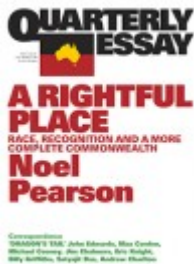


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A STAKE IN THE GAME

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Quarterly Essay 55: A Rightful Place: Race, Recognition and a More Complete Commonwealth by Noel Pearson

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There has been a lot of concern about Noel Pearson's words in the past two years. I don't mean his written words: those have diminished since his last *Quarterly Essay* in 2009. Throughout 2012, as he sought treatment for lymphatic cancer, Pearson's weekly columns in the *Australian* virtually disappeared, to return only intermittently. Instead, the focus recently has been on what he has said in personal conversations, in which he is alleged to have verbally abused journalists, public servants, ministers and colleagues alike. These allegations have gained traction due to their number and their sources, which have included former boosters such as the *Australian's* Tony Koch. They have, in turn, elicited written defences from Pearson's allies. Apologetics have included everything from outright denial to arguments that ill-temper is an excusable flaw in a great leader, who has been frustrated by a life spent in a slow-moving policy environment with recalcitrant white bureaucrats.

I raise this set of concerns not to resolve them, but to ask the naive question: why is Pearson's behaviour important? Certainly, these alleged actions contrast with his public persona, which

since 1993 has frequently been that of the conciliator and consultant, first in negotiating with the Keating government, then in the role of adviser to subsequent Prime Ministers, including John Howard, Kevin Rudd and Tony Abbott. In his speeches and essays, Pearson routinely frames himself as someone dedicated to the principles of deliberative democracy, a synthetic thinker on the hunt for ‘the radical centre’, a land rights activist ‘up from the Mission’ soliciting accords in the halls of government. Now some former supporters feel betrayed, as though his personal failings mean he will not, in Koch’s words, ‘mature into a leader for both black and white Australia’. As many Indigenous scholars and activists have noted, white Australians often assume they have a mandate to pass judgement on the culture, behaviour and legitimacy of Indigenous people. At the same time, it would be ‘soft bigotry’ in Pearson’s terms to hold him to a different standard than others.

An alternative answer to my naive question is that Pearson’s alleged behaviour, and our interest in it, matters primarily because it reveals how we engage with him and his work. Despite the fact that he holds no elected office, we address him at an *ad hominem* level, as we might a politician, as an amalgam of person, politics and practice: someone who, despite his bipartisan approval, is nonetheless a partisan figure. His essays, his initiatives and his tactics are all dealt with at the level of belief. You are a true believer or not, with the result that any position in between is liable to be allotted by either ‘side’ to the other ‘side’. This fallacy is perpetuated by his trenchant critics and his supporters alike. It is an exercise in branding whereby a flaw in his person is a flaw in his politics is a flaw in his programs. I am not suggesting verbal abuse is a trivial matter, but rather that it might be better to approach the work of any influential figure in Indigenous Australian policy through a consideration their career and work, rather than their phone manners.

One symptom of this situation is that there is a relative lack of work dealing with the ideas and the evidence in Pearson’s thought. There are many exceptions in academia – the work of Jon Altman, Gary Foley, David F. Martin, Tim Rowse and Irene Watson, for example – but these are far less numerous or prominent than the speeches and editorials addressing Pearson as an ‘Indigenous leader’ or, in Prime Minister Abbott’s words, a ‘prophet’. Few seemed to notice, for instance, when the evaluation report of his keystone \$100 million welfare reform trial in Cape York was released in 2013. The *Australian* carried quotes about ‘positive results’ and suggested that the trial was ‘changing lives’, ignoring the report’s admission that there are ‘no externally valid measures’ of the desired outcomes, that some improvements were not attributable to the trial, and that no cost-benefit analysis had been completed, despite its inclusion in the initial proposal. This is not to suggest that the fêted trial is a failure – to use that favoured policy refrain – but that its nature and effects are largely unknown. It seems that in our attempts to address the ‘wicked problem’ of Indigenous social policy, many are largely satisfied to believe in a mythic figure rather than wrestle with the realities. Many others, it should be said, understandably wish to work towards local change, while avoiding the polemics of the national policy space.

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Pearson's rise to prominence began in the early 1990s when, as spokesman for the newly formed Cape York Land Council, he played a major role in public debates over the Mabo case and the recognition of native title in Australia. But his transformation into a national 'leader' began in earnest with his self-published *Our Right to Take Responsibility* (2000), an essay in which he gave his diagnosis of the ills of the 'passive welfare mentality'. Pearson argued that the pre-colonial 'economy' of Indigenous people 'was a real economy and demanded responsibility', just as the 'real economy' of the Missions had maintained that 'work was imperative to survive'. The introduction of equalitarian civil rights and access to social welfare in the late 1960s had created a 'gammon economy' that uncoupled survival from labour. The consequences for remote Indigenous communities, as he laid them out, were disastrous. Social welfare payments, he has often repeated, are literally an 'addiction' and need to be treated as such if communities and governments hope to establish individual responsibility.

Reading across his work, from his 1986 honours thesis on the 'Mission culture' of his hometown of Hope Vale to this newest essay, *A Rightful Place*, there are notable consistencies. He is ultimately a romantic thinker, in the sense that he always aims to trace a course from disaster towards redemption, rather than mere remediation. There are certain 'human' truths derivable from Enlightenment thinkers – particularly Adam Smith, Edmund Burke and Johann Gottfried Herder – whose realisation would be our perfection: self-interest is the driver of all progress; the market and the family are our ultimate context; rationalism is the measure of all thought. These truths are supplemented by the work of economist Amartya Sen. They have led to Pearson's affirmations of both the singular ability of market economics to alleviate and elevate populations and his cosmopolitan view of individuals as, following Sen, 'layered identities'. Indigenous people, like everyone else, are attached to and defined by many other identities besides their Indigeneity. The other side of this, as he affirms in his newest essay, is that a 'serious' people must embrace their inevitable inclusion within the Australian state, with their specific culture and rights incorporated within a 'united, undifferentiated public citizenship'.

Another consistent attitude is Pearson's suspicion of those he alternately labels progressives or liberals. In *Land Rights and Progressive Wrongs* (2003), he mirrors and develops ideas also voiced by anthropologist Peter Sutton in 2001, suggesting there had long been 'dysfunction' in remote communities that 'the left was unwilling to discuss'. Avowedly 'progressive' ideals, such as community self-management and a focus on land rights, had actually 'kept my people down in the underclass'. Progressives, in Pearson's account, are ideologues. They reframe disadvantage and destitution as legitimate cultural difference. In a 1987 essay, Pearson voiced his misgivings about anthropologists and other 'experts' creating ideas about Indigenous culture 'that now shackle Aboriginal society'; in *A Rightful Place*, he restates his misgivings about environmentalists and the 'green left', accusing them of perpetuating 'racist' conceptions of what should be allowable on Indigenous land. The 'left'

have, however, steadily receded as the object of his address, while remaining the caricatured object of his rhetoric. They are tacitly assumed, perhaps correctly, to support Indigenous empowerment and constitutional recognition.

At the same time, one of the clearest inconsistencies in Pearson's work is his own reading of Indigeneity. Caught between his own cautions about essentialising and the need to define Indigenous people as a group with legitimate differences and a special claim on the state, he shifts his definition between texts. The result has been an insistence on different accounts of continuity at different points. He has stated that the 'dysfunction' of some remote communities is the product of their 'classical' society and that it is not organic to them; that tradition drives human existence and that it is 'a choice rather than a necessity'; that communal lands constitute the 'cultural hearth' of Indigenous people and that there should be reform to allow private ownership. In *A Rightful Place*, 'Indigenous culture' is less the practices and beliefs of three per cent of the national population than it is the languages and stories of antiquity, which, he states, are Australia's national heritage. As Tim Rowse has argued, the 'people' conceptualised in Pearson's work shift between a kind of class defined by their economic status, a specific population defined by their remoteness and isolation, a dispersed racialised minority defined by their relation to the Australian state, and (at minimum) the residents of Cape York. Overall, Rowse writes, Pearson's shifting account of Indigenous people-hood 'thus dwells on what makes them like their fellow Australians as much as on what distinguishes them'.

The many other contradictions found within and between Pearson's texts are more like musical variations, riffs around themes shaped to suit the political mood of the moment. To give one example, Pearson often argues forcefully about the disadvantage and racism experienced by Indigenous people and how this leads to economic and social marginalisation. In 2000, attentive to the interests of Howard-era neoliberalism, Pearson wrote of Indigenous peoples' 'right to an economy' and their 'right to take responsibility', granting them prospective accountability. *A Rightful Place*, however, argues that they want and need to be 'allowed' their 'freedom to take responsibility'. Similarly, Pearson has written on many occasions about the need for government and its agencies to be 'junior partners' in Indigenous governance, detailing the disastrous and paternalistic experiments that have diminished people's capabilities rather than enhanced them. But he has often made exceptions in moments of apparent crisis, providing fiats for top-down state interventions such as the Northern Territory Emergency Response (the Intervention), conditional income management, and alcohol bans in remote communities. Perhaps, just as David Marr has suggested about Abbott, Pearson is an amalgam of savvy pragmatist and idealist.

A Rightful Place is a curious mix of these two tendencies, one attuned to the present administration. It outlines a platform for the constitutional recognition of Indigenous people, without making major prescriptions. It returns to some favoured points cribbed or

paraphrased from previous work. It is primarily an appeal to conservatives and *realpolitik* liberals who agree, as Pearson often says, that ‘only Nixon can go to China’ – that is, only a conservative can win the prize of constitutional change, where success relies on a majority of people in a majority of states acceding.

The task of convincing this audience takes on many forms. It includes a comic binary between ‘liberals’ and ‘conservatives’ paired with a flattering image of ‘the right’ ready for their delectation. Real conservatives are, in Pearson’s account, the guardians of memory and tradition, a group for whom difference is intrinsically valuable and ‘an end in itself’. They are apparently defined by their ‘respect for and connection with the dead’, expressing *anoikophilia* (‘love of home’) that parallels many Indigenous peoples’ love of country. Pearson neglects to consider how this praise matches poorly with the actual record of actual conservatives, whose policies and practices have often expressed no regard for the differences and traditions of Indigenous and migrant groups alike, and whose love of home has, in practice, driven them to deny and undermine the legal recognition of Indigenous relations to country. These ‘real conservatives’ are fictions designed to seduce. In seeking this end, Andrew Bolt rates a sympathetic mention, the *Australian* and Rupert Murdoch are addressed with great admiration, and even Galarrwuy Yunupingu and Rachel Perkins are addressed as ‘Australian conservatives’.

The argument begins by outlining the grounds of Indigenous peoples’ grievance with the state, reminding us of the ubiquity and vulgarity of nineteenth century racism, and of the decimation of Tasmanian Aborigines. While Pearson agrees with settler colonial historians, such as Patrick Wolfe, that ‘protectionism’ and extermination both ostensibly seek the end of distinct peoples, he stops short of Wolfe’s larger argument that today’s politics of recognition are part of the same structure. In Pearson’s account, dispossession is presented as being largely in the past – rather than ongoing – though this is done to make the case that Australia has failed to come to terms with ‘the fact that there were *peoples* here before the British arrived’, and has never seriously made ‘provision for those peoples and their interests to be recognised within the nation’. Pearson proposes that this settlement might come about via constitutional change, first, through refiguring the category of race and, second, through reshaping the mode of inclusion.

As he lucidly argues, the inclusion of the category of race in the 1901 Constitution allowed Indigenous people to be excluded from the foundation of the Commonwealth. Section 51 xxvi disbarred the Commonwealth from making laws with respect to ‘the aboriginal race in any State’. The error was exacerbated by the 1967 referendum, which brought Indigenous people within the ambit of federal power, protecting them from the predations of autocratic states, but on the ‘fatefully wrong’ basis of race.

Pearson suggests we now excise the antiquated and false category of race. It is hard to imagine who would oppose such a proposition. The 22-person Expert Panel on Recognising

Aboriginal and Torres Strait Islander Peoples in the Constitution, of which he was a member, recommended the deletion of Section 51 xxvi – though, unlike the panel, Pearson does not now recommend adding supplements, such as provisions prohibiting racial discrimination and entitling the Commonwealth to make laws to assist any group in overcoming disadvantage, ameliorating past discrimination and protecting their cultures, languages and heritage. Many will criticise this retreat from recommendations he helped write as a lack of courage, or a surfeit of pragmatism. Pearson admits that it stems from his honest appraisal of what will succeed. New prohibitions will not, he states, gain the necessary support from ‘con cons’ (constitutional conservatives) and others. It would be rude, of course, to remind us that these are the same people who have been recently toiling to undermine existing racial discrimination laws.

The second aspect of Pearson’s argument does not necessarily have anything to do with the Constitution. While Pearson presses for a renewed inclusion through both the preservation of Indigenous cultural heritage and a new Indigenous governance agency, he does not explicitly state that these should be part of a referendum. It is a strange destination to find oneself in as a reader, given the essay spends significant time outlining Indigenous identity. Pearson writes of people with homelands, languages and cultures; people who have been, and continue to be, subject to the singular brew of paternalism, ignorance and racism that typifies Australian statecraft.

What would the necessary ‘indigenous voice in indigenous affairs’ and ‘substantive change in the national approach’ look like? Few engaged in Indigenous politics would disagree with the basic contention that Indigenous people want and deserve a robust presence in government. Might Pearson prefer it to take the form of a special committee, or a revived Aboriginal and Torres Strait Islander Commission (ATSIC), or some franchise version of the unfinished ‘Empowered Communities’ initiative? Does he hope for it to be designed by Koori, Murri, Nunga, Palawa, Yolngu, Noongar and Anangu people, for example, or should it be designed by existing Indigenous bodies, or should it be bestowed by Canberra? He doesn’t say. In only explicitly committing to the elimination of race from the Constitution, *A Rightful Place* is curiously limited. It leaves its author free to test ideas in the Murdoch and Schwartz media without declaring his hand.

As Pearson notes, Australia’s lack of any enduring Indigenous institutions to represent Indigenous people’s interests to state and federal governments makes it peculiar among settler colonial countries. Māori-specific seats have existed in Aotearoa New Zealand’s parliament since 1869, and a multitude of national bodies also exist, including, among others, the Māori Women’s Welfare League (founded in 1951), the New Zealand Māori Council (founded in 1962) and the Federation of Māori Authorities (founded in 1985). In the United States, large organisations such as the National Congress of American Indians (founded in 1944) and the National Indian Youth Council (founded in 1961) also continue to function today as forms of national representation.

Institutions have momentarily fulfilled this function in Australia – the National Aboriginal Consultative Committee (1973-1976), the National Aboriginal Conference (1977-1985), ATSIC (1990-2005), the National Indigenous Council (2004-2008) – but they have all faced the same relative disadvantage, existing chiefly at the discretion of administrations that inevitably feel entitled to end them. With little public backlash, these bodies were each dissolved, typically once their membership's inability to influence negative policy decisions made their position untenable. ATSIC, the sole body with an elected membership, a statutory basis and any financial power, was disbanded amidst allegations of corruption and chauvinism in 2005. Following the critical 'In the Hands of the Regions' review in November 2003, and with the support of the Labor Party, Prime Minister Howard happily declared that 'the experiment in elected representation for Indigenous people has been a failure'. Since this time, Indigenous people continue to lack guaranteed political representation. Neither the elected National Congress of Australia's First Peoples (2010-present), nor handpicked advisory boards, such as the Indigenous Advisory Council, have any formal power.

Those familiar with Pearson's career may find his hope for a new Indigenous agency hypocritical or disingenuous. He has not held or run for any elected office, despite apparent opportunities, and he has sometimes been criticised by elected bodies, such as Indigenous community councils, for excluding them or speaking for them. More broadly, while he reminds us throughout *A Rightful Place* that he is 'a reader of history', he curiously neglects to address his own experience and knowledge of this particular past. His career reveals his acute awareness, for instance, of the vulnerabilities of Indigenous representatives and institutions, and how time and again they have been discarded when they became inconvenient. It is not difficult to imagine why, for instance, he has not sought a parliamentary career like Senator Neville Bonner (1971-1983), the first Indigenous person to be elected to federal office. Bonner faced down the difficulties of being, in Rowse's words, 'simultaneously a liberal, a Queenslander and a champion of Indigenous rights' during the Bjelke-Petersen era. When, after several terms in office, he sought to prioritise Indigenous interests over others, he was seen by the Liberal Party to have gotten 'out of hand' and was demoted to an unwinnable position on their Senate ticket. Other parliamentarians, such as Ken Wyatt and Linda Burney, have been disparaged as insufficiently 'authentic' and therefore not representative of their people.

Pearson's rise to the position of national 'Indigenous leader' over the past two decades has involved significant contact with politicians, but almost no engagement with representative institutions. He has developed 'policy solutions' that have enabled him to avoid state capture while attaining formal and informal influence. There is a line from Pearson's 1993 Boyer Lecture that sticks out in this regard:

For a long time, the only political currency Aboriginal people could use was their refusal to be involved ... [now] to refuse to engage in the game and to fail to appreciate the rules and limitations – even if we still wish to disrupt the game – no longer seems smart.

Since this time, he has developed a network of allied private organisations over which he has significant control but mixed formal power. After *Our Right to Take Responsibility*, he founded a new coordination agency, Cape York Partnerships, the centre of a significant COAG trial targeting development and social reform. The policy body Cape York Institute followed in 2005, made possible by on-going financial support from state and federal governments, with the aim of devising and implementing the Cape York welfare reform trial. Calling upon the support of the Murdoch press, Pearson secured an extension for this trial in 2012. It now includes over fifteen initiatives, ranging from bicultural schooling to small home renovation grants. Today, his liaisons with power involve publicly playing host and friend to Andrew Forrest and the ‘once-in-a-generation conservative’ Tony Abbott. In September 2013, Abbott pledged to support Pearson’s new initiative, ‘Empowering Communities’, which hopes to combine aspects of the trial with new funding arrangements between government and regions.

Whether or not one finds this complex situation dubious – and there are critics – I raise it to make a larger point. A significant reason that Pearson is an influential person today is because he has thrived during a period in which other Indigenous representatives and agencies retreated or were removed from ‘the game’ of trying to wrestle equity and recognition from political elites. While white agencies and authorities have slowly repossessed any power they ever ceded over Indigenous affairs, Pearson has been singularly successful in building his agenda and maintaining his autonomy. It is too simple to suggest, as some have, that this is because he acts as a government functionary. He is both idealist and pragmatist, both a supporter and a trenchant critic of state-led interventions into Indigenous lives. It is more accurate to say that Pearson has tactically navigated the fraught space between governments, mainstream news media, Indigenous communities and Indigenous citizens, diversifying his interests in order to distribute his vulnerabilities. The network he has built operates at a distance from both government and Pearson himself. It is able to cooperate with initiatives, given the opportunity, but it is also able to survive the collapse of a funding source, the criticism of a single organ, or the ‘reform’ of a single sector. In the national context, the network Pearson has built in Cape York has been uniquely successful in surviving and garnering more and more support from governments, journalists and the non-Indigenous public alike. For Pearson to argue for a new democratic organisation integrated into government will remind some of the old Groucho Marx line: he doesn’t care to belong to any club that will have him as a member. And with good reason.

At the same time, we need to remain clear that Pearson’s status as a leader and public intellectual in this space is made possible by other features of ‘the game’ in Australia. Due to the reluctance of Australians to incorporate Indigenous people into government since 1788 and the consequent need for administrations to legitimise the ways in which they govern a historically subjected people without any guaranteed representation, Australia is always in want of a social license. As a result, individual administrations are always in want of answers, always in want of advocates and panels that can be recognised – whether by the white

majority, Indigenous communities, or both – as giving the appearance of being a consultative, participatory, receptive government.

This is the less obvious structure of ‘the game,’ the structure that will now produce predictable and reactive suggestions from the many (white) commentators and pundits who, for various reasons, are fearful of any substantive change. For those (few?) who admit that this may not be a matter of market integration and remediating equity here and there, the answers will be royal commissions, and standing committees on Indigenous affairs (there is one, it is all white), and advisory bodies, and consultation in ‘the bush,’ and sector reform and expert panels, as though these things are entirely novel. The whole spectacular carnival of government managerialism will be put to the task of preserving power in the colonial state.

What role will Pearson and other Indigenous groups and individuals take in the constitutional debate over the forthcoming two to three years? The purpose of *A Rightful Place* would seem to be for Pearson to announce his presence but not his actual position, and to pressure the ‘Prime Minister for Aboriginal Affairs’ to develop his own platform. Pearson does commit to the deletion of race, but his proposed agenda to support the preservation of Indigenous ‘classical culture’ is more clearly a budgetary item. It is a matter of funding and museums, not constitutional clauses. As for the possibility of a major alteration of the governance of Indigenous affairs, this is where the concern will now lie, though the only truly ‘substantive’ response will be a statutory one. The deep irony is that while the creation of a robust statutory body would have little effect on Pearson’s own career, it might spell the end of careers such as his. It might be the end of gestures like this new *Quarterly Essay*; the end of private citizens being greeted as the sole voice of a people; the end of messiahs and ‘solutions’; the beginning of a serious settlement for Indigenous people.

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