

## 'Separatism' through recognition an irrational fear

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Keith Windschuttle builds his case on a misinterpretation of **indigenous** sovereignty

There are two types of fear in politics. There is rational fear, which is productive. You can talk it through, address the concerns and create more sensible and cautious reform proposals as a result of the exchange. Rational fear has a sound basis and can therefore propel sound discussion and debate, with better policy resulting. True conservatives harness rational caution and fear to ensure that reforms ultimately pursued are well thought through.

Then there is irrational fear, which is unproductive. It doesn't have a sound basis, so efforts to address it won't lead to better reform. Irrational fear might win votes and elicit short-term wins, but it doesn't lead to well-thought-through policy, nor is it conducive to a cohesive and stable society.

It is important to discuss irrational fears - if only to confirm that they lack a sound basis.

Last Saturday, Inquirer ran an extract from Keith Windschuttle's new book, *The Break-Up of Australia: The Real Agenda Behind Aboriginal Recognition*, which contends that **indigenous** activists seek constitutional recognition because it will lead to Aboriginal sovereignty. Windschuttle asserts that **indigenous** people think recognition will be "one more step towards" Aboriginal "sovereignty over their own separate state or nation".

The argument is an example of an attempt to whip up irrational fear. It also oversimplifies the complex ongoing discussion in **indigenous** Australia.

First, Windschuttle misinterprets **indigenous** politics. His description of the beliefs, views and objectives of **indigenous** Australians involve too many inaccurate generalisations to be regarded as sensible. "**Indigenous** people think X. **Indigenous** people want Y. And when **indigenous** people say X, they really mean Y." If I asserted that "white people think X" or "white people want Y", readers would rightly dismiss my arguments as silly.

In my experience, having talked with **indigenous** people about constitutional recognition for almost six years, very few **indigenous** Australians want a separate state in the international sense, as Windschuttle suggests. Few feel this is desirable, let alone feasible.

Indeed, contrary to his suggestion that **indigenous** sovereignty campaigners see constitutional recognition as a step towards separate sovereign status, most **indigenous** activists who harbour aspirations for separate-state sovereignty in

the international sense tend not to support constitutional recognition for precisely this reason: such recognition is inclusive and, to genuine separatists, it is problematically integrationist.

This demonstrates the tortured nature of Windschuttle's argument. He tries to assert that formal indigenous inclusion in Australia's Constitution somehow equals indigenous exclusion. But the leap from constitutional inclusion to constitutional separatism and indigenous international sovereignty is a very big leap. Windschuttle is also unclear about what is meant by "sovereignty" and glosses over the fact that indigenous people use the word in many different ways.

His simplistic notion of sovereignty - sovereignty in the international sense - is generally achieved through military force. It is fought out in the political realm, often through war. That is why Australian courts have held that the issue of surviving indigenous sovereignty (in the international sense) is not justiciable in Australian courts - because a court of the conquering power cannot find against its own authority.

Windschuttle notes that Michael Mansell, as a younger activist in the 1980s, visited Libya to seek help from Muammar Gaddafi for his Aboriginal provisional government. This further demonstrates the tenuousness of Windschuttle's argument. Far left activism for separate indigenous sovereignty in the international sense has been going on (unsuccessfully) for decades - absent constitutional recognition. Is Windschuttle asserting that recognition will propel indigenous Australians into Gaddafi-like military force and thus the creation of a separate, international Aboriginal state? How exactly can constitutional recognition do that, and why would Australians tolerate it? The assertion is implausible.

Equally implausible is the idea that indigenous separate-state sovereignty might be established through a legal loophole or unintended consequence arising out of a recognition amendment (an amendment that will need to be approved by a double majority of Australian voters, not to mention the majority of politicians and their legal experts). The suggestion that the sovereignty of the Commonwealth of Australia could be impinged upon or divided by anything less than superpower military force is fanciful.

There is, however, a non-separatist, non-military, inclusive notion of indigenous sovereignty. Noel Pearson often points to words of International Court of Justice judge Fouad Ammoun's words in the Western Sahara case (1975), explaining indigenous peoples' sovereignty as "a spiritual notion: the ancestral tie between the land, or 'mother nature', and the man who was born therefrom, remains attached thereto, and must one day return thither to be united with his ancestors. This link is the basis of the ownership of the soil, or better, of sovereignty." This understanding of sovereignty is not military but cultural and spiritual. It can co-exist peacefully with the military sovereignty of Australian governments.

Many indigenous Australians maintain a surviving notion of indigenous sovereignty in this inclusive, rather than separatist, sense.

Internal, domestic indigenous sovereignty (as opposed to external, international) can be expressed through notions of increased indigenous responsibility within

domestic arrangements. The proposal for an indigenous constitutional advisory body would enable greater indigenous input into political decisions concerning indigenous people. Offering non-binding advice, such a body would create a platform for increased indigenous responsibility and leadership in indigenous affairs.

Inclusive indigenous participation is practised in many countries. New Zealand has a Maori Council. Scandinavia has Sami councils to advise governments. Canada has the Assembly of First Nations. Through such mechanisms, the non-separatist sense of surviving indigenous sovereignty can co-exist peacefully with colonising governments, and mutually respectful indigenous-state relationships can be created. Recognition of this kind is the sensible alternative to assimilation and annihilation of indigenous peoples on one hand, and separatism and fragmentation of the state on the other. This is the "radical centre" to which constitutional recognition aspires.

One only need look at the models on the table for discussion by the Referendum Council to see that respectful inclusion is the real aim, not fragmentation. But Windschuttle's argument doesn't seriously grapple with the proposed models, nor with the one developed in collaboration with cautious conservatives to address their rational fears and concerns.

This is heartening. It shows that Windschuttle, like Andrew Bolt, is grasping at straws. If the best argument he can come up with is that constitutional recognition will lead to a separate indigenous sovereign state, then we have done a good job of addressing rational fears and concerns.

A declaration outside the Constitution and an indigenous advisory body within the Constitution is a sensible, modest and inclusive proposal that consciously addresses rational conservative concerns, as well as longstanding indigenous advocacy for a voice in their affairs. We have worked productively with conservative caution and come up with a robust model. The only fears left unaddressed are the irrational ones.

You don't address irrational fears. You dispel them.

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