

## The fragility of self-determination and the deeper challenge of the politics of indigeneity

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**Abstract:** Dominic O’Sullivan (2006) develops an important argument concerning the revisionist reduction of Indigenous rights to a concept of ‘need’, thereby obscuring the important basis of claims for Indigenous self-determination. In response, this commentary argues that in practice, self-determination is itself a contradictory and fragile concept, and suggests that O’Sullivan has understated the deeper claims of the politics of Indigeneity. Indigeneity is not limited to calls for self-determination, which are seemingly inevitably muted by government mediation into *policies* for self-determination and thence subject to assimilationist and populist critique. The politics of Indigeneity also includes the more profound and challenging desire for a meaningful Indigenous sovereignty.

**Keywords:** Australia, indigenous policy, New Zealand, self-determination, sovereignty

### Commentary

Although it is a strong concept, as policy self-determination has proven to be a contradictory and fragile political practice. It is contradictory because, in ostensibly decolonising settler states like Aotearoa New Zealand or Australia, self-determination has been taken from the realms of inherent rights and reformulated as government policy. This is to say that, in practice, self-determination may become *government* rather than *Indigenous* determined. In recent years the concept has also been revealed as fragile as the relative ease with which governments can resile from earlier commitments to self-determination has become obvious.

Through his discussion of changes in political discourse and policy since Don Brash’s ‘Orewa one’ or ‘Nationhood’ speech in January 2004 (Brash 2004) O’Sullivan captures the fragile nature of Maori self-determination in practice. In Orewa One, Brash outlined his views about what he termed the ‘dangerous drift towards racial separatism’, calling for ‘One Law for All.’ His approach to Maori issues in the speech seemed to strike a chord with the electorate, evidenced by ‘the largest single increase in the history of polling in new Zealand’: a 17 point rise in support for National in the month following the speech (Miller, 2005, p. 166). During the previous year, conflict over the foreshore and seabed issue had created political ground that was ripe for Brash’s Orewa One speech and in the subsequent period of electoral uncertainty for the government Maori self-determination was compromised through the appointment of the Coordinating Minister Race Relations and the release of the Foreshore and Seabed Legislation in May 2004, amidst a sea of *hikoi* around the country (Harris, 2004).

Australia has seen a similar if more extreme capitulation to populist forces in relation to Indigenous self-determination. Elsewhere I have suggested that Brash has, at least in part, been inspired in his uni-nationalist discourse by the success of Australian Prime Minister John Howard during his decade in office (Maddison, 2006a). In Australia the decade of Howard governance has been a decade of ‘lost opportunities’ for Indigenous people (Maddison, 2006b) culminating in the government declaration that their abolition of the elected representative body, the Aboriginal and Torres Strait Islander Commission (ATSIC), demonstrated that the ‘experiment’ in self-

determination had been a 'failure' (Howard & Vanstone, 2004). The fact that the government *policy* of self-determination as enacted through ATSIC did not in fact create an environment in which Indigenous Australians could be genuinely self-determining was overlooked.

This gives rise to my second point regarding the fragility of self-determination in decolonising states. What the contradictory nature of the rights/policy divide reveals is the deep resistance from settler states to any form of meaningful or genuine self-determination. Here O'Sullivan seems to radically understate the case. At its heart, the politics of Indigeneity is more profoundly and fundamentally challenging to the legitimacy of settler states that O'Sullivan lets on. O'Sullivan claims that the politics of indigeneity does not create a 'crisis of legitimacy' for settler states, where I would argue that this is exactly what it does. Indigeneity, with its assumption of inherent and collective Indigenous rights, poses a substantial challenge to the foundations of the individualism and universalism of the liberal-democratic framework (Fleras & Elliott, 1992, p. 221). The resulting crisis is precisely the cause of the mainstream political resistance and recourse to assimilationist rhetoric and policy that O'Sullivan identifies.

In this sense, O'Sullivan seems to conflate some aspects of self-determination with the broader concept of the politics of Indigeneity. The politics of Indigeneity is not just about power, or about being self-determining. More significantly it is about sovereignty: it is concerned with the genuine recognition of the prior existence of, and contemporary need to negotiate with (as opposed to make policy for), Indigenous *nations*. These distinctions are evident in *reo maori* and in debates concerning the translation of the Treaty of Waitangi. This is important: in the highly contested first clause of the Treaty it is *kawanatanga* (or governance) that the Chiefs ceded to the British Crown, not *tino rangatiratanga* or sovereignty (Walker, 1999).

O'Sullivan also claims that the politics of Indigeneity does not imply 'political isolation' and that '[a]cceptance of the Treaty of Waitangi makes it impossible for Maori to reject the legitimacy of the New Zealand state.' Two problems arise with this argument. The first is that historical fact does not trump a contemporary politics of Indigeneity. Acceptance of the Treaty does not imply that Maori accept the *legitimacy* of the New Zealand state, rather that they accept the *reality* of the New Zealand state and the necessity for Maori to deal with the state, regardless of its legitimacy. The second problem is with the blanket view that the politics of Indigeneity does not imply a desire for political isolation or separatism. This may be the view of many Maori, but it is clearly not the view of all Maori, many of whom do indeed see political isolation as desirable and in fact reject the Treaty of Waitangi as an acceptable basis for negotiation between *iwi* and the illegitimate New Zealand state. As Vasil notes, many Maori consider the Treaty of Waitangi to be a 'fraud without any legal foundation' and an inappropriate basis from which to be negotiating Maori grievances. Although the 'vast majority' of Maori 'take a practical view, and do not insist upon the undoing of history' (Vasil, 1990, p. 143) for a minority only the full restoration of their *rangatiratanga* will do.

Sovereignty implies nationhood, and as Durie points out, '[t]he fact that there is no established Maori nation-state does little to diminish the reality of a Maori nation' (2003, p. 497). The process of colonisation that bulldozed over the top of existing Indigenous nations around the world has not erased those nations, and herein lies the deeper challenge of the politics of Indigeneity. Beyond policy development – including the 'granting' of various models of self-determination – the politics of Indigeneity demands that Indigenous sovereignty and nationhood be properly recognised. This goal is far deeper than any policy prescription can accommodate.

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