

5 Resistance Goes On And Brings Some Hope Today

Despite the dominance and indifference of white Australians, Aboriginal Australians never ceased to fight back for justice, although many reacted like all people under too much stress, by heavy drinking, suiciding and sinking into the apathy of the oppressed. Often the Aborigines fought not only for themselves but also for all Australians. Men like William Ferguson and Jack Patten were, for example, outstanding leaders in the shearing sheds of NSW, and strong members of the Australian Workers' Union. In 1938 Ferguson and Patten planned perhaps the first modern Australian political demonstration for Aborigines when they hired a hall in Sydney to celebrate a Day of Mourning on the 150th anniversary of white settlement. In 1946 Aboriginal stockmen in the Pilbara in Western Australia went on strike and some were arrested and gaoled, but they formed their own cooperative and kept going on Yandeyarra Station. In 1958 the Federal Council for the Advancement of Aborigines and Torres Strait Islanders (FCAATSI) was formed, at first under another name.

In 1965 the Arbitration Commission granted equal wages to Aborigines in the pastoral industry, to be introduced in stages over three years. In 1966 Gurindji stockmen on Wave Hill in the Northern Territory struck for higher wages, but their real demand was for their land. So they walked off Wave Hill and went to camp at Wattie Creek, or Daguragu, as they called their land. (*The Unlucky Australians* by Frank Hardy, Nelson 1968). In August 1975 Whitlam flew to Wattie Creek to hand over to the Gurindji the leasehold title to 1,250 sq miles of country which had been part of Wave Hill. The Prime Minister said to their leader, '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 for ever'.

Vincent Lingiari said in English 'We are all mates now', and then in his own language he spoke at length to his own people.

In February this year the Gurindji lodged a claim for freehold inalienable title to the 1,250 sq miles.

Meanwhile in Arnhem Land the people at Yirrkala had started their long legal struggle with an unsuccessful challenge to part of a lease over their land, in the mining warden's court in Darwin. On 28 August 1963 they presented a

Photographs Above: An old Aboriginal sits alone with his dogs outside the new Parliament House in Canberra, just opened in 1927. *National Library of Australia*

Below: Forty-five years later, on 30 July 1972, about 400 Aborigines and more than 1,000 other Australians united before Parliament House to protect 'the Aboriginal Embassy', a new tent put up in defiance of the McMahon Government. One week earlier, after a violent clash, police had torn down the tent which had proclaimed the Aboriginal demands for land and compensation. But this time, after negotiations conducted from strength on the Aboriginal side, the police were permitted to remove the tent in peace. Aboriginal leaders called on Australians to remove the Government in the December general election. They did. *The Canberra Times*

petition, written in their own language on bark, to the House of Representatives in Canberra, saying 'the people fear that their needs and interests will be completely ignored as they have been ignored in the past'. However in 1965 the Nabalco Consortium was granted leases at Gove, near Yirrkala, and the town and hotel of Nhulunbuy were built.

In 1967, after a campaign in which FCAATSI was prominent, an unprecedented 90% majority of Australians approved a referendum which gave the Commonwealth government over-riding power in Aboriginal affairs with respect to the States. In 1968 FCAATSI launched a major land rights campaign. Then on Australia Day (26 January) 1972 Prime Minister McMahon issued a policy statement which announced a new form of general purpose lease for Aborigines, which would be conditional upon their 'intention and ability to make reasonable economic and social use of the land', and which would exclude all mineral and forest rights. The angry Aboriginal reaction was to erect a tented Aboriginal Embassy on the lawn in front of Parliament House in Canberra.

In December 1972 Gough Whitlam's Labor government took office and there was a surge forward in the movement for Aboriginal recovery. Mr Justice Woodward, who had been senior counsel for the Aborigines in the Yirrkala case, was appointed the Commissioner to report how land rights should be granted. A new Department of Aboriginal Affairs was created. In November 1973 a new National Aboriginal Consultative Committee (NACC) was elected. The first Whitlam budget, 1973/74, almost doubled the vote for Aboriginal affairs.

However it was soon apparent that the impetus was not fast enough or deep enough for the more determined Aborigines, who detected the strength of resistance to a change which was already threatened and faltering towards failure. They mustered their political counter-attack. It was led by Charles Perkins, already a senior public servant within the Department of Aboriginal Affairs (DAA). He had the courage to speak out against the racist back-lash, naming Ministers like Rex Patterson and even Jim Cavanagh, to whom he was responsible. In February 1974 Perkins was suspended and charged with improper conduct. Earlier the NACC had called for Cavanagh's dismissal and it strongly supported Perkins, who had also criticised Sir Charles Court, Premier of Western Australia.

On 28 February 1974 the Aborigines staged a big demonstration outside Parliament on the day of its opening by the Queen. Bob McLeod, an Aboriginal from Nowra, on the coast near Canberra, took a pistol into the DAA building and held its Deputy Secretary, Frank Moy, in his office. Perkins persuaded McLeod to give up his pistol and was then reinstated within the Department.

Photograph Gough Whitlam, Leader of the Labor Opposition, leaves 'The Aboriginal Embassy' on 8 February 1972, after discussions inside the tent which lasted one hour. With him is Paul Coe, Aboriginal law student and President of the Aboriginal Legal Service (New South Wales). Today Coe is still ALS President. *The Canberra Times*

ABORIGINAL
EMBASSY.





Photograph Rev Father Percy Smith with olds boys of his Anglican boarding house of St Francis at Ethelton, Adelaide, on 7 October 1979. With him (left to right) are David Woodford, Vince Copley, Charles Perkins and John Moriarty. Father Smith, in the late 1940s and 1950s, would gather Aboriginal boys from Alice Springs and guide them through their schooling and apprenticeships in Adelaide. Moriarity was the first Aboriginal to graduate from the University in South Australia. He said: 'We've learned a lot, but we're Aboriginal people and we'll always be proud of that.' Copley said: 'We'll never forget Father Smith. He married most of us and christened our kids.' *The Advertiser, Adelaide*

Two months later the final report of the Woodward Commission on land rights was published. But the Aboriginal Embassy remained outside Parliament House, until in February 1975 Charles Perkins and the Minister for the Capital Territory negotiated its removal. In November 1975 the Whitlam government was dismissed and the Liberal/Country Party coalition was back in office under Malcolm Fraser.

An Aboriginal Land Rights (Northern Territory) Bill had been introduced by the Labor government and it must be seen as encouraging, as a measure of the advance in average Australian thinking, that the Liberal/Country Party coalition introduced its own Aboriginal Land Rights (Northern Territory) Bill, which was passed through Parliament in December 1976 and proclaimed on 26 January 1977. So, exactly five years after the McMahon government's announcement denying freehold land to Aborigines another conservative government had given freehold land to Aborigines. Few Australians involved in any way in the desperate, angry Aboriginal Embassy in 1972 can have expected that a conservative government would have done so much so soon. However the Act



Photograph On 10 April 1979, George Brown, an Aboriginal community leader at Wreck Bay in federal territory near Canberra, stands where the boundary of the Aboriginal Reserve used to be. Since 1954 it has been cut down from 96 to 51 hectares. *The Canberra Times*

is critically examined and compared with the 1975 Bill in *Land Rights or Sell Out* by Geoff Eames (for the Aboriginal Central Land Council, from Friends Book Suppliers, 119 Devonshire St, Surry Hills, NSW 2010). (An account of the 1967/77 period is given in *Kulinma, Listening to Aboriginal Australians* by H.C. Coombs, ANU Press, 1979, Chapter 1.)

However the facts need to be reported before the current, still unsatisfactory situation can be analysed. In the Northern Territory Aborigines (who are 26% of the population but 65% of those who live outside the five main cities and towns) now own about 25% of the land, by a special, inalienable freehold title. They own, by this title, 347,303 sq kms. They also own the leasehold title to seven properties totalling about 14,000 sq kms, bought for them by the Aboriginal Land Fund Commission (ALFC). Since the passing of the Act three of their claims to unalienated land have been heard by the Aboriginal Land Commissioner, Judge Toohey, and others are being and will be heard. When all are heard they will probably own about 30% of the Territory.

In the Australian Capital Territory the Commonwealth has failed to be consistent even within its own federal jurisdiction and give the same inalienable freehold title as in the Northern Territory to the Aboriginal reserve at Wreck Bay, where about 150 Aborigines have been offered only a lease in perpetuity and, although the reserve was gazetted as 96 hectares in 1954, they are being offered only 51 hectares now. Reserves are still being reduced.

In South Australia Aborigines own about 9% of the land, again by freehold title. Recently the Pitjantjatjara Land Rights Bill (which is still before Parliament) gave them another 16%, which means they may eventually own about 25% of South Australia, all by freehold title. In addition, they own four properties totalling about 7,394 sq kms.

In NSW Aborigines own, by freehold title, only about 3,500 hectares of land or 0.005% of the State. They also own 12 properties totalling another 80 sq kms. In Victoria, again by freehold title, they own 1,821 hectares or 0.008% of the State. They also own one property of 1¼ sq kms. In Tasmania Aborigines own no land.

In Western Australia, where Aboriginal reserves cover 190,000 sq kms or about 7.5% of the State, the Aborigines own no land, except 11 properties whose leasehold titles have been bought for Aboriginal groups. These properties cover about 18,700 sq kms.

In Queensland, too, where Aboriginal reserves cover 36,440 sq kms or about 2% of the State, the Aborigines own no land, except for two properties, one of 1,783 sq kms and the other less than one hectare. Even Aurukun and Mornington Island, which used to be reserves, are not yet Aboriginal freehold land, merely 50 year special leases.

Perhaps the first point to make about this brief survey of the Aboriginal land situation in the States and Territories of Australia is that it differs widely, and therefore unjustly. Patently, although 90% of Australians wanted Aborigines to receive the same treatment throughout Australia when they voted in the 1967 referendum, the Aborigines are not being so treated. No Commonwealth government, Labor or Liberal/Country Party, has yet done its duty and insisted upon equal land rights for all Aborigines. Other political considerations have caused Commonwealth governments to fear to exercise the powers they were given in 1967, with respect to all States and especially with respect to Western Australia and Queensland.

The Commonwealth Constitution contains two sections which, when taken together, provide the Commonwealth government with the power to legislate for Aboriginal Australians, even against the wishes and policies of State governments. The sections are:

51 (xvi). 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:

The people of any race for whom it is deemed necessary to make special laws.

109. When a law of the State is inconsistent with a law of the Commonwealth, the latter shall prevail, and the former shall, to the extent of the inconsistency, be invalid.

The Commonwealth government has twice legislated to override State legislation. The Aboriginals and Torres Strait Islanders (Queensland Discriminatory Laws) Act 1975 was one measure, and the other was the Aboriginals and Torres Strait Islanders (Queensland Reserves and Communities Self-Management) Act 1978, which was intended to 'prevent the

takeover by the Queensland Government from the Uniting Church of the management of two communities', namely Aurukun and Mornington Island. It was, not, however, proclaimed and a deal was done with the Queensland government which denied the people of these two reserves (and the people of all other Queensland reserves) the same inalienable, freehold title as that given to all the reserve people in the Northern Territory.

In realistic political terms, it is the judgement of the Commonwealth government that public opinion in Queensland (and WA) is not yet ready for the reserves to be taken over and given to the Aborigines. If it acted against the policy of the Queensland government then it would lose seats in that State. One of the reasons for the founding of the Aboriginal Treaty Committee is to influence and mobilise Australian opinion so that politicians will recognise that their general interest *will* be served by strongly supporting Aboriginal interests. Only then will Aboriginal Australians be treated justly and equally throughout Australia.

It is certainly encouraging, perhaps even surprising after such a history, that Aborigines are now officially and legally regarded as a quite unique people within Australia, unlike any other ethnic minority, by virtue of their unique culture and their ancient occupation of this country. From this recognition, which is implicit in the Aboriginal Land Rights (NT) Act, everything else should flow throughout Australia. But it does not flow.

The injustice of the discrimination between Aboriginal Australians living in different parts of Australia is heavily felt and bitterly resented. Men who cross State and Territory borders in the north, driving cattle or attending religious ceremonies, are constantly reminded of the injustice. There is, moreover, a new, more fluid movement of Aboriginal people throughout Australia, which is making them aware and critical of the quite different conditions in which they are forced to live. For example, tribal people travel south each year from the Territory to pick fruit in the Riverina, meeting Aborigines of Victoria. Young men from Peppimenarti cattle station on the Daly River (NT), which is owned and run solely by Aborigines on Aboriginal freehold land, go into the Kimberleys for rodeos and ceremonies and find their people in WA have no freehold land. This means that the Kimberley Land Council has far less power than the Territory's Northern and Central Land Councils, both of which have independent incomes of at least \$500,000 a year from royalties paid by companies using Aboriginal land. The North Queensland Land Council is similarly disadvantaged. Despite Judge Woodward's recommendation in 1974, the Aboriginal Land Councils in the States are not officially funded.

As for New South Wales, Aboriginal people in this huge State are severely disadvantaged because, over the years, their reserves have been cut down in size and number until very little freehold land is left to them. In Victoria and Tasmania the land situation is even worse.

Also, contrary to the statements of those who would 'divide and rule' to limit the pace of change, Aboriginal people who are full blood and of mixed race are coming closer together in understanding and mutual comfort. Young people who were taken from their tribal mothers in the Territory as very small children

and reared in the south, because their fathers were white and they were pale, are now going back to rediscover their mothers, their families, their clans and their land. They are generally welcomed, although there are also resentments based on misunderstandings and different interests. More and more, even as Aboriginal Australians determine to reassert, rediscover or confirm their clans and tribes and land, are they coming together as one people, who were divided and are now uniting. For example, Aborigines of mixed descent are working well with the great majority of full blood men on the Northern Land Council in the NT.

The so-called 'urban Aboriginal' is rare indeed. Most Aborigines in cities know very well where they come from. The city is *not* their land. Aboriginal people throughout Australia have to put up with treatment so diverse that it would not be tolerated by their fellow Australians. A Treaty would help to ensure that all Aborigines would be treated equally everywhere, and one provision might well be an agreed time-table for the settlement of land claims on an equal basis in all States.

It would also make sure that they were treated with more justice everywhere. Senator Bonner has called Aborigines 'the most imprisoned people in the world'. Since Aboriginal Legal Services, staffed by Aborigines but employing white solicitors (no Aboriginal solicitors being available), were set up in 1970, the law has been less prejudiced against Aborigines. But not even this improvement could wholly rectify a dreadful situation described with great authority by Dr Elizabeth Eggleston in her *Fear Favour or Affection* (ANU Press 1976), a study of Aborigines and the criminal law. Also, in Queensland this year, Aborigines and Torres Strait Islanders, although only 2% of the State's population, are 35% of its prison population. In a survey of WA in 1968, Dr Henry Schapper found that 11.5% of all Aborigines in that State had been to jail, but only 0.4% of other Australians. Also, although Aborigines were only 2.5% of the State's population they were 44% of those jailed (*Aboriginal Advancement to Integration*, ANU Press 1970). Another authority found that over 80% of women prisoners were Aboriginal. The appalling status of Aborigines in education, health and housing and employment is documented in *A Blanket a Year* by Professors Leonard Broom and Frank Jones (ANU Press 1973). Both these books are in the series, *Aborigines in Australian Society* which was sponsored by the Academy of Social Sciences in Australia. Professor Rowley is director of the project and wrote the great trilogy, *The Destruction of Aboriginal Society*, *Outcasts in White Australia* and *The Remote Aborigines*.

Another work in this authoritative series, *Aboriginal Health*, by Dr Peter Moodie, documents a situation which has changed far too little, despite the establishment of Aboriginal-staffed Aboriginal Medical Services and the recent and remarkable national trachoma program, which enlisted the direct involvement of tribal people and has left in its wake some promising community health bodies, based firmly upon the local people. Moodie believes that one of the most important tests of a people's health is the proportion who live beyond the age of 50. For example, 84% of white Australians who died between 1958 and 1960 were over 50. But only 35% of Aboriginal Australians who died in the

Northern Territory in the same period were over 50. This appalling situation is not peculiar to the NT. For example, in the Bourke area of NSW in much the same period the situation was even worse. Only 29% of Aborigines who died there had reached the age of 50. Between 1967 and 1971 the proportion had improved to 39%. 'Even so, such a figure compares unfavourably with many of the poorer, developing countries of the Third World', writes Professor Max Kamien in his remarkable book *The Dark People of Bourke, A Study of Planned Social Change*, (Australian Institute of Aboriginal Studies, Canberra, 1978). He wrote: 'More recently some enlightened doctors including the medical profession's most famous political activist of modern times, Che Guevara, have again realised that many of the major health problems affecting people can be traced to social, psychological and environmental factors. They have 'started a growing cry around the world for doctors to be more radical in accepting social responsibility for some of the changing needs of people and communities'. Another important book is *Every Second Child* by Dr Archie Kalokerinos (Nelson 1974).

Ten years ago Dr Coombs told the Australasian College of Physicians: 'There is nothing insoluble about the health problems of Aboriginal Australians. Existing knowledge, determination and resources could transform this scene in a decade'. It has not been transformed. The infant mortality rate for Aborigines, although it has steadily declined in recent years, is still more than three times that for Australians in general. And yet, within 20 years, the Aboriginal population will have doubled and be at least 300,000. So the total suffering could be compounded. Recently an official report by the NT Health Department found that 'Aboriginals live in an Oliver Twist world of blinding poverty with 19th century demographic patterns of high birth rates, high population growth, high mortality rates both adult and infant, as well as high levels of illiteracy and unemployment, and a high incidence of morbidity largely of an infectious nature. Trachoma, leprosy, tuberculosis, otitis media, bronchitis, pneumonia, and gastroenteritis are the order of the day. This study shows that not only have Aborigines a Dickensian pattern of vital statistics but that this is naturally matched by a Dickensian environmental pattern'. Gordon Briscoe, a founder of the Aboriginal Medical Service and co-director of the national trachoma program, has written a fundamental article on 'Aboriginal Health and Land Rights' in the *New Doctor*, Journal of the Doctors' Reform Society, April 1978. Briscoe, an Aboriginal from Central Australia, explains the need for paramedical health support from Aboriginal elders, medicine men and interpreters.

A critical appraisal of Aboriginal housing needs and policies is *A Black Reality, Aboriginal Camps and Housing in Remote Australia*, edited by Michael Heppell (Australian Institute of Aboriginal Studies, 1979). Heppell was director of the Aboriginal and Torres Strait Islander Housing Panel, which was abolished by the government in September 1978, despite much good work as a consulting body of Aboriginal and other Australians.

As for the unemployment situation, serious today for all Australians, it is cruel for Aborigines. Professor Rowley has asked angrily why it is "well over 60% for

Aborigines' in western NSW, 'with pockets up to 97%'. An official report in September this year revealed that the unemployment rate among Aboriginal men was 47%, compared with 5.8% for all Australians. (There is an Aboriginal saying, which applies to general expenditure: 'They have to keep us poor or their blokes wouldn't have a job'.) Throughout Australia, almost 25% of Aboriginal adults have never been to school. (*The Economic Status of Australian Aborigines* by Jon C. Altman and John Nieuwenhuysen, Cambridge University Press 1979, is the latest summary of the Aboriginal condition today.)

The catastrophic nature of life for most Aborigines in Australia today continues despite real improvements in policy and increases in expenditure. For example, the federal budget vote for Aboriginal recovery has gone up from a miserable \$10 million around 1967 to about \$170 million today. Much of this money is being spent with a good deal of autonomy (once they get the money) by incorporated Aboriginal legal, medical, housing and other associations, often of a local government nature. Aboriginal hostels have been established throughout the country, administered largely by Aborigines, through a company which is reasonably autonomous. In education, special Aboriginal grants for secondary and tertiary study have helped young people to stay at school and to go on with their higher education after they leave school. Bi-lingual education has also been introduced, and more and more Aborigines are teaching their own children in European as well as Aboriginal ways.

What then is still wrong? Fundamentally, Australians are still unwilling to offer genuine autonomy or self-determination to Aborigines. They cannot bring themselves to believe in Aboriginal capacity, and they cannot believe that Aborigines will want to be a part of our total society — perhaps because it has been so brutal to them for so long. There is still an abiding, irrational fear of what is mistakenly called 'apartheid', if Aborigines are allowed to withdraw on to their own land. This fear has gripped many in the Northern Territory and it is preventing the passage of land rights legislation in Queensland and Western Australia. Australians who think like this do not understand the pervasive power, for good or ill, of the predominant Western culture, which has always attracted Aboriginal Australians, as it does others throughout the world. This is obvious to anyone who has seen young tribal Aborigines in the Northern Territory, on their own land, riding motor bicycles, listening to transistors, and buying jeans and airline tickets. It is also obvious that Aborigines, needing money to improve their material conditions and to establish their 'homeland out stations', will in their own time allow their own land to be used, on their own terms after free negotiation, by other Australians, privately or in companies. This is already happening.

Photograph In a camp near Alice Springs, this woman is one of many Aboriginal Australians who have been blinded by trachoma, which is both curable and preventable. The national trachoma eradication program is beginning to prove this, under the direction of Professor Fred Hollows. *Paul Wiles Photography, Alice Springs*





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"Its coming yet... : an Aboriginal treaty within Australia between Australians",

Stewart Harris. Canberra:[Australian Aboriginal Treaty Committee] 1979

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