

Killing Without Murder: Aboriginal Assimilation Policy as Genocide

Introduction

History is written by the victorious, the saying goes. This is a case of history being rewritten by the victims. From as far back as 1814 and until as recently as 1980, Australian state governments were forcibly removing Aboriginal and Torres Strait Islander children from their families and communities with the intention of remolding those children to become part of the white, European society. Couched in the Social Darwinism and eugenics theories that were so popular at the time, the forced assimilation into European culture was seen to be for the benefit of all involved. Regardless of whether their intentions were benevolent or malicious, the perpetrators of these acts aimed to eliminate the Indigenous people of Australia through these Stolen Generations.¹ Simply put, Australia's indigenous assimilation policy in the twentieth century – as embodied by the Stolen Generations – constituted biological and socio-cultural genocide.

We may go home, but we cannot relive our childhoods. We may reunite with our mothers, fathers, sisters, brothers, aunties, uncles, communities, but we cannot relive the 20, 30, 40 years that we spent without their love and care, and they cannot undo the grief and mourning we felt when we were separated from them. We can go home to ourselves as Aboriginals, but this does not erase the attacks inflicted on our hearts, minds, bodies and souls by caretakers who thought their mission was to eliminate us as Aboriginals.²

Working Definitions

Words have immense power, the power to do harm when wielded incorrectly. Because of this it is necessary to make clear from the outset what certain terms refer to in this essay.

Genocide is a compelling, oft misunderstood word. It was coined by a Polish jurist named Raphael Lemkin in the wake of the German Holocaust. In 1944, he used the

Greek root “genos,” meaning race or tribe, and the Latin root “cide,” meaning killing to create a word for an action which was hardly new.

Genocide is ‘the coordinated plan of different actions aiming at the destruction of the essential foundations of the life of national groups, with the aim of annihilating the groups themselves. The objectives of such a plan would be the disintegration of the political and social institutions, of culture, language, national feelings, religion and the economic existence of the national groups, and the destruction of personal security, liberty, health, dignity and even the lives of individuals belonging to such groups.’³

Genocide is most often understood to mean the brazen and deliberate murder of a group of people. Sometimes it is more sophisticated than gas chambers, starvation tactics, machetes and guns. Lemkin’s definition formed the foundation for the United Nations Convention of the Prevention and Punishment of the Crime of Genocide adopted in 1948. Article II of that Convention states that “genocide means any of the following acts committed with the intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such:

- (a) Killing members of the group;
- (b) Causing serious bodily or mental harm to members of the group;
- (c) Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part;
- (d) Imposing measures intended to prevent births within the group; and
- (e) Forcibly transferring children of the group to another group.”⁴

Here it is clearly apparent that the Stolen Generations and the forcible removal of Aboriginal children from their families and communities into institutions or foster care (most often with a non-Aboriginal family) fall under Article II (e) of the Genocide Convention. It could also be argued that the Australian government are guilty of clauses (b), (c) and (d). Article III also made conspiracy and attempt to commit genocide punishable offences. Included in that definition will be an understanding that genocide is

an umbrella term encompassing “ethnocide,” that is, the attempt to destroy the culture of a people without necessarily killing the members of that group.

The next important idea that must be defined is what constitutes an Indigenous identity. During the time period in question the definition of a “native” was drawn by administrators from Western Australia’s Native Administration Act of 1936, which included “any person of full-blood descended from the original inhabitants of Australia,” unless they were “a quadroon under 21 years of age who neither associates with or lives substantially after the manner of the class of persons mentioned, a quadroon over 21 years old, or any person of less than quadroon blood who was born prior to the 31st day of December, 1936.”⁵ Many Australians believed that Social Darwinism placed Northern Europeans at the height of the “survival of the fittest” ladder. Social Darwinist theories were used to vilify and dehumanize the Indigenous people of Australia.

Finally, the modern definition of Aboriginality is ambiguous at best. A person must be of Aboriginal or Torres Strait Islander descent, self-identify as an Aboriginal or Torres Strait Islander, and be accepted as such by the community in which that person is living.

Working Values

It is easy to judge these acts by contemporary values. It is important to remember that the ideology, language and value system of the Stolen Generations time period was very different from today. In 1937 at the first ever meeting of the state’s leaders in Aboriginal Affairs a resolution passed that became known as the Destiny of the Race: “this conference believes that the destiny of the natives of aboriginal origin, but not of the full blood, lies in their ultimate absorption by the people of the Commonwealth and it

therefore recommends that all efforts be directed to that end.”⁶ The subsequent policies and practices were meant to fulfill this resolution.

Genocidal atrocities cannot be forgotten. Post-dated criticism is the only way to move forward. The claim of genocide is relatively new in the Australian context. Yet the UN’s Genocide Convention is applicable after 1948 and was ratified by Australia in 1949. It came into force on January 12, 1951. This essay demonstrates that a case can be made that genocide occurred; it is not a persecution thereof because it was not a legal offense until after 1948. Regardless of the legal status before 1948, the international body politic always considered genocide a breach of human rights. The legality of actions taken before 1948 is often used as a front by the government to hide from the truth. Until Reconciliation is achieved, in a way that is acceptable to all involved, the criticism will continue, as will the denial.

Historical Context

Australian race relations can best be understood within a historical context. Australia, as a nation, has never been at peace. The Aboriginal people believe they are spiritually and physically tied to that land, and have been there since “time immemorial.” On January 20, 1788, the Captain Arthur Phillip and the convict-loaded First Fleet landed in Botany Bay, near modern day Sydney. The most detrimental occurrence in race relation history took place that day when Phillip declared the land “terra nullius” – Latin for “empty land.” Because of conflicting definitions of ownership, the British declared that the land had no previous occupants and was therefore settled, rather than conquered.

From this time on an undeclared warfare raged. The Aboriginal population was decimated by diseases, such as smallpox, against which their immune system had no

defense. Smallpox, in fact, killed nearly 50 percent of the Aboriginal population in the Sydney area.⁷ Frontier violence was the defining aspect of the 18th and 19th century forms of genocide. Aboriginals were shot for encroaching on British land, taking stock, or just out of fear. The violence was so extreme in some places, such as Tasmania, that the Aboriginal people there were nearly exterminated.

Concurrent with this period of frontier violence the policies of protection/segregation were put into force. This was supposed to protect the Aboriginal peoples from the harmful effects of white settlement, but in practice only meant isolating Aboriginal peoples on missions and stations where the British could be unmolested. At the time of British arrival in 1788, the best estimates show that there were approximately 300,000 Aboriginal people in Australia. (Estimates range much higher, but 300,000 as an estimate has proven to be a happy medium with sound statistical backing.⁸) At Federation in 1901, the state censuses, although inherently flawed because of inconsistency and racism, estimate there were 40,000 Aboriginal people in Australia.⁹ The protectionism period is best described as a less advanced form of genocide.

As far back as 1814 New South Wales Governor Lachlan Macquarie had established a “Native Institution” at Parramatta and began forcibly removing children, placing them in this “Institution” in order to educate, teach them vocational skills and Christianize them.¹⁰

All Aboriginal policy and dealings took place on the state level. The policies, though individualized to each state or territory, held mostly true nationally. The 1905 Aborigines Act in Western Australia had made the Chief Protector the legal guardian of all Aboriginal peoples and all half-castes under the age of 16. In every mainland state

except Victoria, the Chief Protector had the right to remove an Aboriginal child (of any inheritance) from its parents. In 1916 the New South Wales Aboriginal Protection Act was amended such that “The Board may assume full custody and control of the child of any aborigine... in the interest of the moral and physical welfare of the child.”¹¹ In 1937, with the Canberra Conference on Aboriginal Welfare where state officials met to discuss Aboriginal policies, the party line moved from a policy of protection to one of assimilation.

It is interesting to note that Australia was hardly alone in its policy of removing children from their families in the nineteenth and twentieth centuries. The United States of America, for example, was removing Native American children from their families for reasons such as “neglect,” or “social deprivation.”¹²

By 1951, assimilation was the official policy of every state and territory in Australia. In 1967, the Australian Constitution first became inclusive of Aboriginal people by referendum. At this point in time, the states switched their official policies from that of assimilation to “integration.”

A disturbing trend has permeated the final decades of the twentieth century and continues today, however. A sort of historical amnesia exists that shows the pioneer legend in only the most positive light and ignores as much Aboriginal history as possible. This is beginning to reverse itself, but without acknowledgement of race relations in the past, there is no hope for the future.

Absorption

The ultimate disappearance of the Aboriginal race was to be realized in two ways: biological absorption and socio-cultural assimilation. The first was through attempted

control of their birth and death rates along with genetically engineering their reproduction by state governments. This policy of absorption of the race falls under Article II, parts (c) and (d) of the Genocide Convention, “deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part;” and “imposing measures intended to prevent births within the group.” First, the native population was divided into those who could be saved according to the prevailing thought of the day – that is anyone with any proportion of white inheritance – and those who could not. It was commonly assumed that the full-blooded natives were a dying race because their culture was not civilized enough to survive in the face of British culture. By separating the dying race from those who would continue to carry the standard of Aboriginality if left alone and allowed to practice their culture, the governments used a multi-layered attack to eliminate Aboriginality. Dr. Cecil Cook, the Chief Protector of the Northern Territory from 1927 to 1938, made clear the first part of the plan – the full-blooded Aboriginal peoples would ultimately disappear – at the Canberra Conference on Aboriginal Welfare of 1937 by saying: “Were a policy of laissez faire followed, the aborigines would probably be extinct in Australia within 50 years.”¹³

The most that could be done for these natives, according to prevailing thought, was to “smooth the pillow of a dying race,” which in practice meant the creation of reserves of land where the natives could live unmolested in order to wait out the extinction of their race. This was not active pursuit of genocide on the part of the Australian governments; however, the practices that pre-date assimilation in regard to the natives were genocidal and reduced the number of remaining full-blooded people dramatically; this created the belief they were a dying race. Today it is accepted that the

dramatic reduction in the numbers of Aboriginal peoples circa the first point of contact is a bi-product of history. It defies logic that a civilization that has survived for more than 50,000 years would cease to exist by natural means in the first century after contact with a foreign dispossessor.¹⁴

The early twentieth century was the zenith of racial and ethnic cleansing in Europe. Cook, Neville and J.W. Bleakley of Queensland, especially, were enthusiasts of the new science of eugenics. Couched in the institutionalized racism of the day, they created a hierarchy of Aboriginality. Half-caste children were the progeny of a full-blooded native and a white person (usually a white man and an Indigenous woman). As white inheritance continued to be intermingled with the Aboriginal, quadroons, people who were considered one-quarter Aboriginal and three-quarters white, and octoroons, people with one-eighth Aboriginal decendency, were classified. After the generation of octoroon, the children were considered to be white by legal standards. These men believed they could force a breeding program that would lead to the disappearance of all Aboriginal people. Neville introduced a three-point plan at the Canberra Conference. First, he argued, the full-blooded natives would die out; secondly the half-caste children were to be removed from their families; and finally, intermarriage was to be encouraged. “Are we going to have a population of 1,000,000 blacks in the Commonwealth, or are we going to merge them into our white community and eventually forget that there ever were any aborigines in Australia?”¹⁵ This clearly indicates the intention of destroying the Indigenous people as a group, an important prerequisite to the claim of genocide.

European imperialism has long created problems for native peoples worldwide. As the vanguard pushed the frontier toward the center of Australia there were instances

of sexual contact – rape, sexual assault and some meaningful relationships – which resulted in the birth of half-caste children. That these children were considered a problematic third race by the settlers is an example of the implicit racism of the day. In order to maintain the imperialistic hold over the native peoples, that is to say the degraded and inferior race, there could be no grey area. The University of Sydney scholar Robert von Krieken wrote:

“The target of these policies and practices was not simply Aboriginality itself, because that was more or less acceptable to European Australians in its traditional, ‘full-blood’ form, albeit quarantined in the desert regions of the continent. What was so problematic and dangerous was the *hybridity* [his emphasis] of the mixed-bloods, their threat to the boundaries between the civilized and the savage.”¹⁶

This was exactly the fear that fueled the racism, which led to the policies and practices of genocide.

The need for racial purity in Australia was only half the battle. South Australia’s Chief Protector of Aboriginals Charles McLean expressed his belief at the Canberra Conference in 1937 that “Colour is lost fairly rapidly when there is a mixture of white blood with the aboriginal, but unfortunately racial characteristics and habits are not so easily laid aside.”¹⁷ The eugenics movement represented a conscious effort to bring every inhabitant of Australia not of pure European blood into the white fold. Using Mendelian genetics of crossbreeding, with the assumption that whiteness was the dominant trait or stronger gene, the aim of these policies was to rid Australia of people with dark skin. An article in the *Western Australian* in 1933 left no room to the imagination. “The application of Mendelianism is the only solution and that urges the mating of the half-caste with the quadroon and the octoroon, so that the confirmed infiltration of white blood will finally stamp out the black colour which, when all is said and done, is what we

really object to.”¹⁸ Skin color is not equivalent to race, however, by mingling the blood of different ethnic groups, these chief protectors and other eugenicists believed they were eliminating a race. The disappearance of a “racial group” is clearly a form of genocide as enumerated by the UN Genocide Convention. It was publicly assumed that these Mendelian genetic crosses would work because, as Neville speculated, the Aboriginal natives derived from Caucasian blood lines, not a “Negroid” strain.¹⁹

Western Australia, the Northern Territory and Queensland’s Chief Protectors strictly monitored the marriage and sexual relations of those people considered half-caste or of less Aboriginal blood. “In the Territory the mating of an Aboriginal with any person other than an Aboriginal is prohibited.... Every endeavour is being made to breed out the colour by elevating female half-castes to the white standard with a view to their absorption by mating into the white population.”²⁰ In 1936 the State Parliament of Western Australia went so far as to pass legislation that required Neville and any future Chief Protector of Aboriginals to grant permission for any half-caste person to marry. This same legislation gave Neville guardianship over all Aboriginal people under the age of twenty-one allowing him to remove them from their families and implement his plans for absorption and assimilation. Neville promoted miscegenation (intercourse between races) as means of “breeding” out Aboriginality. “It seems apparent with these people of European-Aboriginal origin that like breeds like – two half-bloods will produce children of similar blood and not of quarter-blood as many people think – and that therefore requires the admixture of further white blood to alter the ratio and produce a quadroon.”²¹ Neville was blatant in his drive to absorb people of part-Aboriginal descent

into the white mainstream community with aims of destroying the biological group of the Indigenous peoples. His insensitivity was draconian:

...the children would be lighter than the mother, and if later they married whites and had children these would be lighter still, and that in the third or fourth generation no sign of native origin whatever would be apparent. Subject to this process a half-blood mother is unmistakable as to origin, her quarter-caste or quadroon offspring almost like a white, and an octoroon entirely indistinguishable from one. A quadroon child may become darker by the time adolescence is reached, but even then would pass as a Southern European.²² (See photo.)

These theories, while not entirely genetically correct, were successful in bringing about a change in the appearance of those people who by rights could identify as Aboriginal.

The physical and biological absorption of the Indigenous peoples was only part of the genocide against the Stolen Generations. Rosemary Neill makes the argument that this segment – the pre-World War II policy of segregation and absorption – was genocide, but the assimilation policies that followed World War II were not genocidal and in fact constituted simply a “crude forerunner to equal opportunity.”²³ This argument is flawed because the biological absorption was actually of secondary importance to the policy makers whose intent was to assimilate Aboriginal children into white society thereby destroying their cultural unit in an act of quiet, less obtrusive genocide.

Another important matter to settle in the question of genocide is intent. The Convention declares that genocide can only be “committed with the intent to destroy, in whole or in part, a national, ethnical, racial or religious group.”²⁴ The language used in policies, Hansard (parliamentary and Canberra Conference transcripts) of proceedings and contemporary discourse on the matter of “breeding out the colour” could not have been more clear. The intent was to destroy the race as a whole. The crime need not be measured by its success. It was not until after World War II that genocide was defined

and made punishable by international law. Making retroactive claims is difficult, but an important part of the Reconciliation process is the general acceptance that there were acts of genocide perpetrated against Aboriginal people simply because they were Aboriginal.

Assimilation

The second and more exact aspect of the attempt to eradicate the culture of the Indigenous peoples of Australia was through a program of assimilation into white culture to the end that no Australian would look, act, think, speak, believe or associate themselves with Aboriginality. This is the more popular claim to genocide under Article II (e) of the UN Genocide Convention, “forcibly transferring children of the group to another group.” Children were removed from their families and communities in the hope of breaking any ties to identity, religion, language, land and family. Inherent in a policy of assimilation is the assumption that the majority group is superior to the minority.

The most succinct definition of Indigenous culture is “the whole complex of relationships, knowledge, languages, social institutions, beliefs, values and ethical rules that bind a people together and give the collective and individual members a sense of who they are and where they belong. It is usually rooted in a particular place – a past or present homeland.”²⁵ The policy of assimilation in the twentieth century undertook to destroy each of these defining characteristics systematically as will be presented below.

The *Bringing them home: Report of the National Inquiry into the Separation of Aboriginal and Torres Strait Islander Children from Their Families* estimated that for the years 1910 to 1970 between one in three and one in ten children were taken from their families. This is obviously a broad range and should be understood in the context of time and place (i.e. – more children were taken in Western Australia in the 1930s than

were taken in New South Wales in the 1970s). These figures are highly contentious. Prominent historians and the current government have accepted one in ten as a reasonable figure. It has been estimated that as many as 200-400 per 1,000 Aboriginal children were removed from their communities each year between 1860 and 1960, juxtaposed with a figure of ten to twenty per 1,000 non-Aboriginal children.²⁶ While a numerical figure of children removed that is acceptable to all sides is unattainable, Peter Read's estimate of approximately 100,000 children separated from their families is considered fair.²⁷ The Protectors' gave reasons for taking these children that were often blatantly racist. For example, often on the committal notices under the heading "Reason for Board taking control of child" the station managers would write: "For being Aboriginal."²⁸ There can be no doubt that these children were targeted because they were of Indigenous descent.

In his definition of genocide, Lemkin cites two phases in the course of committing genocide: one, the "destruction of the national pattern of the oppressed group," and two, the "imposition of the national patterns of the oppressor."²⁹ The policy and practice of assimilation entailed mission life in order to break down the culture of Aboriginal children, most specifically in terms of identity, religion, language, land and family which are all highly interconnected in Aboriginal culture, and then forced white culture upon the children. Most importantly as scholars have pointed out, according to the UN definition, these acts need not be malicious to be considered genocide.

The [*Bringing them home*] Report argues that, in order to constitute an act of genocide, the planned extermination of a group 'need not be solely motivated by animosity or hatred.' ... This is important in rejecting the assertion that the allegations of genocide can be avoided simply by claiming that a particular course of action was felt to be 'the right thing at the time.'³⁰

Destruction of a culture is a murderous action even when it is considered to be in the best interest of a group because it is the result of a majority group taking away a minority group's self-determination.

The assimilation process was both highly destructive to the children who encountered it and highly effective as an underscored financial process. The governments never intended to fully incorporate these Aboriginal children. On the missions they were taught the skills necessary to become domestic help or field workers. Their best hope was to achieve the status of the lowest economically viable white citizens. The assimilation policy was ultimately one of economic rationalism; because the prevailing thought necessitated maintenance of reserves for the full-blooded Aboriginal people, the theory behind assimilation was that by creating economic self-sufficiency in the half-caste generation and beyond, it was believed that, the Aboriginal people would be less of a drain on resources.

In order to achieve these ends, however, the children first had to be broken down so they could be rebuilt in the manner of white children. At Sister Kate's Orphanage for Half-Caste Children in Perth, children were told that their parents did not want them repeatedly until children began to report hating these parents. Children were taught to be ashamed of the color of their skin through a constant barrage of missionary propaganda that insinuated that Aboriginal people were dirty and dangerous.³¹

Reports of physical, sexual and mental assault have been brought to light retroactively, and although there was evidence of the atrocities occurring at the time, no action was taken. Kinchela Boys Home in Kempsey, New South Wales was cautioned to improve conditions. Read reported on a reprimand the manager received: "After an

enquiry in 1933, the manager of Kinchela was warned in a private letter on a number of counts. He must not be drunk on duty. He must no longer use a stock whip on the boys, nor tie them up. He was not to use dietary punishment.”³² The *Bringing them home* Report stated that nineteen percent of the people who gave their testimony reported physical abuse within these institutions. Nearly ten percent of children reported sexual abuse on the missions and upward of thirty percent of females reported being sexually assaulted or raped in foster care.³³ This led to a long cycle of denial intended to cause the children to disown their cultural inheritance in hope of stopping the abuse.

Identity is an umbrella term meant to include both how a particular person defines himself and how the community around him defines him (whether he is Indigenous or not). It encompasses all the cultural characteristics below. Identity, however, lies at the crux of genocide because it was this cultural connection that the policies aimed to destroy.

As part of the government’s assault on Aboriginal identity, children were placed in religiously-affiliated missions. The children were made to pray multiple times a day to a God they did not know. More importantly, they lost contact with their own spirituality because of their isolation from their elders. Aboriginal spirituality “was our lifestyle, our morality, our law” and by cutting off the oral tradition that was passed from generation to generation, the Dreamtime spirituality stories were lost to these children and subsequent generations.³⁴

Oral languages are also only passed through the generations by contact with elders. Language held the key to spirituality, land and kinship. “It’s our lifeblood. This is what we tell the young people. You have to know your language because you’ll never be

able to learn your Dreaming and if you don't know your Dreaming you can't identify where you belong. If you don't identify where you belong you may as well say you're dead."³⁵ There were nearly 250 languages, each with several dialects, at the initial point of contact with whites in 1788. A study done in 1993 showed that 160 were extinct, seventy in grave danger and only twenty likely to survive in the short term.³⁶ Children were not allowed to speak their "lingo" in the presence of white people on the missions for fear of corporal punishment or humiliation. Faced with the unnatural situation of learning English so they could communicate with the missionaries and indeed each other whilst not being allowed to practice their own languages with those who shared it, the latter faded in their memories. Language was intimately tied to the Dreamtime spirituality and oral history the Indigenous people had practiced before the days of the missionaries. Loss of language meant loss of spirituality, which ultimately meant loss of land and identity.

In order to prevent children from simply walking off the missions and returning to their families, children were often relocated to homes and missions thousands of kilometers from their homelands. While the contemporary policy makers could not have foreseen the results of their actions, they effectively denied any claim that the Stolen Generations would later make under Native Title. Because those children could not necessarily establish a biological descent from the people who claim the land under traditional Indigenous law, and more importantly, because they had been removed they cannot prove continuing connection to that land, they have no claim under Native Title. This was not a consideration for the policy makers of the early twentieth century.

However, this suffering by members of the Stolen Generations explicitly shows the on-going nature of the case for genocide.

Finally, the loss of kinship and family ties was the most egregious example of genocide perpetrated against the Aboriginal people. The most critical misunderstanding between the two cultures was the importance of the extended family to the Indigenous culture. If a child had no parent around, to a white man's sensibilities that child was being neglected; to an Aboriginal community, there are plenty of aunties, uncles, cousins and other kin to care for that child. Child removal was justified due to a misplaced concern for the child's welfare. Although the welfare of a child provided the political reasoning for removing children, there were clearly defined ulterior motives. "I have no wish to break up families, but other aspects must be considered besides sentiment. We must go on weeding out the light-coloured children," Neville said.³⁷ One prerequisite for a claim of genocide is clear intention; Neville made no secret of his plans for the ultimate destruction of the race. Neville's plan anticipated that the "Aboriginal problem" would be solved within his lifetime. Today, a vicious cycle continues. Because so many Aboriginal children were raised without their parents to model after, they are having difficulty raising their own children. This resulted in the number of children removed rising exponentially after the official switch to integration.

Assimilation is a form of sophisticated genocide. It is not a physical means to destroy a group of people necessarily. Children are physically removed and then acculturated into a very different lifestyle than the one they rightfully inherit.

In order to take advantage of the opportunities in European society, Aboriginal people were expected to become Europeans. They were told that it was their fate. The question to be answered is whether or not the deliberate policy of forced assimilation could foreseeably have resulted

in the destruction of the Aboriginal people as a group. The essence of the policy of assimilation, as it has been articulated in Australia, was the destruction of the pattern of Aboriginal life, and its replacement with the pattern of 'Australian' life.... As such it could be argued that official policy towards Aboriginal people, until at least the late 1960s, could have been genocidal in intent.³⁸

Success is not important to the claim of genocide. The crime was attempted, and it did have some success in assimilating part of the group in question. There was clear intent in the language of the policy and the policy makers. And the policies in practice succeeded, without a doubt, in partially destroying the identity, religion, language, land rights and family ties of the Aboriginal children who were taken from their families.

Arguments against the case for genocide

Genocide and the Stolen Generations represent one of modern day Australia's most politically and emotionally charged discourses. Regardless of the thousands of apologists marching every year on National Sorry Day (May 26), there are those who contend that no act of genocide was ever committed against the Aboriginal people. The "black armband" view of history, a term coined in 1993 by Geoffrey Blainey, a conservative historian, is supposedly "pretending to be anti-racist, [but] is intent on permanently dividing Australia on the basis of race."³⁹ And yet, not to be outdone in terminology, Justice Marcus Einfeld claimed "...if this is all a black armband view of history, as some have said, I for one wear it as a mark of sorrow and apology, and as a commitment to reconciliation. Rather a black armband than a white blindfold to shut out the truth."⁴⁰ This dichotomy is one of the most poignant in Australia today.

One argument is that assimilation was an inevitable historical bi-product of colonization. Even Neville recognized that settlement in the late eighteenth century was the root of the problem. "We are all newcomers to them, dispossessors, despoilers.

Having given them all they needed physically, spiritually and educationally, then we might have been justified in looking after our own interest. That was the original intention, but it was not fulfilled.’⁴¹

The Minister for the Territories in 1953, Paul Hasluck, also defended assimilation as a justified practice.

We recognize now that the noble savage can benefit from measures taken to improve his health and his nutrition, to teach him better cultivation, and to lead him in civilised ways of life. We know that culture is not static but that it either changes or it dies. We know that the idea of progress, once so easily derided, has the germ of truth in it. Assimilation does not mean the suppression of the aboriginal culture, but rather that, for generation after generation, cultural adjustment will take place. The native people will grow into the society in which, by force of history, they are bound to live.⁴²

Hasluck denied the destruction of a culture as such, but admitted that if the Aboriginal society would not conform, their culture would be killed off by government policy.

The *Royal Commission into Aboriginal Deaths in Custody* inquiry in 1991 gave rise to the question of the Stolen Generations when it found that of the ninety-nine cases under investigation, forty-three of these Indigenous prisoners who had died in police custody either through brutality or suicide had been removed from their families and institutionalized as children.⁴³ The Commission touched on the issue of genocide, but declared the intention to commit genocide was missing and the forcible removal of children was for the Aboriginal peoples’ protection. “The crucial issue of intention raises difficulty because assimilationist policy is clearly undertaken, not for the purpose of exterminating a people, but for their preservation... such policies are ultimately benign in so far as they are intended to preserve the individual members and their descendents but as members of a different culture.”⁴⁴ The government denies genocide, but openly admits

to an act of ethnocide by denying the Aboriginal people the ability to live according to their own traditions. This amounts to a confession of an act of genocide.

One of the most powerful arguments that genocide did not occur is the testimony of children who enjoyed living on the missions and feel that the right thing was done for them. One example is Alec Ross, who grew up at the Alice Springs Telegraph Station.

I came from the hospital. I was very sick. That's why I was taken from my mother. They brought me here because they thought I'd have a better chance of getting better meals to get me back into health again.

I can understand why they took us away because my mother lived like [her people] did centuries earlier – her parents and their parents before them.... The thing is, I didn't mind that. I think they did the right thing at the time. I never had it bad, I can tell you that. I always loved where I lived and what I did. If I hadn't been taken away I'd never have enjoyed the life I live today. It was the best thing that ever happened to me.⁴⁵

Unfortunately, the evidence is heavily weighted against testimonies like Alec's.

Each of these arguments serves to create an ongoing, passionate discourse about genocide and the Stolen Generations that is at the forefront of Australian politics today. In sum total, however, they do not outweigh the evidence for the case of genocide in the last century.

Reconciliation

The issue of genocide and the Stolen Generations has not faded into obscurity where it may be examined in a detached manner. It is very much a living part of history.

The main issue for the Stolen Generations in Reconciliation today is that of apology. Written in 1997 recommendation 5a of the *Bringing them home* Inquiry suggests: "That all Australian parliaments: 1) officially acknowledge the responsibility of their predecessors for the laws, policies and practices of forcible removal; and 2) negotiate with the Aboriginal and Torres Strait Islander Commission a form of words for

official apologies to Indigenous individuals, families and communities....”⁴⁶ State parliaments, non-governmental organizations and individuals nationwide have adopted this suggestion. Current Prime Minister John Howard has extended his personal apology but refuses to apologize for the federal government saying it opens the doors to multi-million dollar reparation claims. Reparations are part of the recommendation, but no trial case applying for compensation has successfully made it through court at this time. Legality aside, an apology from the federal government would allow many people to move on with their lives. Yet another school of thought says that an apology would be meaningless after waiting so long and would hinder progress as it would be a solution without practical ramifications.

Other recommendations by the Inquiry include recording testimony (1), a change in the primary and secondary school curricula (8a), implementation of the Genocide Convention with full domestic effect (10), the establishment of family tracing and reunion services such as Link-Up (30a and b), and the creation of national standards for the treatment of Indigenous children (44-54). Many of these 54 recommendations were specifically created with existing institutions in mind.

The Aboriginal and Torres Strait Islander Commission was one such organization. Created in 1990 in lieu of the Department of Aboriginal Affairs, ATSIC gave Indigenous people a voice in the bureaucracy. Howard declared on April 15, 2004 that ATSIC would be disbanded and the programs for which it was responsible mainstreamed. Aboriginal leaders claim this has set Aboriginal affairs back thirty years, some even going so far as to say that the mainstreaming harkens back to the days of assimilation and genocide. At this time, that remains to be seen.

The state of child welfare today is precarious. Fears of accusations of racism and genocide are leaving too many children in dangerous situations.⁴⁷ However, when the Child Protection Services does become involved in the case of an Indigenous family, they will always take a representative from the local Aboriginal Child Care Agency. The Aboriginal Child Placement Principle has been law since 1987. It requires that the priority for placing a child begin with that child's extended family, then within that child's Indigenous community, then with a different Indigenous family and only as the final alternative with a non-Indigenous family.⁴⁸ This is meant to protect children from the assimilation process and has been successful in many cases.

Reconciliation as a whole is also divisive within the Indigenous community. Treaty, land rights (as distinct from Native Title, which is a national piece of legislation that maintains mining and pastoral leases bestowed without consent from the Aboriginal peoples, but compensates these Aboriginal people for the loss of that land retrospectively, however, this legislation was rendered practically useless by amendments passed by Howard's government), apology and self-determination all emerge equally as the perceived necessary first step and the result is that not much has been accomplished. Other leaders in the community say reconciliation is a façade. Wayne Atkinson, a professor of political science and history at the University of Melbourne and a Yorta Yorta clan member, is one such man. "Reconciliation is not on the Indigenous agenda. Most of us have been involved in trying to reconcile the black and white relations on a day-to-day basis and we have been very successful. It was a government agenda used to distract us from the issues. It is a smokescreen."⁴⁹

Unfortunately, official government apology is a major political tool used by the leading political parties. Prior to the *Bringing them home* Report and recommendations, former Prime Minister Paul Keating of the Labor Party gave a speech to launch the International Year of the World's Indigenous People at Redfern Park in Sydney on December 10, 1992. In it he paved the road for an apology.

It begins, I think, with an act of recognition. Recognition that it was we who did the dispossessing. We took the traditional lands and smashed the traditional way of life. We brought the disasters. The alcohol. We committed the murders. We took the children from their mothers. We practiced discrimination and exclusion...we failed to make the most basic human response and enter into their hearts and minds. We failed to ask – how would I feel if this were done to me?⁵⁰

The issue of an apology remains a political seesaw.

More than anything, Indigenous people want to rise beyond the Stolen Generations. Dodson wrote in an editorial published in *The Age* on December 18, 1997:

If there is a lesson to be learned from our families being broken apart, it is about love, understanding, seeking and giving forgiveness. These are values that could make an Australian family of all our people within this country. Many know this. The Commonwealth Government's failure to understand has resulted in a failure at the heart of its response. In consequence, we are all the poorer.⁵¹

Conclusion

The claim that the Stolen Generations and the forcible removal of Indigenous children is genocide is a study in legal nuance. The United Nations Genocide Convention is worded vaguely enough to be at once open-ended and simultaneously useless. The most controversial phrase, "with intent to destroy," is the crux of any argument of genocide. It is clear, however, that the Australian governments violated Article II, clauses (b), (c), (d) and (e) and Article III. The historical records of legislation, Hansard, missions and memoirs leave no room for doubt. The understated methodology used in

this genocide without murder is what makes the claim seem uncertain or exaggerated.

Genocide need not be the mass murder of a group of people. The assimilation of a cultural group by annihilating their language, religion, land associations, family ties and most importantly their identity as Indigenous people cannot be justified on any grounds and is outright massacre.

The current black armband view of history is misguided. In order to move forward, a nation must often look back and learn from their collective past experiences. A nation's history is all that prevents it from repeating its mistakes. There is fear that another Stolen Generation is growing as the children of the original Stolen Generation run into trouble with the law and become involved in the juvenile justice system because they live in poverty and have poor health, and because their parents were denied the parenting skills that children develop by observing their own family.

The Stolen Generation and the act of their forcible removal from their families and Indigenous communities was an act of genocide in the twentieth century. The cycle can be broken, however, if Australia as a nation comes together to prevent it from happening again.

“We have walked. We have talked. And despite walking and talking – it's still done in circles – and remains what we commonly refer to as unfinished business.”⁵²

¹ The Victorian Stolen Generations Taskforce uses the term ‘Stolen Generations’ to refer to “any adult Aboriginal or Torres Strait Islander person separated at a young age from community, family, language, land or culture, as well as the families of that separated child.” The Taskforce estimated that three or four generations of Aboriginal children were removed in the twentieth century. This resulted in a final tally of between one in three and one in ten Indigenous children removed between 1910 and 1970 depending on their region.

² Commonwealth of Australia, *Bringing them home: Report of the National Inquiry into the Separation of Aboriginal and Torres Strait Islander Children from Their Families* (Canberra: Human Rights and Equal Opportunity Commission, 1997), 12.

³ Raphael Lemkin, *Axis Rule in Occupied Europe* (New York: Carnegie Endowment for International Peace, 1994), 79.

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- ⁴ United Nations General Assembly, *UN Convention on the Prevention and Punishment of the Crime of Genocide* (Geneva: United Nations Resolution 260 (III) A, December 9, 1948), Article 2.
- ⁵ Commonwealth of Australia, *Aboriginal Welfare: Initial Conference of Commonwealth and State Aboriginal Authorities* (Canberra: Commonwealth Government Printer, April 21-23, 1937), 21.
- ⁶ Commonwealth of Australia, *Aboriginal Welfare*, 1.
- ⁷ Frank G. Clarke, *The History of Australia* (Connecticut: Greenwood Press, 2002), 26.
- ⁸ L.R. Smith, *The Aboriginal Population of Australia* (Canberra: Australian National University, 1980), 68-70.
- ⁹ Bruce Elder, *Blood on the Wattle: Massacres and Mistreatment of Australian Aborigines since 1788* (New South Wales: National Book Distributors, 1988), 177.
- ¹⁰ Markus, *Australia's Race Relations*, 23.
- ¹¹ Coral Edwards and Peter Read, eds. *The Lost Children: Thirteen Australians taken from their Aboriginal families tell of the struggle to find their natural parents* (Sydney: Doubleday, 1989), xiv.
- ¹² William Bylar, "The Destruction of American Indian Families," in *The Destruction of American Indian Families*, edited by Steven Unger, 1-11 (New York: Association on American Indian Affairs, 1977), 2.
- ¹³ Commonwealth of Australia, *Aboriginal Welfare*, 14.
- ¹⁴ The number of years the Aboriginal people have been on the Australian continent is highly debated. The first cited evidence of Aboriginal people ranges between 40,000 and 65,000 years ago. I chose 50,000 because it was cited in former Prime Minister Paul Keating's speech "Launch of the International Year for the World's Indigenous People" at Redfern, Sydney on December 10, 1992.
- ¹⁵ Commonwealth of Australia, *Aboriginal Welfare*, 11.
- ¹⁶ Robert von Krieken, 1999. *The "stolen generations" and cultural genocide: the forced removal of Australian Indigenous children from their families and its implications for the sociology of childhood* [online]. The University of Sydney. Available from World Wide Web: <http://www.usyd.edu.au/su/social/robert/arc/papers/gen2.htm> 5.
- ¹⁷ Commonwealth of Australia, *Aboriginal Welfare*, 15.
- ¹⁸ Physicus, *The Western Australian*, July 25, 1933 as quoted by Robert Manne "Stolen Generations," *Australian Essays* 1998. Available from World Wide Web: http://www.tim-richardson.net/misc.stolen_generation.html
- ¹⁹ A. O. Neville, *Australia's Coloured Minority: Its Place in the Community*. Sydney: Currawong Publishing Company, 1947, 62.
- ²⁰ The 1933 Northern Territory Administrator's Report as quoted by Tatz, *Intent to Destroy*, 91.
- ²¹ Neville, *Australia's Coloured Minority*, 61.
- ²² *Ibid.*, 59.
- ²³ Rosemary Neill, *White Out: How Politics is Killing Black Australia* (New South Wales: Allen & Unwin, 2002), 127.
- ²⁴ United Nations General Assembly. *UN Convention on ... Genocide*, Article 2.
- ²⁵ Commonwealth of Australia, *Bringing them home*, 218 citing the Canadian Royal Commission on Aboriginal People, 1995.
- ²⁶ Commonwealth of Australia, *Bringing them home*, 205.
- ²⁷ Colin Tatz, *Genocide in Australia* (Canberra: Australian Institute of Aboriginal and Torres Strait Islander Studies, 1999), 29.
- ²⁸ Peter Read, *The Stolen Generations: The Removal of Aboriginal Children in New South Wales, 1883-1969* (New South Wales: Ministry of Aboriginal Affairs, 1982), 6.
- ²⁹ Lemkin, *Axis Rule in Occupied Europe*, 79.
- ³⁰ Stuart Bradfield, "'From Empire to Genocide Chic': Coming to terms with the Stolen Generations in Australia," *Genocide Perspectives II* (Sydney: Australian Institute for Holocaust and Genocide Studies, 2003), 249
- ³¹ Quentin Bevesford and Paul Omaji, *Our State of Mind: Racial Planning and the Stolen Generations* (Fremantle, WA: Fremantle Arts Center Press, 1998), 23.
- ³² Read, *The Stolen Generation*, 11.
- ³³ Commonwealth of Australia, *Bringing them home*, 44.
- ³⁴ Vicky Walker (coordinator for the Aboriginal Catholic Ministries), interviewed by Jessica Schimmel, Thornbury, Victoria, April 21, 2004.

³⁵ Ros Bowden and Bill Bunbury, *Being Aboriginal: Comments, Observations and Stories from Aboriginal Australians from ABC radio programs* (Sydney: ABC Enterprises, 1990), 32-33 as cited in Michael Walsh and Collin Yallop, eds., *Language and Culture in Aboriginal Australia* (Canberra: Aboriginal Studies Press, 1993), 2.

³⁶ Walsh and Yallop, *Language and Culture*, 2.

³⁷ Quentin Bevesford and Paul Omaji, *Our State of Mind: Racial Planning and the Stolen Generations* (Fremantle: Fremantle Arts Center, 1998), 54.

³⁸ Bradfield, 257-8.

³⁹ Geoffrey Blainey, "Black Future," *The Bulletin with Newsweek*, April 8, 1997.

⁴⁰ Marcus Einfeld, excerpts from a speech reprinted, *Sydney Morning Herald*, October 5, 1998.

⁴¹ Neville, *Australia's Coloured Minority*, 23.

⁴² Paul Hasluck, *Native Welfare in Australia: Speeches and Addresses* (Perth: Paterson Brokenshaw, 1953), 17.

⁴³ Kathy Whimp, *Royal Commission into Aboriginal Deaths in Custody: Summary* [online]. Aboriginal Legal Rights Movement, Adelaide. Available from World Wide Web:

http://www.austlii.edu.au/au/special/rsjproject/rsjlibrary/raiadic/raiadic_summary/

⁴⁴ Elliott Johnston, *Royal Commission into Aboriginal Deaths in Custody: National Report Vol. 5* (Canberra: Australian Government Publishing Services, 1991), 29.

⁴⁵ Shirley Brown, *Alec: A living history of the Alice Springs Telegraph Station*, (Pamphlet available at the Alice Springs Telegraph Station, 2002), 7-8.

⁴⁶ Commonwealth of Australia, *Bringing them home*, 652.

⁴⁷ Neill, *White Out*, 156.

⁴⁸ Kenny Bedford, *Through Young Black Eyes: A Handbook to protect indigenous children from the impact of family violence and child abuse* (Victoria: Secretariat of National Aboriginal and Islander Child Care, 2002), 66.

⁴⁹ Wayne Atkinson (Political Science and History professor at the University of Melbourne), interviewed by Jessica Schimmel, Parkville, Victoria, April 19, 2004.

⁵⁰ Paul Keating, "Australian Launch of the International Year for the World's Indigenous People." Speech, Redfern Park, Sydney, December 10, 1992.

⁵¹ Mick Dodson, "We all bear the cost if apology not paid," *The Age*, December 18, 1997.

⁵² Brickell "National Sorry Day Speech, 2003," Federation Square, Melbourne, May 26, 2003.