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Indigenous Recognition's Misguided Case

The genuine ground for recognising indigenous peoples—that doing so would establish historical truth about the country's origins—also applies to British settlement and the original Anglo nation which gave Australia its name

When I first read of the proposal to recognise indigenous Australians in the Constitution, I thought: *it's about time*. Recognition is the honest and empathic thing to do. If I were of indigenous descent, knowing that my country had been colonised and my people reduced from sole occupants to a small and marginalised minority, I would want my people recognised in a form that would build their pride and gain respect from other Australians. In addition the status brought by constitutional recognition would be adaptive in the biological sense of group survival. Aborigines are related genetically to one another like first cousins compared to White Australians[1] and I know that in their position I would have fraternal feelings towards ethnic kin due to shared culture and ancestry.

Australia's First Peoples—Aborigines and Torres Strait Islanders—have a claim to recognition in the Constitution second only to Australia's historic nation, the continent-wide community of sentiment and shared culture, memories and homeland that awakened in the second half of the nineteenth century. That nation by now includes many people of indigenous descent and the descendants of immigrants from around the world. Like all ethnic families indigenous peoples have a vital interest in continuity and status. I understand their wish to place that interest beyond the vagaries of ideological fashion. It is right and reasonable for citizens to pursue their interests when those do not conflict with vital

national interests. Like many Australians I respect indigenous aspiration for recognition and fair treatment.

Then I read the recommended changes to the referendum. These are in the *Report* of the Expert Panel appointed by former Prime Minister Julia Gillard. The changes are unacceptable, even if placed in the Constitution's preamble, primarily because they fail to recognise the origins of the Australian nation. The amendments would symbolically, and legally if the panel had their way, alienate the nation from its homeland. This flaw is compounded by poor arguments. Contrary to the panel's advice, constitutional recognition will not close the gap in indigenous health, criminality and employment. The genuine ground for recognising indigenous peoples—that doing so would establish historical truth about the country's origins—also applies to British settlement and the original Anglo nation which gave Australia its name.

The Expert Panel's *Report**[2]*** is a sinister document. It is biased ideologically and ethnically against the traditional Australian nation. Its analysis is flawed by the same ideological distortions and intolerance that have plagued multiculturalism since its inception. It contains psychological and legal traps which if allowed into the Constitution will be sources of endless demands, litigation and propaganda. Social cohesion would be undermined.

This essay has three parts, which will be published in this and subsequent editions. The first summarises the *Report*'s recommendations and their anti-national bias, the cause of which appears to be irrationality produced by the long-running series of culture wars over race and ethnicity. Two subjects afflicted by irrationality are the causes of Aboriginal disability and the meaning of nationhood.

The second part continues to discuss irrational social analysis, looking at UN influence and the race concept. The two themes intersect in Ashley Montagu, a radical anthropologist given prominence in the *Report.* An examination of Montagu illuminates the culture war over ethnicity.

The third and final part of this essay begins by describing how the Expert Panel was ethnically biased, despite being appointed by an avowedly multiculturalist government. I outline fair principles by which national and indigenous origins might be recognised in appropriate relation to one another in the Constitution. By failing to recognise the historic nation, the *Report* falls short of these principles and should be opposed.

An ethnically biased constitution

If the Expert Panel's *Report* is a guide, Australia is headed towards an ethnic Constitution, one that establishes in perpetuity special status and rights for indigenous and only indigenous Australians.

The Expert Panel urges five amendments. Two would recognise indigenous peoples; three would prevent the government from discriminating on the basis of race.[3] The first

proposed amendment regarding recognition is a new Section 51A, which lays the basis for the Commonwealth to discriminate in favour of indigenous Australians. The recommended wording follows, with the preambular words in italics and the operative words at the end:

Section 51A Recognition of Aboriginal and Torres Strait Islander peoples

Recognising *that the continent and its islands now known as Australia were first occupied by Aboriginal and Torres Strait Islander peoples;*

Acknowledging *the continuing relationship of Aboriginal and Torres Strait Islander peoples with their traditional lands and waters;*

Respecting *the continuing cultures, languages and heritage of Aboriginal and Torres Strait Islander peoples;*

Acknowledging *the need to secure the advancement of Aboriginal and Torres Strait Islander peoples;*

the Parliament shall, subject to this Constitution, have power to make laws for the peace, order and good government of the Commonwealth with respect to Aboriginal peoples and Torres Strait Islander peoples.[4]

The new section is recommended for the body of the Constitution, which would make its affirmative discriminatory thrust legally binding on governments. (Calling the four introductory sentences "preambular" does not diminish their relevance for interpreting the final bland sentence when they are included in the body of the document.) The requirement to "secure the advancement" of indigenous peoples would remain in force even if the special need for assistance no longer existed, as is already true for many Aborigines. It would carry symbolic force even if placed in the preamble.

A constitutional assertion that indigenous peoples' ties of land, culture and language are "continuing" would have great significance when juxtaposed with the *Mabo* ruling by the High Court in 1992. The ruling made native title conditional on continuity of the laws and customs that tie a group to the land in question. Assimilation of young indigenous people is ending that continuity, as admitted recently by Aboriginal leaders.[5] A constitutional declaration of continuity would likely widen and extend claims to native title. When someone who calls herself indigenous has ancestors most of whom arrived in recent history from outside Australia, when she has no more relationship to the land than other Australians, and when she has little or no culture, language or heritage that is distinctively indigenous, taxpayers might still be required to subsidise her "advancement". Thus attempts to revive, institutionalise and perpetuate native identity, law and customs are not as innocent as they first appear. They favour the movement to carve an Aboriginal nation out of the Australian nation.

To its credit, the Gillard government balked at the open-ended provision for advancement. It preferred an amendment that allowed for laws that "closed the gap" between indigenous and mainstream Australia, which would lose force once equality had been achieved.[6] However, this is tantamount to

bestowing a perpetual privilege because it assumes that equal outcomes are a reliable sign of fair treatment and are achievable in the foreseeable future. The irrationality of this assumption is discussed below in the section headed "The *Report*'s confused analysis".

Yet no recognition or special protection is proposed for the Australian nation, despite that nation having founded the Commonwealth and even while its identity, territorial bonds and folk ways come under growing pressure from multiculturalism fuelled by rising diversity and a hostile intelligentsia. Only the fact that most Australians speak English causes the Expert Panel to let slip a linguistic clue to the ethno-historical roots of the Australian nation.

The second amendment concerns language:

Section 127A Recognition of languages

(1) The national language of the Commonwealth of Australia is English.

(2) The Aboriginal and Torres Strait Islander languages are the original Australian languages, a part of our national heritage.[7]

This seems a relatively harmless amendment, though it carries inaccuracies in terminology. It is generally untrue that indigenous languages are part of the national heritage, which is overwhelmingly of British and European origin. Indigenous languages might be part of the Commonwealth (state) heritage, depending on the point of view adopted, but it would be imprudent to assert either claim in law without considering the legal meaning of the terms "national heritage" and "Commonwealth heritage" and the possible costs to the country, both material and symbolic, of including them in the Constitution.

The recommendation is valid when it recognises that indigenous language came first. Those languages would become part of the national heritage should they become integrated into the national community. But the proposed amendment disrespects the nation by treating English as inferior. Indigenous languages are given historical priority and are ethnically identified as coming from Aboriginal and Torres Strait Islander peoples, while the status and provenance of the English language are unremarked. As to status, English is not stated to be part of the national heritage. It is not even recognised as the national language, because "national" is used to mean Commonwealth or state. Thus construed, the "national language" is merely the linguistic common currency of an officially multicultural regime.

There is no empowering or restrictive wording that sets out what "recognition" entails. For example, there is no requirement that legal and administrative documents be in English and, as a goal, only in English. The language is not extolled, for example as the language of law, science and government. Neither is the history of Australia's English language stated, that it was brought fully formed to these shores by British settlers and kept as their people's ancient language before it became the national and international *lingua franca*. Without empowerment and historical

recognition, calling English the national language is an empty gesture.

Three of the recommended amendments are aimed at preventing legislation that discriminates by ethnicity.

That section 25 be repealed.

That section 51(xxvi) be repealed.

That a new section 116A be inserted, along the following lines:

Section 116A Prohibition of Racial Discrimination

(1) The Commonwealth, a State or a Territory shall not discriminate on the grounds of race, colour or ethnic or national origin.

(2) Subsection (1) does not preclude the making of laws or measures for the purpose of overcoming disadvantage, ameliorating the effects of past discrimination, or protecting the cultures, languages or heritage of any group.

The media have repeatedly called sections 25 and 51(xxvi) "racist clauses", perhaps prompted by the Expert Panel's claim that Australians "are increasingly aware of the blemish on our nationhood caused by … section 25 and the 'race power' in section 51(xxvi)".[8] In fact section 25 was designed to "penalise … those states where Aboriginal people had not been given the right to vote".[9] Thus it was in reality an *anti*-racist section. Its elimination is not high principle but a matter of housekeeping, removing protection of indigenous people that became redundant when all the states emulated long practice in New South Wales, Victoria and South Australia of granting indigenous suffrage. Neither is section 51(xxvi) racist or a blemish, but a necessary legislative power of any society that wishes to retain essential instruments for managing ethnic affairs, as argued below. That section states:

51. The Parliament shall, subject to this Constitution, have power to make laws for the peace, order, and good government of the Commonwealth with respect to:–

… (xxvi) The people of any race for whom it is deemed necessary to make special laws

The Expert Panel objected to this provision on the ground that it could be used to discriminate against individuals on the basis of race. They considered this so objectionable that they recommended not only its removal but the insertion of the new section 116A, quoted above, that forbids laws or measures that discriminate on the grounds of race or colour or ethnic or national origin but does allow government to discriminate affirmatively for any group it designates as disadvantaged.

The Labor government of the time, headed by Julia Gillard, did not object to the proposed section 116A except for doubting its chance of being passed at referendum. The opposition leader then, now Prime Minister, Tony Abbott, was critical of the substance because it resembled a "single-issue bill of rights", alluding to the long-running debate on that subject. "In examining the report we will be looking closely at the potential legal

ramifications of any specific anti-discrimination power."[10]

When we do look closely, the ramifications take the form of legal traps that would impede responsible government. Let us begin with external affairs, which includes immigration policy. The proposed section 116A does not exempt foreign affairs from its anti-discrimination provision. It is likely that a constitutional ban on racial discrimination would result in legal challenges that could tie the hands of governments attempting to stop illegal immigration. From the *Tampa* incident of 2001 some commentators such as Phillip Adams have accused border protection measures of being racially motivated.[11] This is false—far greater numbers of non-whites are accepted as legal immigrants without a public outcry. Nevertheless, the accusation is easily made by a well-resourced human rights industry because the great majority of illegal immigrants are from non-Western countries. True or false, governments in the past could ignore such accusations. A constitutional ban on racial (that is, by race, ethnicity or culture) discrimination would complicate matters. The result is likely to be some compromise of border protection efforts.

A second example is more difficult to separate from race. In 2007 the Howard government reduced the number of refugees accepted from the African region of Sudan due to the high rate of crime they committed in Australia.[12] Was this racist? The government claimed the criterion was geography but the accusation, again, was easily made because the problem population consisted of black Sudanese. The government was accused of rejecting *African* refugees, not those from particular regions.

It is often difficult to untangle geography and culture. Governments might have to choose between appearing discriminatory and sacrificing public security. A constitutional prohibition of racial discrimination such as section 116A would push decisions away from the public interest and towards politically correct cosmetics. According to the Expert Panel, any discrimination that is not affirmative action is totally unacceptable. But what should be the priority of Australian governments, avoiding discrimination (and its appearance) or protecting the public welfare? If the Expert Panel has its way, Australians will be less able to "decide who comes to this country", in John Howard's memorable phrase.

Even if section 116A exempted external affairs, there are domestic situations where ethnically-targeted policies are needed, and not only in the form of affirmative action. The proposed section 116A makes no allowance for national emergencies. In both world wars Australia interned citizens who were thought likely to sympathise with enemy nations (Germany in the First World War, Germany and Japan in the Second). This was clearly discriminatory but cannot be dismissed as improper on that ground alone. Another example is the Howard government's intervention in Aboriginal communities in the Northern Territory. This has been condemned as racist, though its goal was to prevent widespread neglect and abuse of indigenous

children. Was it affirmative action to send police and troops into the communities of one ethnic group? That is debatable. Another example is the ABC, which broadcasts a great deal of quality drama, comedy and news from the BBC and other sources in Britain. Is that discriminatory? It is certainly differential treatment. An anti-discrimination clause would allow a legal challenge aimed at making the ABC more like SBS, with balanced programming from around the world. There are many more such legal traps, from mouse-size to kangaroo-size, because discrimination, in the form of differential treatment, is a vital dimension of human societies. I discuss this at greater length in the section headed "UN influence".

The wider difficulty with the anti-discrimination section is that it is open to a variety of interpretations. Many cultures and ethnicities can be interpreted to be in need of special assistance, though the case is harder to make for the majority ethnicity. Thus the proposed section would allow affirmative action for minorities but impede protection of majority interests. The proposed section 116A does not define racial discrimination. Does that term mean differential treatment, the commonsense definition, or the United Nations' very different definition based on reduction of victims' human rights? I also discuss this problem in the section headed "UN influence".

Another general problem is that the proposed section would prevent governments from regulating ethno-cultural diversity, the costs of which I previously described in *Quadrant* (in the June 2010 issue).[13] Diversity promotes a number of social dysfunctions including loss of social capital and an increasing risk of conflict. For that reason ethnic diversity should not be allowed to get too far ahead of the assimilation process. Keeping diversity within bounds is an interest shared by all citizens. Ethno-cultural diversity also threatens national identity which is vested in the majority into which all others assimilate at various rates. The Expert Panel, though staffed by subtle legal brains, failed to mention that 116A would remove the nation's ability to use immigration policy to limit diversity for the peace, order and good government of society or for ensuring national continuity. This double amendment—repealing section 51(xxvi) and installing a new 116A—would disarm the Commonwealth with regard to ethnic affairs. That is the single most deadly trap in the *Report*.

The proposed amendments are outrageous not because they seek to recognise indigenous peoples in the Constitution but because they would do so without mentioning the nation's British, European and Christian origins, its more than a century and a half of development as a self-consciously Anglo society, and its attachment to the Australian homeland. In addition the proposed anti-"discrimination" section would prevent elected representatives from managing immigration and domestic ethnic affairs to preserve domestic peace and national identity.

The *Report*'s confused analysis

Errors of fact and analysis mar the *Report*.

Aboriginal disability

An argument advanced by the *Report* is that the Constitution's non-recognition of indigenous peoples has caused them to suffer numerous disabilities. There is a well-known "gap" between indigenous and other Australians. The gap includes a life expectancy about ten years less than non-indigenous Australians, "substantially lower" educational outcomes such that 80 per cent of outback Aboriginal children of school age cannot read,[14] a lower rate of employment, and much higher rates of imprisonment and juvenile detention, chronic disease, child abuse and neglect, and family and communal violence. To this could be added catastrophically high rates of alcoholism and neurone-killing petrol sniffing, especially among rural communities.[15]

The argument that recognition would help close the gap is being used to sell the referendum. The*Report* has a featured quote from Timmy Djawa Burarrwanga of the Gumatj clan to the effect that the Constitution's omission of recognition causes lawlessness and anarchy that were previously unknown to Aborigines.[16] The promise of a cure for indigenous disability is clearly seen as a persuasive argument. The articulate advocate, Aboriginal lawyer and community leader Noel Pearson, sums up the argument with the heading: "Constitutional reform crucial to indigenous wellbeing", discussed below.[17] The argument is being repeated by recognition advocates across the mainstream political spectrum. The argument takes the form of assertion without supporting evidence. "How can [recognition] not help to make inroads in tackling the disadvantage and damage? How can that not help foster more indigenous innovation …?"[18] The Expert Panel does not offer much more.

The *Report* maintains that the gap will not be eliminated until "remnant discrimination" is removed from the Constitution and "all people are treated equally before the law".[19] Leaving aside the Expert Panel's recommendation that discriminatory clauses be *inserted into* the Constitution; and leaving aside the fact that the panel fails to locate any discrimination against Aborigines in the Constitution (as already amended), let us consider the panel's evidence. Is there any basis for attributing a causal connection between Aboriginal disability and lack of constitutional recognition?

Three submissions to the Expert Panel are cited, from the Royal Australian and New Zealand College of Psychiatry, the Western Australian Centre for Health Promotion Research, and the Lowitja Institute.[20] The first two submissions provide no evidence (the third is discussed presently). Instead they assert, as does the Expert Panel, that non-recognition causes disability, citing other publications as a substitute for describing the empirical evidence. Looking at those titles indicates that they are not quantitative epidemiological investigations able to identify causes of socio-economic disability.

The College of Psychiatry comes closer to making an empirical argument in claiming that indigenous mental health would benefit from constitutional recognition. This narrow issue is apparently a corollary of a general law: "The lack of acknowledgement of a people's existence in a country's constitution has a major impact on their sense of identity, value within the community and perpetuates discrimination and prejudice which further erodes the hope of indigenous people."[21]The law is meant to explain mental health issues, which are only part of indigenous disability. It is not explained how sense of identity affects overall medical, educational and work status. The law manifestly does not apply to all the other ethnic groups not mentioned in the Constitution, beginning with Anglo Australians and the dozens of ethnic communities that migrated to Australia from the 1950s, most of which have somehow thrived despite lack of constitutional acknowledgment. Neither does it apply to the countries of Western Europe, whose constitutions generally do not recognise the indigenous inhabitants, their ancient history and prehistory. The law is meant to apply solely to indigenous Australians, with the majority of ethnic groups in the world being exceptions.

In a newspaper article Noel Pearson, member of the Expert Panel and leading Aboriginal advocate, argued that lack of recognition in the Constitution hurts indigenous peoples in two ways. First, it produces "existential angst" about the place of their culture and identity in Australia. This, Pearson thinks, takes away the confidence needed to balance assimilation and pride. No evidence or references for this argument, qualitative or quantitative, are provided. Neither are comparisons provided, for example with immigrant communities facing the loss of identity through assimilation or the many Anglo-Australian communities in Sydney and Melbourne who have become minorities and suffer discrimination. The second cause of hurt, Pearson writes, is the Constitution's reference to indigenous peoples in racial terms. Again, no evidence is produced. The one empirical claim is that the race concept is "false", though again without evidence or references to evidence. The same argument is made in the Expert Panel's *Report*. To back its claim the panel cites someone it takes to be an authority, who I discuss below in the section on race.

Pearson's views on indigenous governance are widely respected and contrast with his utopian statements about constitutional reform. His management of the Cape York Peninsula community has produced substantial improvements in indigenous education. Shortly before the federal election of 2013, Pearson joined other Aboriginal leaders to call for the establishment of a Commonwealth statutory body that would function as a productivity commission for indigenous affairs. Regional pooling of resources would reduce duplication and increase efficiency. Pearson argues that Aborigines should be given more responsibility, allowing them to escape the clutches of the white Aboriginal industry, the "octopus of government tentacles". "We are trying to replace an indigenous passivity paradigm with an indigenous responsibility

paradigm." This self-help approach is closer to classical liberal philosophy than the proposed constitutional changes.[22]

Finally, a quote from the submission by the Lowitja Institute indicates an evidence-based argument. "The experiences of other countries, in particular New Zealand and the United States, have shown that recognition of a country's indigenous population in its constitution … provides a basis for good governance and stewardship of the health of the indigenous population."[23]

This assertion should be taken seriously because it comes from a peak research body, the National Institute for Aboriginal and Torres Strait Islander Health Research, and therefore can be expected to be a useful source of information on the subject.[24] The *Report* does not summarise the Institute's analysis. However, a relevant 2011 Lowitja discussion paper is available from the Institute's website. The paper was written by legal scholar Genevieve Howse at La Trobe University.[25] At last the paper trail leads to an evidence-based analysis.

Howse observes that Australia's nine jurisdictions (Commonwealth, states and territories) provide little recognition of the specific needs of indigenous Australians. Where such recognition does exist, there is no provision for indigenous input to the decision-making or implementation process. This means a weak or non-existent legislative structure on which "stewardship and governance" can be founded on an Australia-wide basis.[26] Accountability for indigenous health outcomes is "diffused and muddled". The result is inefficiency, duplication, insufficient funds, and lack of sensitivity in providing equality of access and availability. So far so good.

This plausible argument leads to constitutional recognition which, Howse argues, would reduce administrative confusion, based on New Zealand and US experience.[27] She recommends recognition in the preamble or in the legally-binding body of the Constitution. In the latter case the amendment should state the right of all citizens to health and specifically state that indigenous peoples have special needs. It should also provide a treaty-making power.[28] One benefit of recognition, Howse thinks, would be bringing Australia into line with the UN Declaration on the Rights of Indigenous Peoples (which I discuss below). This would centralise and standardise national policy by constitutionally enforcing special care of indigenous health.[29] Another benefit would be the increased power of indigenous peoples to attract more government health funding. Howse quotes a paper she co-authored that envisages constitutional recognition forming the basis of legal suits to force governments to spend more on indigenous health than they spend on other Australians. This would be justified, the paper argues, by the dire state of indigenous health combined with a constitutional right to equal health outcomes.[30] Also quoted is a paper asserting that indigenous health problems are caused in part by their non-recognition in law. However, in this crucial respect the evidence is not stated.[31]

The theme of money recurs in Howse's paper. She favourably quotes a 2009 report calling for the pooling of all indigenous health funds which should then be used to purchase "the very best health services" that are culturally appropriate and meet indigenous needs.[32] There is no discussion of the biological and behavioural contributions to indigenous ill-health, leaving the assumption that causes always lie outside their communities. This allows the further assumption that a cure is always purchasable with sufficient expenditure. Present aggregate expenditure on indigenous health is not stated and never praised. Budgetary limits do not feature; neither do non-indigenous fiscal interests, a topic that would have to be made explicit if it were not assumed that non-indigenous Australians have an open-ended obligation to provide for indigenous welfare.

The discounting of non-indigenous interests coincides with Howse's criticism of Anglo Australia. She denies the legitimacy of British possession of the continent, the original basis of national sovereignty, and claims that settlement was based on ill-treatment and denial of Aboriginal rights.[33] This judgmental and ahistorical content mars the analysis, as does the approving quote of Paul Keating's demagogic attack on white settlers in his Redfern speech of 1992.

Howse's argument has merit regarding the cost of legislative duplication, the need for culturally appropriate service delivery and for community input. This agrees with Noel Pearson's broader proposal for regional governance.[34] A strong point is her consideration of alternatives to constitutional recognition. She points out that any benefits of constitutional recognition could be gained through concerted government action, an easier and safer alternative to constitutional change. Howse notes that the existing section 51(xxvi) of the Constitution—the one condemned as discriminatory by the Expert Panel—already authorises the Commonwealth to legislate for the special health needs of indigenous peoples. The Commonwealth is already equipped to unify indigenous health legislation in collaboration with state and territory governments.[35] Howse's paper suggests only administrative benefits for constitutional recognition, not direct health or economic ones—and she admits that recognition is not really necessary for either.

The Lowitja Institute's Chairwoman, Pat Anderson, recommended Howse's paper and presented another argument that could be taken as a justification for the proposed constitutional anti-discrimination section.[36] Anderson attributes poor Aboriginal health to "racism". She quotes a survey of Victorian Aborigines that found that 97 per cent reported experiencing racism in the previous year; 70 per cent reported more than eight occurrences. Some of this racism was verbal abuse but much consisted of tone, which could have been due to cultural difference. Respondents complained about ambiguous or unwelcoming behaviour by welfare workers and the assumptions they make about indigenous clients. Anderson explains how racial insults can cause stress, depression and associated maladies.

Does this support Pearson's argument that the Constitution should specifically recognise indigenous people, require their advancement, and ban racial discrimination? This seems excessive given the weakness of the evidence. The claim of frequent insults is overly reliant on self-report and not at all on observation. And it lacks a comparative dimension. Other ethnic groups including Anglo Australians might have complaints about the tone used by welfare officers that would put the Aboriginal experience in perspective. Much of what Anderson calls racism is the universal experience of ethno-cultural diversity, that "monstrous medley of all conditions, tongues, and nations" alluded to by Edmund Burke,[37] which provokes discrimination of all against all, to paraphrase Thomas Hobbes. Should every one of Australia's scores of ethnic groups that experience discrimination be specifically recognised in the Constitution? If so, that document would become a medley of monstrous proportions.

Also, the argument is flawed. Ethnic slurs and slights are experienced by members of many racial and religious groups but no explanation is provided for why only indigenous health suffers from such slights. And indigenous health becomes worse the further indigenous communities live from non-indigenous people and their allegedly discriminatory behaviour, which is the opposite of what one would expect if racism was the root cause. The argument would have benefited from considering biosocial factors.

The *Report*'s assertion of a connection between indigenous disability and lack of constitutional recognition lacks substance. If this is the best case that a panel staffed with and advised by experts can present, it is safe to conclude that constitutional recognition will do nothing to alleviate indigenous disability, unless it results in further land rights and associated rents or an increase in government expenditure. But those pathways to improvement are not asserted in the *Report*, perhaps because they would not be enthusiastically received by landowners, miners and taxpayers. If Aboriginal poverty is caused by factors unrelated to the Constitution, why change it?

What about other causes? The *Report* does admit the existence of other factors, in one sentence.[38]Unfortunately it does not identify and compare those factors, as one would expect in a serious work of impartial analysis. How else to judge the impact of constitutional recognition? Indeed the failure of this important section of the *Report* is egregious, far below the standard expected of a government inquiry.

Perhaps the *Report*'s authors were reluctant to canvass causes of disability, however plausible, that do not indicate the need for constitutional change? Overlooked hypotheses include welfarism, rural location, inadequate schooling, English as a second language and communal decision-making, as argued by an economist, the late Helen Hughes.[39] Noel Pearson mentions such causes but sees them as secondary ("proximate") to constitutional non-

recognition, the prime ("ultimate") cause of indigenous mendicancy. As noted, he advances no reason for pointing the causal arrows that way. He even classifies "innate features" of indigenous people as proximate and thus not worthy of consideration. But in evolutionary theory innate features are produced through biological evolution and are therefore closer to ultimate causes than any document, even a constitution.

A characteristic is innate to the extent that it is caused by genes selected in evolutionary history. Population differences in characteristics arise due to divergent evolutionary paths. There has been limited gene flow between Australia and Eurasia for 40,000 years, long enough to result in major biological and behavioural differences.[40] Farming cultures, which began in the Fertile Crescent about 12,000 years ago, have diets rich in carbohydrates and fatty meat, very different from the Neolithic diet Aborigines had until British settlement. The adoption of farming caused the evolution of the gut to accelerate, resulting in changes to the pancreas and other organs.[41] In Europe this lifestyle also brought milk and alcoholic beverages, selection pressures not faced by Aborigines until introduced by white settlement. The resulting genetic differences are plausible ultimate causes contributing to some Aboriginal medical issues, including kidney disease, diabetes and alcoholism.

Evolutionary theories of Aboriginal disability are rejected outright by an Australian social science still crippled by the culture wars of the last century. Not so in medical science. Dr Alan Barclay of the Australian Diabetes Council attributes the early onset of diabetes in Aborigines to an evolutionary history that did not include agriculture.[42] John Boulton, a medical researcher specialising in Aboriginal paediatrics, believes that we need to draw on evolutionary biology to better understand and treat the health disaster that has afflicted outback Aboriginal communities for generations.[43] The proximate causes include poor nourishment of children as well as fetal undernourishment, itself due to mothers consuming alcohol while pregnant, domestic violence and stress. Despite massive medical interventions, twice the proportion of Aboriginal babies are born underweight than non-indigenous babies. This and other factors have cascading impacts on health, leading to babies that fail to thrive who become adults with high rates of kidney failure and diabetes. Boulton attributes a role to epigenetics, in which early stresses are carried to the next generation by alterations in gene expression. Rat experiments indicate that five generations are needed to overcome accumulated epigenetic effects. Other research directed by Jim Penman, a Melbourne historian, implicates epigenetics in cycles of work behaviour and child rearing over the last four millennia. Penman reports rat experiments indicating that epigenetics can affect alcohol consumption.[44]

Work and social behaviour may also have been selected by millennia of agriculture. Farming, especially in societies governed by rule-of-law, appears to select for behaviour

promoting goal-directed work and weeds out violent temperaments.[45]

One egregious omission in the *Report* is IQ, which is the single strongest predictor of educational outcomes and is associated with many social and biological indicators. Australian Aborigines have relatively low IQs by international comparison. Cognitive psychologist Richard Lynn estimates the average IQ of mixed-race Aborigines to be 80 compared with an Australian average of 98.[46] IQ is certainly an innate feature in the sense of being partly inherited. Twin studies indicate that about 75 per cent of the variance in IQ is due to genetic factors. A new technique for measuring heritability, developed with the help of Australian scientists, confirms that estimate, ending a half-century of disputation about heritability of IQ. The new method—called "genome-wide complex trait analysis"—is based not on twins but on hundreds of thousands of DNA markers assayed from unrelated individuals. It yields a heritability of 73 per cent.[47]

IQ is one factor underlying the extraordinary and persistent gulf between white and Aboriginal standards of living. Noel Pearson tries to convey the magnitude of that gulf: "It is as if there is a Third World country in the middle of the First, one showing few signs of development."[48] The situation is worse than that, despite costly assistance programs.[49] Before China embraced capitalism its people were the largest Third World society in the world. Most lived in rural villages subsisting on medieval agriculture. Levels of alcoholism, child abuse and family breakdown were low. The villagers maintained a hard work routine. Economic development was impeded by communist rule despite the population having one of the highest IQs in the world. The proof? When Chinese people emigrate to free societies they flourish in education, business and the professions. Mainland China is rapidly assimilating science, technology and industry at the most sophisticated levels.

The importance of understanding racial differences is illustrated by considering the OECD target of having 40 per cent of young people graduate from university. This benchmark is set by states most of which have high average IQs by global standards. To achieve this for white Australians it will be necessary to set the entrance threshold at the equivalent of an average IQ of about 102.[50] This is a bit low for university studies, according to the American educational psychologist Linda Gottfredson. From this perspective, if policy-makers insist on the 40 per cent target it is likely to result in universities lowering their standards to prevent excessive rates of failure.[51] The situation is worse for Aborigines. For a population with an average IQ of 80 only 7 per cent exceed the 102 IQ threshold. For this population the top 40 per cent of IQs fall above an IQ of 84. Reducing entry standards to this level would still not produce equality of outcomes, because over 80 per cent of whites would then qualify for entry. And of course the situation would not be improved by raising entrance standards, as advocated by some commentators. If the effective entrance IQ to universities were raised to 110, then

about 25 per cent of whites would qualify compared to 2.3 per cent of Aborigines.

Australia is not alone in showing poor educational and socioeconomic outcomes for its indigenous peoples. White New Zealand students are near the top of OECD educational measures while Maori students rank 28th. Half of Maori students fail to complete high school, compared to one quarter of Anglo and 13 per cent of Chinese New Zealanders.[52] Many factors are involved but the substantial IQ gap, though only half that in Australia, is in the same direction.[53] Maoris suffer many of the same disabilities as Aborigines, though less severely, including a high imprisonment rate, more health problems, more abuse of alcohol and drugs, a shorter life expectancy and greater domestic violence. Contrary to the Expert Panel's expectation for Australian Aborigines, Maoris suffer these disabilities despite having been granted the Treaty of Waitangi in 1840 and gaining special parliamentary representation as early as 1867. It is therefore puzzling that the New Zealand example prompted the Expert Panel's sympathy for a treaty given that alleviating Aboriginal disability is a main goal. There is no evidence that a treaty, or agreement-making power in the Constitution, or parliamentary representation, would have an appreciable effect on indigenous health, imprisonment rates or employment.[54]

IQ alone explains more than half the variation in per capita GDP around the world, a monumental discovery resulting from the collaboration of Richard Lynn and Finnish sociologist Tatu Vanhanen in 2002. [55] Its significance to international relations and the economics of development is compounded by the fact that IQ also correlates with invidious social indicators: unemployment, divorce, children born to single mothers, poverty, incarceration, chronic welfare, and dropping out of school. To these can be added poor health and reduced support by families and communities. Note that these outcomes are not foretold; there are other causes, resulting in substantial variation. Community culture and access to services can make a big difference.

The clustering of behavioural and social indicators is well known among cognitive psychologists. "Intelligence in childhood, as measured by psychometric cognitive tests, is a strong predictor of many important life outcomes, including educational attainment, income, health and lifespan."[56]According to "life history theory", also mainstream in evolutionary psychology, this clustering is due to reproductive strategies that were selected over many generations.[57] The constellation of traits around intelligence, what the late psychologist Arthur Jensen called the "*g* nexus", has been confirmed many times over decades of research.[58]

Much controversy has attended the subject of population differences in intelligence, and understandably so given its implications. Some facts about intelligence should be stated to dispel common misconceptions. First, by intelligence I mean the general factor *g* first identified by psychologist Charles Spearman in 1904.[59] This is different from

specialised forms of intelligence, such as humans' extraordinary ability to process language. These are mental functions most people perform without conscious effort. Another example is empathy, the ability to put ourselves in someone else's place and experience the same pain or joy we think he must be feeling. This social skill is a computational wonder called "theory of mind"; it is not measured by IQ tests. Compared to these subconscious mental abilities, conscious reasoning ability of the kind measured by IQ is effortful and slow.

The second fact is that average group differences do not apply to every member of the group. Belonging to a relatively high *g* ethnic group does not somehow confer high *g* on random members. Different populations' IQ distributions—their spreads—overlap much more than they differ. Group differences in *g* do not cause ethnic solidarity or discrimination. The third fact is that *g* is not the only cause of academic or life success. Good health, certain personality characteristics, group culture and opportunities to learn are also important.[60]

A fourth fact is that no given level of *g* is a human right that is somehow inherent to the species. Neither is it an essence that inheres to a particular ethnic group. European-descended populations may have been undergoing a slow decline in the genetic basis of *g* since the mid-nineteenth century, due to the relaxation of natural selection that usually accompanies industrialisation and government welfare.[61] At the same time industrial societies have shown actual rises in IQ, called the "Flynn effect", named after the New Zealand psychologist who discovered it. Intelligence is not an essence but is labile over centuries. It can rise or fall substantially in a few generations due to natural (or unnatural) selection.

Finally, as up to 55 per cent of the variation in IQ among twelve-year-olds is due to non-genetic factors, one way to improve educational outcomes is to take measures to boost intelligence via nutritional supplements and other interventions.[62] But this approach is not discussed in the media or by governments because of taboos imposed for ideological reasons.

The biosocial factors just reviewed indicate that constitutional change can do nothing to reduce Aboriginal disability that cannot already be achieved by government or informal initiatives. Yet the Expert Panel's case rests heavily on asserting that document's cure-all effect. The real causes of disability are also fatal to utopian visions of racial equality advanced by both sides of politics. Politicians should not be blamed too much for ignorance on the subject, because they have been taught by academics and advised by bureaucrats inspired by unrealistic theories. Even Helen Hughes, an astute economist respected on the conservative side of politics, could raise unrealistic expectations. In her book *Lands of Shame* she explained that only absolutely equal outcomes would allow Australians to prise off their ball-and-chain of moral failure regarding indigenous peoples:

When Aboriginal and Torres Strait Islander children … take their places as doctors and scientists, when it is no longer remarked that members of parliament and cabinet ministers are indigenous, and above all when there is no social or economic indicator that shows a lower standard for Aborigines and Torres Strait Islanders, only then will Australia be able to hold up its head because a "fair go" will have become reality.[63] [emphasis added]

Hughes was influential because she injected economic rationality into political debates. As journalist Nicolas Rothwell explained in his obituary of her, she helped "transform the map of expectations" for indigenous policy.[64] Politicians such as the newly elected Prime Minister Tony Abbott have also equated equal outcomes with fairness, thankfully mixed with the achievable goal of providing equal opportunities.[65] By setting unattainable goals—in contrast to obtainable and sizeable improvements—academics have helped lock white Australia into the purgatory of self-doubt and nervous spending. The goal of equal outcomes is unfair to Aborigines because it raises expectations that, while achievable for many individuals, are impossible for the population overall for many years to come. It is unfair to taxpayers who would be saddled with paying for remedial courses and interventions in perpetuity instead of building up more realisable programs. And it is unfair to white Australians by implying culpability for Aboriginal poverty no matter how much money they provide or how much they mutilate their Constitution.

Nationhood

The *Report* states that the Constitution is the foundation of the Australian nation.[66] This has been repeated by senior panel members: "the six Australian colonies voted to come together to form a nation".[67] This elementary confusion in terminology and causation is odd coming from a panel that should be expert in ethnic affairs. The causal arrow flies in the reverse direction. The Australian nation existed well before Federation and was a major impetus to the constitutional movement. As Australia's second prime minister, Alfred Deakin, stated at the Federation Debate in 1890:

in this country, we are separated only by imaginary lines, and … we are a people one in blood, race, religion, and aspirations. It is impossible for any man born in or belonging to one colony to pass to the other and to feel that he has gone to a foreign country.[68]

At the same conference, Sir John Hall said about the proposed federation:

The foundation already exists. The foundation exists in that feeling of kinship among Australasians to which so much eloquent allusion has been made. That is the foundation upon which we are preparing to build—upon interests which are common, upon community of race, language, and history.[69]

Australia's leading figures knew the colonies had become a self-consciously Anglo-Celtic ("British") nation, which had formed through convergence of identity and sentiment, not by

legal statute. As Peter Coleman observes, by the late nineteenth century Australian nationality "had its laws and traditions, its folk heroes and songs, its Lawsons and Melbas. It created the Commonwealth of Australia".[70] The Constitution is the founding document of the Australian *Commonwealth*, written to create a continental federated state from the regional states that had been established in the period of colonisation and pioneering economic development. Terminological confusion in this area is perhaps due to politicians wishing to retain the word *nation* and the legitimacy it confers. But the fact is that states, nations and ethnic groups are different things.[71] The Expert Panel should have known that.

A different claim about nationhood comes from panel co-chairman Patrick Dodson, the "father of reconciliation". He and his circle of activists maintain that constitutional recognition will help repair relations between indigenous and non-indigenous Australians. Dodson believes it will bring Aborigines into the centre of national identity, so that all Australians can embrace a 40,000-year history in the continent. It would give Australians a fresh start of "fairness, respect and inclusion".[72]

"Reconciliation" is central to both major parties' rhetoric concerning indigenous policy. Julia Gillard, who appointed the Expert Panel, stated that constitutional recognition is intended to "right an old and grievous wrong" and thus "take us further on the path of reconciliation".[73] This implies that non-recognition of indigenous peoples was wrong, in a constitution that recognises no ethnic group, including the founding Anglo nation. And it implies that recognition will settle old grievances, which is implausible speculation. A more likely effect would be further litigation and jobs in the white Aboriginal industry.

The Prime Minister, Tony Abbott, stated while in opposition that an amendment would "complete our constitution" and thus bring about reconciliation with indigenous Australians. It would achieve this by permanently atoning for our forebears' "hardness of heart"[74] and by reassuring Aborigines that they are not a "historic footnote". It would honour Aborigines for their contribution to the country.[75] The amendment could be a "unifying and liberating moment" beyond any other reform.[76] Abbott lamented the failure 200 or 100 years ago to sign a treaty with Aborigines like the Treaty of Waitangi signed in New Zealand between representatives of the British Crown and Maori chiefs. A revised Constitution would fill the role of such a treaty.[77]

Note how Abbott's position also centres on reconciliation with an even more far-fetched redemptive note, though as noted earlier this is partly balanced by his criticism of the proposed section 116A that would prohibit governments from discriminating on the basis of race except to benefit selected groups. Still, in Abbott's view an amendment could be a reform to end all reforms; it could unify and liberate all Australians; and cleanse the sins of the fathers. This mirrors Noel Pearson's view that achieving an Aboriginal amendment

would transit stages of “crisis, catharsis, renewal”.[78]

I suppose allowance should be made for leadership rhetoric as much as for Hegelian dialectics, but it would have helped to have consulted with anthropologists and historians. A genuine treaty could not have been signed with the indigenous people because they lacked chiefs or monarchs to represent them. The Maoris had chiefs, but the Treaty of Waitangi was not a cure-all for conflict with the British settlers because the bloody New Zealand Wars came *after* the treaty was signed. A century later the treaty formed the basis of Maori sovereignty demands.

Reconciliation is an ever-receding mirage because the fundamental problems on the indigenous side are poor socio-economic outcomes juxtaposed with rising national consciousness, neither of which can be resolved by gestures. On the white side the fundamental problem is a cultural and political elite uncomfortable with any expression of distinctly Anglo-Australian national interests or sentiment.

Reconciliation is often used as a code word for white guilt and apology and endless retreat. The*Mabo* decision of the High Court, once hailed as a breakthrough victory for indigenous peoples, soon came under criticism for being too restrictive. Kim Hill, head of the Northern Land Council, recently argued that the burden of proof in establishing traditional title over a piece of land should lie with those who oppose the claim, not with the claimants. Paul Keating has weighed in with support. Hill explains that changing the burden of proof would help claim land that has been subject to “long-term colonisation”, in other words where non-indigenous Australians have the greatest investment of resources, community and sentiment.[79] The fact remains that saying sorry in any semaphore will not improve school performance or carbohydrate metabolism.

Reconciling parties to a dispute usually involves concessions on both sides, but the panel never considered for a moment the possibility that Aborigines and other racial, ethnic and religious minorities in contemporary Australia are under a moral obligation to recognise the Anglo-Australian people as a nation that built their historic homeland through the blood, sweat and tears of their pioneering ancestors.

As for Dodson’s idea that non-indigenous Australians will take on Aboriginal history as their own, there are descriptive and prescriptive weaknesses. A nation typically forms around a founding ethnic group.[80] An essential strand in ethnicity is belief in common ancestors. Study after study shows that people generally know where their ancestors came from, many generations after a migration event.[81] Liberal democratic governments have not yet been successful in changing citizens’ beliefs about ancestry.

The prescriptive weakness is that government manipulation of identity is unlikely to benefit most citizens. This is suggested by the fact that earlier incarnations of Dodson’s proposal

were intended to deconstruct the Australian nation. The idea that national identity can be socially engineered by government is standard neo-Marxian theory, pioneered by theorists such as the late Eric Hobsbawm at the London School of Economics.[82] In the Australian case this was advocated by sociologists Stephen Castles and colleagues in their 1992 book *Mistaken Identity.* They argued that advancing indigenous Australians necessitated ending the Australian nation. This would be a noble goal, they wrote, because the nation was essentially racist. At the same time the Aboriginal cause was seen as a truck under which the nation could be thrown. Castles and colleagues argued that national symbols must be continually smashed, using the education system to indoctrinate white children to be ashamed of their ancestors: "Above all, the history of white racism and genocide against the Aborigines must become a central theme of education and public debate, and an accommodation with the Aborigines must be achieved through payment of reparations and Land Rights legislation."[83]

This is not esoteric scribbling but mainstream ideology in multicultural Australia. The idea that justice for indigenous peoples entails humbling Anglo Australia now resonates with anti-national rhetoric on both sides of politics. The changes proposed for the Constitution would not alleviate the condition of indigenous people but would serve a destructive agenda. More promising bases for unity are love of the same land and memories of shared positive experiences on that land. There is no need to assault either identity.

The dramatic concessions to indigenous land rights claims since 1990 are examples of attempts at one-sided reconciliation. Costs to the nation, when discussed, are usually thought to involve only loss of title to or use of land. However, under *Mabo* principles losses to land need not be significant. The greatest potential cost is to sense of homeland. An example is "acknowledgment of country" ceremonies that are common in schools, public meetings and parliaments. These are an attempt at reconciliation using symbolic recognition of land rights. Explaining how these could affect cohesion requires a theoretical detour.

Aboriginal land rights movements risk undermining national cohesion due to the importance of a demarcated territory to tribal and national identity. Territorial identification and feeling of group possession are human universals, probably innate.[84] Anthropologist Arthur Keith summarised territorial identification: "[Nations] have a particular affection for their native land … they would give their lives freely to preserve the integrity of the land and the liberty of its people … They inhabit a sharply delimited territory and claim to own it."[85]

Native land rights movements typically arise in settler societies such as Australia when previously dominated indigenous peoples find a voice to protest against their dispossession and marginality and ally with other minorities and radicals to win concessions. In all these societies the dominant ethnic group has a relatively delicate sense of homeland, because the collective memories of the new

territory are few compared to the rich history accumulated in the old.[86] The Australian nation is young even by New World standards. The first British settlers arrived in North America in 1607, in Australia in 1788. Though a delicate flower, Australia's national attachment to the land is real and heartfelt.

To remain stable and moderate, societies should nurture their core ethnic groups, for the nation formed around them and they provide the strongest glue in the form of common culture, political traditions, and attachment to homeland. This remains true even as immigrants assimilate into the core and in doing so modify it.[87] Continuity is the key and within it territorial identification. A secure sense of homeland anchors the national identity, dampening the need for nationalist rhetoric or external aggression to maintain cohesion.[88] It gives a sense of ownership and obligation that are indispensable in building public altruism.[89]

This puts in a different light the "acknowledgment of country" ceremony performed in schools, public meetings and parliaments. The ceremony "recognises Aboriginal and Torres Strait Islander peoples as the First Australians and custodians of their land. It promotes an awareness of the past and ongoing connection to place of Aboriginal and Torres Strait Islander Australians".[90] As presently performed, the ceremony ignores the nation's identification with and attachment to Australia. As a result, it implies indigenous possession of the territory, which exceeds the *Mabo* granting of access for ritual purposes. The ceremony could not be better designed to make young Australians feel alien in their own country, exacerbating the effect of anti-national school curricula. Should constitutional recognition of indigenous peoples proceed without the nation also being recognised, it will be a permanent legalistic form of the acknowledgement-of-country ceremony.

Such ceremonies should also acknowledge national sovereignty over all of Australia. They should recognise the pioneers and settlers who opened up the land and over time identified with and bonded to their new homeland. The addition of such words would transform the acknowledgment-of-country ceremony from one that severs ties and alienates to one that builds a sense of homeland in all who identify with Australia.

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[1] Salter, F. K. and H. Harpending (2012). "J. P. Rushton's theory of ethnic nepotism." *Personality and Individual Differences* http://www.sciencedirect.com/science/article/pii/S0191886912005569.

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[2] *Recognising Aboriginal and Torres Strait Islander Peoples in the Constitution. Report of the Expert Panel*. January 2012.http://www.recognise.org.au/uploads/assets/3446%20FaHCSIA%20ICR%20report_text_Bookmarked%20PDF%2012%20Jan%20v4.pdf

[3] A point summary of the Expert Panel's recommendations are provided at:http://www.recognise.org.au/expert-panel-report, accessed 25 June 2013. The full set of recommended amendments are listed in the *Report* on p. xviii.

[4] *Report*, p. 153.

[5] "$1.3bn deal ends native title dispute", *Weekend Australian*, 6-7 July 2013, p. 2. "Noongar leaders … said they were determined that some earnings from the perpetual trust should be used to help reconnect young people with their culture and language because the loss of those things had caused huge problems."

[6] "Julia Gillard switch on first peoples referendum", *The Australian*, 20 Sept. 2012.http://www.theaustralian.com.au/national-affairs/policy/julia-gillard-switch-on-first-peoples/story-fn9hm1pm-1226477677329, accessed 25 Oct. 2013.

[7] *Report*, p. xviii.

[8] *Report*, p. xii.

[9] *Report*, p. 14. Section 25 reads: "For the purposes of the last section, if by the law of any State all persons of any race are disqualified from voting at elections for the more numerous House of the Parliament of the State, then, in reckoning the number of the people of the State or of the Commonwealth, persons of that race resident in that State shall not be counted."

[10] "Historic Constitution vote over indigenous recognition facing hurdles", *The Australian*, 20 Jan. 2012. http://www.theaustralian.com.au/national-affairs/policy/historic-constitution-vote-over-indigenous-recognition-facing-hurdles/story-fn9hm1pm-1226248879375, accessed 25 Oct. 2013.

"Julia Gillard switch on first peoples referendum", *op cit*.

[11] Phillip Adams, “Echoes of apartheid”, *The Weekend Australian Magazine*, 10 Aug. 2013, p. 38. “Our refugee policies are an echo of the White Australia Policy. They are aimed at brown people. They are aimed at Muslims.”

[12] “Minister cuts African refugee intake”, *The Age*, 2 Oct. 2007.http://www.theage.com.au/articles/2007/10/01/1191091031242.html, accessed 26 Oct. 2013.

[13] Salter, F. K. (2010). “The misguided advocates of open borders.” *Quadrant* 54(6).http://www.quadrant.org.au/magazine/issue/2010/6/the-misguided-advocates-of-open-borders.

Salter, F. K. (2008). “Evolutionary analyses of ethnic solidarity: An overview.” *People and Place*16(2): 15-25.

[14] The Australian Literacy and Numeracy Foundation, Fact page,https://wallofhands.com.au/Home/Facts, accessed 20 June 2013.

[15] E.g. “‘People are just drinking themselves to death’”, *The Australian*, 23 April 2013, pp. 1, 6. “Stepping softly no solution: Petrol sniffing is destroying Aboriginal communities”, *Weekend Australian*, 28-29 July 2012, Inquirer, p. 17.

[16] *Report*, p. xx.

[17] Noel Pearson, “Constitutional reform crucial to indigenous wellbeing”, *The Weekend Australian*, 24-25 Dec. 2011, p. 20.

[18] Ian Smith and Natasha Stott Despoja, “A need to formally recognise First People”, *The Australian*, 8 July 2013, p. 10. Subtitle: “There’s a strong case for amending the Constitution”.

[19] *Report*, p. 40.

[20] *Report*, pp. 40-41, Lowitja Institute on p. 50. The Western Australian Centre for Health Promotion Research submission is at:http://www.recognise.org.au/uploads/have_your_say/8e3c240f1ab3060a9545.pdf. The Royal Australian and New Zealand College of Psychiatrists’ submission is at:http://www.ranzcp.org/Files/ranzcp-attachments/Resources/College_Statements/Position_Statements/ps68-pdf.aspx.

[21] Royal Australian and New Zealand College of Psychiatry, quoted in *Report*, p. 40.

[22] Amos Aikman, “Indigenous leaders urge change”, *The Weekend Australian*, 10-11 Aug. 2013, p. 1.

[23] *Report*, p. 50.

[24] http://www.lowitja.org.au/, accessed 28 July 2013.

[25] Howse, G. (2011). *Legally invisible—How Australian laws impede stewardship and governance for Aboriginal and Torres Strait Islander health*. Melbourne, The Lowitja Institute.http://www.lowitja.org.au/sites/default/files/docs/Legally_Invisible_report.pdf, accessed 29 July 2013.

[26] Howse, *Legally invisible*, p. 2.

[27] Howse, *Legally invisible*, p. 30.

[28] Howse, *Legally invisible*, p. 31.

[29] Howse, *Legally invisible*, p. 1.

[30] Howse, *Legally invisible*, p. 16.

[31] Howse, *Legally invisible*, pp. 18-19.

[32] Howse, *Legally invisible*, p. 12.

[33] Howse, *Legally invisible*, p. 5.

[34] Aikman, "Indigenous leaders urge change".

[35] Howse, *Legally invisible*, p. 31.

[36] Pat Anderson, "Racism a driver of ill health", *Weekend Australian*, 27-28 July 2013, p. 20.

[37] Burke, E. (1790). Reflections on revolution in France. *Essays by Edmund Burke*. E. Burke (ed.). Melbourne, E. W. Cole**:** , 16-48, p. 37.

[38] *Report*, p. 40.

[39] Hughes, H. (2007). *Lands of shame*. St Leonards, Centre for Independent Studies. Helen Hughes and Mark Hughes, 2013, "With apologies, PM, home ownership is the key", *The Australian*, 15 Feb., p. 10.

[40] The potential for rapid human evolution was originally advanced by E. O. Wilson, who advanced the "thousand year rule" (meaning 1,000 to 10,000 years) for significant change under moderate selection pressure.

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Wilson, E. O. (1975). *Sociobiology: The new synthesis*. Cambridge, MA, Harvard University Press, p. 569.

[41] Cochran, G. and H. Harpending (2009). *The 10,000 year explosion: How civilization accelerated human evolution*. New York, Basic Books.

[42] Dr. Alan Barclay was interviewed by Alan Jones, Radio 2GB, 9 July 2012.

[43] Nicolas Rothwell, "Genes key to health gone awry", *Weekend Australian*, 1-2 June 2013, Inquirer, p. 15.

[44] Penman, J. (2013 in preparation). *Biohistory: Epigenetics and the Decline of the West*.

Guccione, L., E. Djouma, J. Penman and A. G. Paolini (2013). "Calorie restriction inhibits relapse behaviour and preference for alcohol within a two-bottle free choice paradigm in the alcohol preferring (iP) rat." *Physiology & Behavior* 110-111: 34-41. http://www.sciencedirect.com/science/article/pii/S0031938412004064

[45] Clark, G. (2007). *A farewell to alms: A brief economic history of the world*. Princeton, NJ, Princeton University Press.

[46] Lynn, R. (2005). *Race differences in intelligence: An evolutionary analysis*. Augusta, GA, Washington Summit Publishers, pp. 110-11. Lynn's meta-analysis yields an average of 78 for mixed-race Aborigines, plus a 2 point deficit due to malnutrition.

[47] Trzaskowski, M., J. Yang, P. M. Visscher and R. Plomin (2013). "DNA evidence for strong genetic stability and increasing heritability of intelligence from age 7 to 12." *Molecular Psychiatry*(online), 29 Jan., 5 pp.

[48] Pearson, "Constitutional reform crucial".

[49] For example, a $1.5 billion employment scheme attempted in remote communities failed to prevent absenteeism and drunkenness. "Aboriginal jobs program a complete disaster: Scullion", *The Australian*, 18 Oct. 2013, p. 6.

[50] Calculated using the website http://www.mathportal.org/calculators/statistics-calculator/normal-distribution-calculator.php, accessed 10 July 2013. Assumptions: White mean = 98; standard deviation = 15 (as for Aborigines).

[51] Gottfredson identifies the threshold IQs for various occupations and activities. Students with IQ 112 or above are best able to manage university courses.

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[52] Catherine Isaac, "Education's fresh charter", *The Australian*, 23 July 2013, p. 12.

[53] Lynn's review of tests of Maori IQ yields an average of 90. *Race differences in intelligence*, p. 117.

[54] The *Report* discussed the advantages of indigenous treaties in Canada, New Zealand and elsewhere but for tactical reasons recommended against this for Australia at the present time. It would likely "confuse many Australians, and … jeopardise public support for [our] other recommendations" (p. 201).

[55]Lynn, R. and T. Vanhanen (2002). *IQ and the wealth of nations*. Westport, Conn., Praeger.

[56] Benyamin, B. et al. (2013). "Childhood intelligence is heritable, highly polygenic and associated with FNBP1L." *Molecular psychiatry.*http://www.nature.com/mp/journal/vaop/ncurrent/full/mp2012184a.html.

[57] Figueredo, A. J., T. C. d. Baca and M. A. Woodley (2013). "The measurement of human life history strategy." *Personality and Individual Differences* 55: 251–255. http://www.sciencedirect.com/science/article/pii/S0191886912002152.

[58] Jensen, A. (1998). *The g factor*. Westport, Conn., Praeger. Chapter "The g nexus", pp. 544-583.

[59] Spearman, C. (1904). ""General intelligence", objectively determined and measured." *The American Journal of Psychology* 15(2): 201-292.http://www.psych.umn.edu/faculty/waller/classes/FA2010/Readings/Spearman1904.pdf.

[60] Jensen, *The g factor*, pp. 572-8.

[61] Woodley, M. and A. J. Figueredo (2013). *Historic variability in heritable general intelligence: Its evolutionary origins and socio-cultural consequences*, The University of Buckingham Press.

[62] Lynn, *Race differences in intelligence*.

Trzaskowski et al., “DNA evidence”.

[63] Helen Hughes in *Lands of Shame* quoted by Nicolas Rothwell, “Visionary economist shed light on the plight of Aborigines” *The Australian*, 17 June 2013, p. 3.

[64] Ibid.

[65] Tony Abbott has stated that stepped-up government support for Aborigines should continue “at least until they have … more-or-less comparable educational, employment, housing and health outcomes as the community at large”. “Abbott reconciliation pledge”, *The Australian* 15 March 2013, pp. 1, 2. Abbott has also announced more achievable goals aimed at providing opportunities: “[A]ll children go to school, all the adults are working or in work-like programs and the ordinary rule of law runs through those communities”. Reported by Dennis Shanahan, “Abbott: my pledge to close gap”, The Weekend Australian, 10-11 Aug. 2013, p. 1.

[66] *Report*, p. 42.

[67] Mark Leibler, “Racism still shadows our history”, *The Sydney Morning Herald*, 20 Jan. 2012.http://www.fpp.co.uk/online/98/07/articles/Leibler100798.html, accessed 5 Aug. 2013.

[68] *Official record of the proceedings and debates of the Australasian Federation Conference, 1890*. Melbourne, Robert S. Brain, Government Printer, p. 71.

[69] *Official record*, p. 164.

[70] Peter Coleman, “Australian notes”, *The Spectator Australia*, 5 May 2012, p. vi.

[71] Connor, W. (1978). “A nation is a nation, is a state, is an ethnic group, is a …” *Ethnic and Racial Studies* 1(4): 378-400.

[72] “Dodson calls for new wave of crusaders”, *The Australian*, 13 Feb. 2013, pp. 1-2.

[73] “Dodson calls for new wave of crusaders”, The Australian, 13 Feb. 2013, pp. 1-2.

[74] Ibid.

[75] “Abbott’s reconciliation pledge”, *The Australian*, 15 March 2013, p. 1.

[76] “Abbott reconciliation pledge”.

[77] “Abbott laments failure on treaty”, *The Australian*, 14 Feb. 2013, p. 2.

[78] Noel Pearson, 2010, “Hope 2010: Crisis, catharsis, renewal”, speech delivered at the Sydney Festival, 13 January.

[79] “Reconciliation plea for native title review”, *The Australian*, 5 June 2012, p. 9. And see Mick Gooda, “Native title reform could go closer to fulfilling Mabo’s legacy”, *The Sydney Morning Herald*, 4 June 2012, p. 9.

[80] Walker Connor. (1993). “Beyond reason: The nature of the ethnonational bond.” *Ethnic and Racial Studies* 16(3): 373-389.

[81] Novak, M. (1996/1971). *Unmeltable ethnics. Politics & culture in American life*. New Brunswick and London, Transaction.

The remarkable gene maps produced by L. Cavalli-Sforza and colleagues in their 1994 classic, *The history and geography of human genes*, are based on specimens collected on the basis of individuals identifying themselves as pure-blood aborigines of their region (Section 1.9, p. 25).

[82] Hobsbawm, E. and T. Ranger, Eds. (1992/1983). *The invention of tradition*. Cambridge, Cambridge University Press.

[83] Castles, S., B. Cope, M. Kalantzis and M. Morrissey (1992). *Mistaken identity: Multiculturalism and the demise of nationalism in Australia*. Sydney, Pluto Press, p. 367.

[84] Eibl-Eibesfeldt, I. (1989/1984). *Human ethology*. New York, Aldine de Gruyter, pp. 321-34.

[85] Keith, A. (1968/1947). *A new theory of human evolution*. New York, Philosophical Library, pp. 316-17.

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