largest cities of Sydney and Melbourne, one might be forgiven for supposing that federal politicians are interested in pursuing a notion of Australia as a nation state as a legitimising invention while they trot the world stage, tellingly among the Europeans whose inheritance it is, maintained in their own effort to avoid collapsing yet again into their interminable, mass-destructive internecine warring.

From which Australia in particular was founded to provide refuge.

¹ Australian Bureau of Statistics, *2016 Census: Multicultural*, Media Release, 27 June 2017, <https://www.abs.gov.au/ausstats/abs@.nsf/lookup/Media%20Release3>, accessed 19 August 2019.

² Profile ID Australia, <https://profile.id.com.au/australia/language>, accessed 19 August 2019.

The specific terms of reference of this inquiry will now be addressed:

A. the changing notions of nationhood, citizenship and modern notions of the nation state in the twenty first century;

Changing notions among whom? A nation is large group of people with common ancestry and sharing a common language. A state is the current state of affairs within a given territory, by which is meant that land under a particular jurisdiction, from which others are warned off. The citizen is that person within the territory obedient and subscribing to the state of affairs within the territory.

In the matter at hand, within the territories coming under Australian jurisdiction, the state of affairs is administered by parliamentary democracy under common law, in which citizens are sovereign, requiring their representatives in the parliaments to stand before them periodically for election.

The only thing that has changed over the long period since 1788, is that from the federation of the colonies in 1901 there was a now-discredited partisan endeavour to stack the federation with selected Europeans, to set up a White Australia seeking in the face of Westminster to artificially create an isolationist, protectionist, privileging state of affairs roughly replicating the no doubt familiar state of European nations following the Peace of Westphalia, which likewise collapsed into further mass-destructive war lasting until the later 20th century.

The result was humiliating and costly, and after only 70 out of some 230 years, or less than one third of the settlement history of Australia, the older, well-grounded and empirically valid state of multinational, multicultural, multilingual state of affairs within the Asian sphere of influence was restored, and with it mutual prosperity and common interest.

B. rights and obligations of citizenship, including naturalisation and revocation, and the responsibility of the state to its citizens in both national and international law;

The rights and obligations of the citizen manifest as a verb not a noun, as distinct from the somewhat abstract, disconnected notion of 'citizenship' lie in common law obligations to one another; to be reasonable with one another; to settle disputes among one another, and to act ethically, independently of the prevailing state of affairs, to wit:

The first ethical principle is that of *nonmaleficence*, to do no harm; the second is that of *autonomy*, which is intentionality in truth-telling and absence of controlling agenda; the third is *justice*, which is equitable distribution of benefits, risks, costs and resources; and the fourth is that of *beneficence*, to do good.

The responsibility not of 'the state to its citizens' as an abstraction but of those employed to maintain a reasonable state of affairs throughout the jurisdiction is the same as that of any employee to those who employ them and who elect them to public office, to carry out their appointed tasks diligently and efficiently, regardless of national and international law.

Law here is read as the common law, not as legislation which is read as policy; whether at local, state, or federal government or whatever representative bodies may convene from time to time between governments.

ALL layers of government must necessarily respond to the state of affairs to the benefit of citizens; to do them no harm, to respect their autonomy, to act justly and reasonably, to do good.

C. social cohesion and cultural identity in the nation state;

This question inheres rather in the post-Westphalian state of affairs on the continent of Europe, not to that of the Australian colonies. Pre-colonial Indigenous Australia was always and remains multinational, as does settler and immigrant Australia, all reflected in the multiplicity of languages and the broad diversity of cultures.

Cultural identity is maintained through families and their education preferences for their children, of which there are many. Social cohesion on the other hand is rather about keeping the peace, maintaining good relationships, and as has emerged in recent discussions on Indigenous voice to parliament, a willingness to engage conversation, to share their histories and lived experiences; not to be like each other necessarily merely to understand and accept one another.

Governments pursuing partisan interest over the common good risk being voted out of office.

D. the role that globalisation and economic interdependence and economic development plays in forming or disrupting traditional notions of national identity;

Whose traditional notions of national identity? The Labor Party's? The Socialist Left? They do not represent mainstream, multinational, multicultural Australia, they have merely used political power over the relatively short period of the early 20th century to artificially stack the country with immigrant sympathisers and supporters.

Policies supporting nationalist protectionism, trade barriers and governments preferentially sponsoring industry merely to provide employment to unions and partisan minions at public expense, regardless of productivity or return on the investment, has in the past brought this country to its knees, made us out to be stupid, when sound trading relationships, international scholarship and open exchange of knowledge and expertise has brought mutual prosperity.

Globalisation and economic interdependence have played no role in disrupting notions of national identity traditional only to partisan interests not the commonality; those notions have merely collapsed from their own internal contradictions; in the fortunate event allowing the common inter-related, interdependent, interactive state of affairs to be restored.

E. contemporary notions of cultural identity, multiculturalism and regionalism;

Contemporary notions among whom? Australia remains a broadly multinational, multicultural, multilingual, common law jurisdiction in which citizens remain free to pursue their own cultural identity and practice. It is unconscionable to this writer that partisan interests stacking the commons with their own prerogatives, oppressing and diminishing the citizenry in their vain endeavours are still being allowed to get away with it.

Their activities need to be curbed as treasonous, and the population as a whole respected as well-educated, well-intentioned, thoughtful and astute in the way they engage the state of affairs from time to time.

F. the extent to which nation states balance domestic imperatives and sovereignty and international obligations;

This question pertains to the post-Westphalian countries of continental Europe. It does not belong here in discussion on the ongoing state of affairs in Australia. Go and ask them.

G. comparison between Australian public debate and policy and international trends; and

It is irrelevant in a common law jurisdiction how Australian public debate and policy compares with international trends. Australia is a sovereign country; our citizens engage public debate and policy discussion the way Australians do, not some other jurisdiction entirely. Take it or leave it, the question is silly.

H. any other related matters.

There are no related matters.

The deadline for submissions to the inquiry is **30 September 2019**.

Signed

Gil Hardwick
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