

SUPPLEMENT ARTICLE

# ‘A transforming sentiment in this country’: The Whitlam government and Indigenous self-determination

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## Abstract

Gough Whitlam's Labor government came to office in December 1972 with a vast and transformative reform agenda, at the heart of which was a fundamental policy shift in Aboriginal affairs away from assimilation and toward self-determination, described by Whitlam as; 'Aboriginal communities deciding the pace and nature of their future development as significant components within a diverse Australia'. Whitlam's commitment to self-determination reflected the United Nation's *International Covenant on Civil and Political Rights*, which refers to the right of all peoples to 'freely determine their political status and freely pursue their economic, social and cultural development'. Whitlam made it clear that Aboriginal Affairs would be a priority of his government with the establishment of the first separate Ministry for Aboriginal Affairs and his government introduced a suite of path-breaking policies for Aboriginal people. Pat Dodson, the inaugural chairperson of the Council for Aboriginal Reconciliation, later described the change in policy and intent under Whitlam as, 'a transforming sentiment in this country for Aboriginal people'. This article explores the key features of Whitlam's Indigenous policy and argues that Whitlam's commitment to self-determination was a unique and radical policy reframing in Indigenous affairs not seen before or since.

These advances were wound back by the conservative government of Malcolm Fraser and the 'transforming sentiment' soon reverted to one of 'self-management' and unarticulated assimilation.

#### KEY WORDS

Aboriginal land rights, Gough Whitlam, Indigenous policy, self-determination, Whitlam government

*The Bark Petition started the move towards land rights, but Mr Whitlam's leadership brought it to life and made it real. He was a true friend of the Yolngu people (Galarrwuy Yunupingu 2014).*

Among the more than 200 commitments set out in Gough Whitlam's remarkable 1972 policy speech was this: 'We will legislate to give Aborigines land rights – not just because their case is beyond argument, but because all of us as Australians are diminished while the Aborigines are denied their rightful place in this nation' (Whitlam 1972, 4).

Specifically, his government would: establish a separate Ministry for Aboriginal Affairs; pay all legal costs for all proceedings in all courts involving Aboriginal people; establish an Aboriginal land fund to acquire land for Aboriginal communities; prohibit discrimination on the grounds of race; reverse the previous Coalition governments' land rights policy which had denied Indigenous communities the right to be incorporated for their own social and economic purposes – one of which was to enable the securing of corporate title to reserve lands; and he committed his government to the 'protection of all those areas of spiritual significance to the original inhabitants of this country'.

It was a vast and transformative agenda at the heart of which was a fundamental policy shift toward self-determination in Aboriginal affairs. What was unusual for Whitlam's approach, apart from the sheer scale of it, is that he placed his government's commitment in an international setting. In his words: 'Australia's treatment of her Aboriginal people will be the thing upon which the rest of the world will judge Australia and Australians – not just now, but in the greater perspective of history' (Whitlam 1972, 31).

The key to this international positioning was self-determination, described by Whitlam as; 'Aboriginal communities deciding the pace and nature of their future development as significant components within a diverse Australia'. This, in turn, reflected the United Nation's *International Covenant on Civil and Political Rights*, article 1 of which stated: 'All peoples have the right of self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development' (United Nations, 1966).

As Prime Minister, Whitlam introduced the Northern Territory Aboriginal Land Rights legislation, established the National Aboriginal Consultative Committee, funded Indigenous legal services, passed the *Racial Discrimination Act*, and returned Daguragu to the Gurindji people, just to name a few (Whitlam 1985, chapter 12). Whitlam's commitment to improving the conditions of Indigenous Australians, to implementing land rights and to alleviating inequalities and discrimination, was long-standing. Like so many of those interests, and of his government's policies, it emerged from his experience as air-force navigator during the Second World War, and in particular from his long period stationed in the Northern Territory.

Stationed in Gove in 1944, Whitlam had first come into contact with Indigenous people and was shocked by the conditions in the missions and the towns and dismayed by the discrimination that he witnessed - not only in the community but also in the services. Whitlam recalled the overt discrimination against an Indigenous member of the ground staff in his squadron who had applied many times to join the aircrew for which he was eminently qualified; 'his applications were constantly rejected. We were all convinced that his sole disqualification was his race' (Whitlam 1997). He witnessed the devastating and destructive effect of the Christian missions on Indigenous communities in the Northern Territory; 'Missionaries taught Aborigines that they were Godless, they were heathens, made them feel inferior ... They destroyed Aborigines' self-respect. Now, these are strong words. But I knew it. I saw it' (Whitlam in Hocking 2008, 103).

As for so much of Whitlam's reform agenda, the first indications of his abiding concerns for social equality and Indigenous rights came at this time. They can be seen most clearly in his unstinting support for the Curtin Labor government's 1944 Referendum on Post-war Reconstruction and Democratic Rights, also known as the '14 powers' referendum (Hocking 2015, 94–99). The fourteenth of the powers sought by the Commonwealth at the 1944 referendum was 'for the people of the aboriginal race'. The referendum did not succeed, and it would be a further 23 years before the Commonwealth gained the power to make special laws with respect to Aboriginal Australians, at the 1967 referendum.

Whitlam's commitment to Indigenous affairs was based on a determination to overturn what he saw as the two 'points of resistance' of conservative governments since federation – Aboriginal voting rights and Aboriginal land rights (Whitlam 1985, 461). He pointed to Australia's failure to meet its fundamental international obligations to end racial discrimination and to meet its domestic responsibilities according to the United Nations *Universal Declaration of Human Rights*.

This international dimension to post-war national developments in relation to Indigenous affairs is the critical framework for understanding Gough Whitlam's approach to land rights, equality and the need for autonomous management. It gave him a perspective grounded on the principles of the emerging United Nations and its conventions. In 1961, he moved an amendment to the *Commonwealth Electoral Act* to ensure that Aboriginal Australians would have 'the [same] right enjoyed by all other citizens of enrolling and voting for candidates for election to this Parliament ... I believe we are in breach of the United Nations charter as long as we deprive aborigines of the vote on the basis they are aborigines' (Whitlam 1961, 1397).

Two years later, Whitlam was one of the many Labor parliamentarians supporting Kim Beazley (snr)'s presentation of the Yirrkala historic 'bark petitions' to the Parliament. The international mining company, Nabalco, had been granted 360 square kilometres of the Arnhem Land Reserve, without any negotiation or discussion with the Yolngu people, and the petitions called for the Menzies government to recognise their rights, to intervene in the mining grant and to hear their views and their voices.

The petitions are considered the first formal assertion of native title. The Menzies government ignored the report of a bipartisan parliamentary committee of inquiry established following the tabling of the petitions and in 1966 the government unilaterally revoked part of the Yolgnu people's land in order to enable Nabalco to develop the mine (Australian Institute of Aboriginal and Torres Strait Islander Studies, nd).

Constitutional change on the other hand, while drawn out and much delayed, did come about at this time. The referendum on amendments to section 127 and removal of section 51 (xxvi) – to include Indigenous people in the census and to give the Commonwealth the power to make laws for Aboriginal Australians - was eventually and successfully put in the 1967 referendum, 23 years after it had first been put as part of the 14 powers referendum. Whitlam was buoyed by the expectation that the Commonwealth government would now act on Indigenous affairs that had previously been the preserve of the states, and was immensely disappointed by the failure of the Holt, Gorton and McMahon

Coalition governments to act on their newly enabled power to make 'special laws' in relation to Aboriginal people at a national level (Whitlam, 1997).

The lack of action by successive Coalition governments after the 1967 referendum stands in stark contrast to the flurry of policy development in Indigenous affairs overseen by Whitlam as leader of the Labor Party in opposition and, to a very large extent, implemented by his government when it came to office in December 1972. In a landmark statement the following year, Whitlam described self-determination as 'the basic object' of his government's policy in Aboriginal affairs. Specifically, 'to restore to the Aboriginal people of Australia their lost power of self-determination in economic, social and political affairs' (Whitlam, April 1973, 2).

Several of the most significant actions taken by the newly elected Whitlam government came about during its first energised and energising fortnight. This was the period of the 'duumvirate', or government of two – Whitlam as PM and his Deputy, Lance Barnard, holding all 27 ministerial portfolios between them and working to implement as much of Whitlam reform 'program' as they could in that time. It was a period of great productivity and collegiality and evidenced a remarkable relationship between Whitlam and his deputy (Hocking 2012, 22–27). Whitlam made it clear that Aboriginal Affairs would be a priority of his government with the establishment of the first separate Ministry for Aboriginal Affairs, under its inaugural Minister, Gordon Bryant.

Just one week after taking office Whitlam announced the appointment of Justice Edward Woodward to head a Royal Commission into Aboriginal Land Rights. This was the first Royal Commission announced by the Whitlam government and the first Commonwealth inquiry into land rights ever held. Pat Dodson, the inaugural chairperson of the Council for Aboriginal Reconciliation, later described the change in policy and intent under Whitlam as 'a transforming sentiment in this country for Aboriginal people' (Dodson, 2001).

Whitlam also announced that the government would ratify the United Nations *International Convention on the Elimination of All Forms of Racial Discrimination*, which had been signed by the Holt government but had not been ratified by any of the Holt, Gorton or McMahon conservative governments. This was secured with the passage in 1975 of the *Racial Discrimination Act*, which came into force just 11 days before the dismissal of the government. The RDA was not only an historic social and educative move against discrimination on the basis of race, it was also a powerful legal imperative which played a critical role in the success of the first Mabo case, *Mabo no. 1* against Queensland, without which the Mabo case as we know it could not have succeeded (Whitlam, 1997).

The government oversaw a raft of policy developments in Indigenous affairs to an extent never seen before or since. The interconnectedness of the policy fields and the involvement of state, federal and territory jurisdictions led to a complex mosaic of several interlocking elements in law, health, education and administration.

Policy initiatives were matched by an extraordinary level of funding, with a five-fold increase in total expenditure on Aboriginal affairs – from \$60 million in 1972/3 to \$186 million in 1975/6. Much of this was directed at the critical areas of need in health, education, legal aid, housing and employment. Funding for Aboriginal housing projects increased from \$4 million to more than \$20 million; education funding increased three-fold; Aboriginal legal aid programs increased four-fold; and there was a five-fold increase in expenditure on Aboriginal health over the 3 years of the Whitlam government (Whitlam 1985, 472–3).

A key initiative taken by the Whitlam government was the establishment in 1973 of the National Aboriginal Consultative Committee, an advisory body of 40 delegates and the first representative national body elected by Aboriginal people. The intention was, as Whitlam described it, 'to restore to Aboriginals the power to make their own decisions about their way of life ... and to be [a forum

for] a healthy two-way communication between Aboriginals and the National government' (Whitlam, November 1973, 2).

The Woodward Royal Commission's report, released in 1974, included the key recommendations that 'communal and inalienable' land rights should be granted to land on Aboriginal Reserves in the Northern Territory, that mining and exploration in those areas could only occur with the consent of the Aboriginal community and that entry into Aboriginal lands should be regulated through a permit system under the responsible Land Councils.

The government then introduced Bills to implement the Woodward recommendations, including the *Aboriginal Councils and Associations Bill* and the *Aboriginal Land (Northern Territory) Bill*. They were passed by the House of Representatives and were on the Notice Paper for introduction in the Senate on 11 November 1975, when the government was dismissed by the Governor-General, Sir John Kerr, the Queen's representative in Australia.

The *Aboriginal Loans Commission Act* and the *Aboriginal Land Fund Act*, both passed in 1974, would enable the pursuit of land claims in reserve lands. The government was also determined that land rights over non-reserve land should be enabled through the purchase of pastoral leases, beginning with Wave Hill station - a massive holding of more than 20,000 square kilometres, owned by the British peer Lord Vestey. One of the world's richest men, Vestey offered to surrender 90 square kilometres to the Gurindji people in a belated effort to resolve the claim but, in the end, the Gurindji would be granted more than 3,000 square kilometres of pastoral lease (National Archives of Australia).

In August 1975, Gough Whitlam travelled to Daguragu for one of the most significant events in Australia's history of dispossession and attempted restitution. He delivered a simple, powerful, message that spoke to the past as well as the future through both imagery and text. He later recalled that:

*Vincent Lingiari and Nugget Coombs had advised me 'to reverse the procedure that had happened in Victoria with Batman [who] in about the 1830s had got the Aborigines to pour some earth into his hands ... So I bent down and picked up some sand and poured it into [Lingiari's] hands as a token that this land was again his tribe's land' (Whitlam in Hocking, 2012, 186).*

Whitlam's speech ended, 'Vincent Lingiari, I solemnly hand to you these deeds as proof, in Australian law, that these lands belong to the Gurindji people, and I put into your hands this piece of the earth itself as a sign that we restore them to you and your children forever' (Whitlam 1985, 471).

The image of Whitlam pouring earth into Vincent Lingiari's hands perfectly captured the full significance of the hand-back of land to the Gurindji—a recognition of Indigenous land rights, a reversal of prior transgression and the return of land to its people. Vincent Lingiari's speech ended, 'They took our country away from us, now they have brought it back to us ceremonially '(National Archives of Australia).

Three months later the Whitlam government was dismissed, and the Opposition leader Malcolm Fraser installed as Prime Minister. The critical policy direction of self-determination in Indigenous affairs was immediately under challenge. Some basic points of comparison between what was done under the Whitlam government, and what was done and undone by the Fraser government, puts this shift into stark relief. This is, I believe, an important historical corrective to a view commonly put, not least by Malcolm Fraser himself, that much of Whitlam's policy agenda continued largely unchanged and supported by the successor Fraser government.

In 2012 Malcolm Fraser delivered the second Gough Whitlam Oration, here at the Whitlam Institute. Listening to Fraser, one could have been forgiven for thinking that the Opposition Coalition Fraser led during the Whitlam government, had all but assisted with ushering in the landmark reforms it had

fought so hard to prevent and had voted down repeatedly - education reform, electoral reform, medibank and the Whitlam government's NT land rights legislation.

Fraser made the startling claim to have shared the Whitlam government's commitment to Aboriginal land rights, saying:

*The Whitlam Government believed Australian Aboriginals should have land rights. It did not last long enough to implement the recommendations of the Woodward Commission. Nonetheless, my Government legislated the Aboriginal Land Rights in 1976. Land Rights for Australia's Aboriginal and Torres Strait Islanders was established in part as a result of a commitment shared by successive governments (Fraser 2012).*

This extraordinary statement both discredits the significance of the Whitlam government's policy of self-determination and miscasts the Fraser government's attenuated version of it. It is important to make an historical corrective to this determined revisionism and to recognize the policy shift to self-determination, flawed and incomplete though it was, as a moment that came and went with the Whitlam government itself.

The Whitlam government's *Aboriginal Land (Northern Territory) Bill 1975* was the first national land rights legislation introduced into the federal parliament. However, during debate on the Bill in the House of Representatives, far from exercising what he later called 'a shared commitment to Aboriginal land rights', Malcolm Fraser did not speak during the debates on the Bill. When the final vote was taken, Fraser voted *against* this historic legislation to grant Land Rights in the Northern Territory. The *Aboriginal Land (Northern Territory) Bill* then passed the House of Representatives and was on the Notice Paper for consideration by the Senate on 11 November when the Whitlam government was dismissed by the Governor-General and Fraser installed as Prime Minister.

Fraser was also absent and paired with Whitlam in voting against several Whitlam Government Acts for which he later claimed support, including the *Racial Discrimination Act*. The RDA was first introduced, together with the *Human Rights Bill*, in 1973. Both of these most significant Bills in the history of human rights in Australia faced fierce resistance from the coalition in Opposition and lapsed with the double dissolution election of May 1974. The *Racial Discrimination Bill* was reintroduced in February 1975 and came into force just 10 days before the dismissal (Whitlam 1985, See Chapter 12 'Aborigines' *passim*). Malcolm Fraser was once again absent from the final vote, he did not speak to its lengthy and highly significant debates, and he voted against the *Racial Discrimination Bill* then and in every division.

The Fraser government did however, introduce its own significantly amended and restricted version of the now lapsed *Aboriginal Land (Northern Territory) Bill* – as the newly titled *Aboriginal Land Rights (Northern Territory) Bill 1976*. The Fraser government, 'showed no sign of following up with support for a national system of land rights. ... The term "self-determination" was dropped from the Government's vocabulary and replaced by "self-management" and "self-sufficiency"' (Dow and Gardiner-Garden 2011). There were critical differences between the two Bills, each of which undermined the principle of self-determination:

1. Northern Territory law was allowed to operate on Aboriginal land despite the specific recommendation of Woodward that any land rights legislation 'should be protected in such a way that its provisions cannot be eroded by any Northern Territory ordinances'.
2. The Land Councils were not entrusted with the task of issuing entry permits.
3. The Minister for Aboriginal Affairs had the power to set land boundaries and limit the operations of the Land Councils.



4. The Gurindji people did not receive freehold title to their land, further frustrating their 10-year land claim.
5. The Land Councils had no specific power to investigate and report on the land requirements of Aboriginal and Torres Strait Islander peoples.
6. The Northern Territory Legislative Assembly was allowed to build public roads on Aboriginal land without the consent of the local community.
7. No provision was made for increasing the rate of mining royalties after the commencement of the Act.

Each of these significant changes removed the capacity for self-determination that had been central to the Whitlam government's original conception of the *Aboriginal Land (Northern Territory) Bill*.

The Fraser government also made drastic funding cuts to Aboriginal Affairs, of 22% in the first two years alone. Expenditure on Aboriginal health decreased 22%, education by 37%; and housing programs by a massive 41%. The contrast between the approach to Indigenous affairs of the Whitlam and Fraser governments was most apparent in the early Fraser years, when Whitlam's radical new approach was so quickly reversed.

Many years later this time of undoing, of returning to the official silence and deafness of previous years, was recalled by Galarrwuy Yunupingu in a poignant and incisive reflection.

*It is 1977 and I am on a boat with a new Prime Minister, Malcolm Fraser. He has defeated Gough Whitlam who first met my family when he was a pilot in World War II. With me is Toby Gangale, the senior Gundjehmi leader, steering us to a place where barramundi swim. Fraser has asked us to fish with him, and we hope there are words we can say to him that will halt his changes to the land-rights laws and over-turn the government's decision to mine at Ranger. But Fraser only thinks about the fish ... All the time I try and put words in his mind about the importance of land, about the importance of respect, about giving things back in a proper way, not a halfway thing. But he has his mind on other things – he's not listening; he doesn't have to. He just keeps catching barramundi (Yunupingu 2015).*

## REFERENCES

- Australian Institute of Aboriginal and Torres Strait Islander Studies AIATSIS Timeline 1905–1971. Available from <http://aiatsis.gov.au/collections/collections-online/digitised-collections/yirrkala-bark-petitions-1963/timeline-1905-1971>.
- Dodson, P. (2001). in ABC-TV, One Hundred Years Episode 4 'Unfinished Business'.
- Dow, C., & Gardiner-Garden, J. (2011). *Overview of Indigenous Affairs: Part 1: 1901 to 1991*. Canberra: Parliamentary Library. Available from [https://www.aph.gov.au/About\\_Parliament/Parliamentary\\_Departments/Parliamentary\\_Library/pubs/BN/1011/IndigenousAffairs1](https://www.aph.gov.au/About_Parliament/Parliamentary_Departments/Parliamentary_Library/pubs/BN/1011/IndigenousAffairs1)
- Fraser, M. (2012). 'Politics, Independence and the National Interest: The legacy of power and how to achieve a peaceful Western Pacific' *Gough Whitlam Oration*. The Whitlam Institute at Western Sydney University. Available from <https://www.whitlam.org/publications/2017/10/2/2012-gough-whitlam-oration>
- Hocking, J. (2008). *Gough Whitlam: A Moment in History (Vol. I)*. Carlton: Melbourne University Publishing.
- Hocking, J. (2012). *Gough Whitlam: His Time (Vol. II)*. Carlton: Melbourne University Publishing.
- Hocking, J. (2015). 'Gough's War: Changing a Nation' *Griffith Review* Issue 48 *Enduring Legacies* 92–101 Reprinted 16 April 2015. Available from The Conversation Retrieved from <http://theconversation.com/goughs-war-making-a-politician-changing-a-nation-38847>

- National Archives of Australia nd 'The Wave Hill "Walk-Off"', Fact Sheet 224. Available from <http://www.naa.gov.au/collection/fact-sheets/fs224.aspx>
- Whitlam, E. G. (1961). *House of Representatives*. Hansard. 3 May 1961 1397.
- Whitlam, E. G. (1972). 'It's Time': Australian Labor Party Policy Speech. Blacktown Civic Centre, Sydney. 13 November 1972. Available from [http://whitlamdismissal.com/downloads/72-11-13\\_whitlam-policy-speech\\_moad.pdf](http://whitlamdismissal.com/downloads/72-11-13_whitlam-policy-speech_moad.pdf)
- Whitlam, E. G. (1973). 'Aboriginals and Society'. Statement by the Prime Minister, The Hon E.G. Whitlam QC MP. Available from <https://pmtranscripts.pmc.gov.au/release/transcript-2886>
- Whitlam, E.G. (1973). 'National Broadcast by the Prime Minister, Mr E.G. Whitlam, QC, MP, for the elections of the National Aboriginal Consultative Committee'. Available from <https://pmtranscripts.pmc.gov.au/release/transcript-3081>
- Whitlam, E. G. (1985). *The Whitlam Government*. Ringwood: Penguin Books. 1985.
- Whitlam, E. G. (1997). 'Dragging the Chain' The Second Vincent Lingiari Memorial Lecture. Northern Territory University. 29 August 1997. Darwin. Available from <http://www.kooriweb.org/foley/essays/whitlam.html>
- United Nations (1966). *International Covenant on Civil and Political Rights*, Article 1. Available from <https://www.ohchr.org/en/professionalinterest/pages/CCPR.aspx>
- Yunupingu, G. (2015). *Tradition, Truth & Tomorrow*. Collingwood: Black Inc Books. Available from <https://www.themonthly.com.au/issue/2008/december/1268179150/galarrwuy-yunupingu/tradition-truth-tomorrow>
- Yunupingu, G. (2014). Yothu Yindu Foundation Chairman and Gumatj leader in ABC News 'Gough Whitlam tribute: Indigenous leaders say former Labor leader a champion of land rights' 21 October 2014. Available from <http://www.abc.net.au/news/2014-10-21/gough-whitlam-a-champion-of-land-rights/5829888>

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