

"The State, Democracy and Citizenship in Australia"

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DRAFT VERSION

My recent book, which traces the history of citizenship in Australia in the twentieth century, has the title from *Subject to Citizen*. (Davidson 1997a) It describes this progress as positive where both the acquisition of nationality and the rights of citizens are concerned. Its thesis is that the early Australian Commonwealth had been a racist, exclusionary regime based on a blood notion of Anglo-Celtic nationhood. Only those of British stock were welcome. The man who drafted the Constitution, Samuel Griffith, summed up the exclusive communitarianism on Federation day (1901) in these words: "The whole Empire, the unity of which was never so conspicuously displayed as in the closing year of the past century, is watching the great event of to-day with sympathetic interest, and he must indeed be churlish who, even though he would have preferred to wait a little longer, will decline to join the rejoicings of an Empire, or refuse his sympathy to the Australian Sons of the Blood in their cheerful acceptance of their manifest destiny. . . . Henceforth we are Australians first, then Queenslanders, but always Britons". (The Brisbane Courier, 1/1/1901) I argued that that sort of view lasted until the return of the Whitlam government in 1972, when Australia was abruptly dragged into the twentieth century.

What prompted the change was the Australian need for labour after 1945. This had resulted in the immigration of a hundred different ethnicities whose sudden presence made it a mockery to demand assimilation to the Anglo national identity before nationality and citizenship rights were granted. In the next eighteen years it became easier and easier to obtain naturalisation in Australia. The country became a multicultural society proposed as a model for the rest of the world. While Whitlam's attempts to improve citizenship rights, especially for minorities and newcomers, met resistance from the old majority and were only unevenly implemented, there were innovations. A real democracy based on one man, one vote, one value had not been obtained by 1995, but when I finished writing the book, the rights of women, aborigines, and ethnic minorities had improved greatly as Australia was hauled from a position close to that of Nazi Germany or South Africa into conformity with international norms. I expected that it would only be matter of time before the one person, one vote, one value principle would also be adopted as a right.

Recent events and research have forced me to revise my optimistic view. Since the mid-eighties a new nationalism has developed (Jayasuriya 1991). It is not unlike that in other countries, including Britain, France and Germany, in that it has taken on exclusionary anti-migrant and anti-Aboriginal forms, and is marked by the introduction of new nationality laws which make it more difficult for immigrants to obtain citizenship. Australia has found her Lepenisme in Pauline Hanson's One Nation party which has had an alarming success in recent elections, 11 members of Parliament being elected at the last elections in Queensland. The 1993 reform to the Citizenship Act tightened up

requirements for citizenship by moving away from the strict *ius soli*. Proposals for reforms in 2001-while trumpeting a belated acceptance of the principle of dual nationality-show a reemergence of the notion that Australia belongs to the old Australians who need to defend their patrimony. For example, the environmental argument against further immigration has been accepted by government spokesmen as reasonable.

Recent research (Dutton 1998;Hage 1998; Jackman 1998) has shown that strong Anglo-Celtic "white"attitudes are alive, well, and growing not only at state but at community level. Indeed, Hage makes clear that the racist discourse of One Nation is really akin to the taunts of a child in a family whose adults hold the same view in private. Indeed, he argues that the bad nationalism which colludes with neo-fascism -of which the ruling conservatives have long been suspected - is structurally the same as the good multicultural nationalism which sees "our" Australia as "enriched" by newcomers without ever querying the notion that Australia is "our place".

This new nationalism could be seen as no more than a knee-jerk reaction to the pressures of a globalisation which -on a lived level- combines unemployment and hardship for the old national community with the arrival of great numbers of new sorts of ethnic work-forces. Consequently, as it is mere ideological nostalgia for a homogeneous , harmonious world that has been lost and will not return in the new global economic system, the new nationalism might be dismissed as temporary. The approach I adopted in my book , which noted its re-emergence , was that the structural imperatives of globalisation would force positive innovation and override political appeals to a declining national sovereignty. Following the logic of most commentary on globalisation, the imperatives of the global free market were understood as forcing the development of at least a competition state and thus ulterior adoption of an international rule of law. (see further Castles and Davidson 2000 forthcoming)

On reflection, it seems wiser to consider what logics exist within the overall Australian state structures which may give a continuing material basis to the new nationalism and prevent the positive move from subject to citizen continuing as it did in the past. These logics will operate even if the pressure of globalisation is in the other direction. The substance of this paper is to consider what those structures are and how they operate. Its theme is that even if the subject status has been abolished formally, Australia's particular variety of the Westminster system continues to prevent a move towards a real democratic citizenship. At the risk of overstating my position , democratic citizenship exists where people live under laws of their making. This can only occur where they are the sovereign power in a particular space. In Australia, the practical conclusion must be that nothing but a radical break with the overall state structure through a radical new Constitution which does not continue the previous system will be required to create such power "from below". This seems unlikely given existing political hegemonies.

From Westminster to Axminster

When the 1901 views of Sir Samuel Griffith cited above are translated into his view of the British patrimony, the latter reveals itself to be six or more hundred years of common law and the system of rule evolved at Westminster. This structured combination is regarded as without equal in guaranteeing the rights of the individual subject.

After 1840 British imperial possessions were always regarded as heirs legally and politically to that system, which they were all expected to acquire in time: even the non-white Empire.

The admiration for the Westminster model(which extended well beyond the English-speaking world) rested on its capacity to adapt and change without violent revolutionary popular action. By 1911 it could even be argued that it had adapted to democracy. Its flexibility owed much to the fact that it was an unwritten combination of common law decisions and "conventions" of Parliament. The capital point is that it changed when extended to the colonies -including those of Australia -in the 1850s and continued to grow away not only from the British model but from that of other colonies. The distance is great today between Britain and Australia, New Zealand, Canada and South Africa, all of which were originally based on the system at Westminster.

The essence of the system was that it was unwritten and easily adapted to new circumstances. But the system meant that it had to be a sovereign Act of the British Parliament which established a rigid written constitution for Australia. The virtue of flexibility was lost because the Constitution became frozen in time. All the defects of the system because of what it omitted then became increasingly obvious. It became known pejoratively as a "Washminster" (Thompson 1994) and then an "Axminster" system. (Venturini 1994) We seek to trace that degeneration in what follows.

Subjects/Subjection

The Westminster system had grown through concessions exacted from a feudal and absolute monarchy by his lords and notables. This shifted power and legal sovereignty into the hands of the Parliament, formally the King-in-Parliament. (Low 1918;Cambridge 1933))As the franchise was extended to more and more of the population between 1832-1928 and parliamentarians became dependent on electoral support, a practical democracy with power "from below" emerged in Britain. The turning point to democracy is usually located in 1911 when the unelected House of Lords was effectively subordinated to the elected House of Commons. (Green 1920)

Nevertheless, formal democracy was weak, having emerged in a piecemeal and ad hoc fashion. Unlike European and US democracies, the people was not made formally sovereign -the King-in-Parliament remains sovereign to this day.

This meant that formally the Westminster system makes the state machinery sovereign: the people remain the subjects of the monarch and his law is his commands to them. The democratic citizen is left out. (compare Rousseau 1971:524)

After 1901 Australian discussion of the citizen and democracy followed British practice in focussing on the notion of duties to the State - the Roman tradition of another Empire-rather than on the citizen's right to make the laws under which he or she lives. But in the context of a written constitution the meaning was much more restrictive than the British.

Once it was translated into a written constitution the practical flexibility was lost since there could not be that practical transfer of power to the people without a series of rebellions like those of British history up to 1688. Rather there was a formal omission of the citizen-individual from collective sovereignty. In the Australian constitution of 1901 reference to the citizen was deliberately left out and there is still no formal statement about democracy. (Davidson 1997a) This poses the question of the source of the rule of law, which is essential to any liberal democracy and which has no consensual force without it.

As a written document the constitution had to be interpreted by the High Court for the limits of its powers. This would have been so in all federations. The vast territories of the British Empire had to be federations. (Even New Zealand considered becoming a federation). Yet, where the USA, which was the main model for the Commonwealth of Australia, made clear the sovereignty of the people in its Constitution and created a Bill of Rights to which the judiciary could refer for guidance, Australia did not. Indeed, it never has and until the 1970s it was a canon that such formality was not necessary because the existing system was all that was needed to protect the individual from state tyranny. (Menzies 1967)

Since the 1970s even the judiciary, aware of its vast and unaccountable power as the source of the rule of law in the Australian system, has called for a Bill of Rights which establishes citizen inviolability. In 1999 there is still no Bill of Rights.

In sum, the democratic citizen, who was able gradually to emerge, at least partly, in the interstices of Westminster, did not in fact emerge in Australia. Instead there emerged the hybrid of Washington and Westminster which allowed such power to the judiciary that it had degenerated into the Westminster system, where the state can trample legally on rights recognised elsewhere in the world. In my book I forecast changes in the 1990s on the basis of political trends which depended on international pressure to conform to a rights regime.

Yet, in 2000 there are no signs of change to this structure. Indeed, the negative implications for democracy and human rights for the citizen are dismissed as paranoia. Rather, at the 1998 Convention to discuss the establishment of a Republic, which would finally break with vestiges of the monarchical prerogative power, debate was limited to the issue of how to choose the President. (Report 1998) Moreover, it was decided that the new President would be chosen by Parliament, not elected by the people. No other failing of the constitution, let alone the absence of a statement and structures to establish popular sovereignty, was even allowed onto the agenda. Today, real republicans sometimes

propose a vote against change in the 2001 referendum for fear that further reform will be shelved if the "minimalist" option of a President chosen by Parliament succeeds.

The problem

The problem this poses for me is to explain the failure to progress in the way I expected four years ago. Why have international standards not forced or led Australia away from the undemocratic political residues in its structure? Why are international norms just not talked about here as they are elsewhere, even in the great complacent open republics, the USA and France? The former is, of course, notable for its refusal to sign international agreements, arguing that its rights standards are unmatched, or, that its national sovereignty would be violated if it adopted such norms.

A preliminary answer is that the limited structure of the debate has been fostered by nearly a hundred years of such a Constitution. It shows no sign of changing despite the lip-service to the need for an active citizen developed since 1988. That lip-service was prompted by the recognition by Labor that the Australian voter was not outraged by the undemocratic 1975 dismissal of the Prime Minister, Gough Whitlam, when he tried to drag Australia into conformity with international norms for democracy and human rights. Rather, so ingrained was the passivity of the subjects -among the few peoples of the world compelled to vote because of their low electoral participation - that they acquiesced easily in what overseas commentators saw as a peaceful coup d'état.

Certainly, vast civics programmes were introduced in the mid-1990s by the heirs to the conservative parties who had Whitlam removed using Constitutional powers vested in the Governor-General. These programmes were designed to shift responsibilities to individuals and away from the state by emphasising the duties and obligations of the citizen. The further question is then posed: why have they not succeeded?

An analysis of the intent and content of those programmes, *Discovering Democracy*, (Kemp, 1997) reveals an attempt to glorify and not critique Australian political history. This is portrayed as a triumph of democratic principles and human rights-which Australia apparently pioneered-resulting in a system which is superior even to that in Britain. In fact civics is equated mainly with learning this history and showing, through loyalty to it, how indebted we and future generations are to what our forefathers built(not much mention of the foremothers, though that would not necessarily improve the picture). Little hands-on active participation in running the country is proposed when compared with the civics programmes of France or the USA, or the European Union and Council of Europe. (Kemp 1997;Davidson 1999)

This bogs Australia down in the "debt" notion of citizenship (Duchesne 1997) which makes civic ethics primarily loyalty to our forebears and thus to the community and nation. Any criticism is immediately tainted with disloyalty. It therefore inhibits attention being focussed on contemporary problems arising outside the community history. Deciding what should be done by reference to any post-national or global future can only

be limited to word games. Solutions are blocked by the structure of reasoning before analysis is even made. Indeed debate about democracy in Australia rarely starts from the question what is meant by democracy in 2000 but from the assertion that what we have is democracy. Such a position can never result in reform since what we have can never be measured against anything else to see how far it is unsatisfactory.

While similar attitudes can be seen in Britain and European countries more generally, there are two sides to the debate there. There is no real debate in Australia. When debate is called for it is dismissed for pragmatic reasons. In Britain, the former vainglorious assumption that Westminster was superior to all other systems is clearly under challenge and is resulting in changes like the proposed abolition of the House of Lords, the incorporation of the European Convention of Human Rights into the rule of law, the creation of Parliaments for Scotland and Wales and even pressure for a written Constitution. While progressive Britons might find this typification a little rosy, it is important that they realise that Britain does look rosy from Australia, because it is giving up its blind attachment to the Westminster model in favour of that imposed by the regional imperatives of Europe.

Again, we see, say, Canadians, evolving away from the Westminster model into a new discourse on politics unimaginable in Australia. While Canada and Australia had had parallel development since the Durham Report of 1839, the North American colonies had diverged and become much more progressive than the Australian by the twentieth century. Any student of Australian constitutional and international law since 1945 will recall how much Canadian developments served as models which Australia followed after some lapse of time. As a result of an early assertion of international personality, repatriation of its Constitution and its 1982 rights Charter, Canadian debate about democracy, human rights and the citizen in a country with a colonial past has developed well beyond anything in Australia. This is stated even though it may surprise readers of James Tully (1995) and Will Kymlicka (Kymlicka 1996).

Just how sophisticated the Canadian debate has become is evident from the advisory judgment in Reference re Secession of Quebec. (treal. ca/doc/csc-scc/en/rec/texts/renvoi. en. txt;compare McGinty 1996:243C) Advisory judgments are not allowed in Australia despite the High Court being required to make weighty judgment about constitutional matters when dispute arises. The Canadian judges views are reminiscent of positions found in European rather than British discourse, both in their insistence that democracy is needed to ground rights and vice versa, and their insistence on an open debate (no secrecy) regardless of its effectiveness. Moreover, their decision showed an acute awareness of the place of judicial opinion in a complex structure whose multiple levels would have to be involved. We might say that the judgment endorses all progressive opinion about popular sovereignty: that it is essential and, precisely because it is balanced in many places, it is not the tyranny which conservatives often allege it must become. The Supreme Court of Canada regarded it as necessary to discuss the underlying principles of the Constitution comprising federalism, democracy, constitutionalism and the rule of law, and respect for minorities. It argued that federalism starts from a

recognition that cultural diversity is enriching and cannot be homogenised à la Renan (Renan 1992) into a single cultural national identity; it insisted on the virtues of a written constitution for a predictable rule of law especially where limits to sovereignties in the federation are at stake; it defined federation as a form of more democracy in more places, allowing ethnic minorities to manage their own affairs; it affirmed that democracy was the way that the sovereign people exercised its right to self-government at the different federal levels and also established in continuous participation in discussion its consent to the rule of law; and that the latter governed the exercise of democratic legislative will. Finally, it made clear that democracy and its rules identified which majority had to be consulted when the rule of law was to be challenged. No unilateral assertion of, say, the right to secede, was automatically right because it had majority support within a particular constituency. Constitutionalism and the rule of law were as necessary to democracy as the reverse.

In both Britain and Canada we can see that the changes arise from interaction with ideas coming from outside the national political tradition. They are compelled to deal with abstractions like "democracy". In Australia contrarily, no ideas from foreign parts are allowed into the debate. Where even in Britain the reality of Europe forces openings to previously anathematised ideas which hark back to Rousseau, Kant and intellectual "traitors" like Paine, this does not happen in Australia. Because of backward looking stress on "our" history, which-as practically everywhere-is a vainglorious collective memory totally at variance with the facts, the most that can be done is to pick up on what the Britons are doing which is consistent with the Australian collective memory and style.

Ideas from foreign parts

Overall, the ideological hegemony which goes back to the Australian version of Westminster, results in only that discourse which disempowers the people and encourages the elitist and authoritarian solutions favoured by public policy based on post-modern thought. Thus a close reading of the Constitutional Convention proceedings in 1998 reveals that all debate about multi-cultural realities and where Australia is going, much less democracy and what it means, was completely shut down. (Report 1998) The voice of ethnic minorities and aborigines was drowned out by the "good" nationalists, whose structural position is, as Hage has pointed out, little different from that of Pauline Hanson despite the former's acceptance of multiculturalism as ethnic colour (restaurants, clothes, festivals, cultural life). (Hage 1999;compare Jackman 1998)

To such traditional closures are added their further contemporary extensions. The Labour party and left progressive forces might be expected to push for popular empowerment and certainly for defence of the minorities. Instead, they shut down all such debate at the Convention and afterwards in favour of the minimalist solution where the Queen is replaced by an Australian President. Indeed, where their "theory" is advanced it reveals itself to be identical with the Right-wing, union bashing views of the ruling conservative coalition, whose spokesman Peter Reith noted this with glee in

Parliamentary debate. Three recent books illustrate this assertion (Latham 1997; Tanner 1999; Kelly 1999). The first two are by the putative heirs to Labour leadership and the third by a major newspaper editor whose views are given constant coverage in the press. They pose as exponents of the "third way", whose post-modern credentials are openly asserted in Britain and North America by, say, Anthony Giddens, but whose first formulation was by Bruno Megret who is effectively replacing Le Pen as leader of French neo-fascism.

Basically, they advance in common a partial view of the new context which Australians face but they see this as ineluctably imposing a competition state response on the Australian state. They maintain that to be competitive in the global twenty-first century, especially in the Asia-Pacific region, requires the end of the social or welfare state; the acceptance of the risk society whose main characteristic is unemployment and no guaranteed safety net for citizens. We might see them as rolling back Marshall's view of citizenship in its social dimension and thus proving how much his sociological approach which saw the war as won, was always too a-political. But they go beyond a refusal to accept a traditional notion of social justice and that all citizens are their brother's and sister's keepers. In the selfish individualism (down to voicing disproved idiocies about trickle down economic effects of rationalisation and economic liberalism) which they encourage, a civic ethic of care for the less fortunate is all but replaced with arguments about the need for more "social capital" and "trust". Indeed, Francis Fukuyama is proposed as the philosophical underpinning for one book.

But their affirmation that the old national sovereignty and therefore popular sovereignty cannot be maintained in the face of globalisation's imperatives, like other proponents of the competition state, does not mean that they look to international and global attempts to combat globalisation's negative effects. Indeed, they seem unaware that UN indices show that globalisation and economic rationalism has brought absolute worsening in conditions of life for 60% of the world's population and, indeed, to Australians themselves. Their reliance on the sort of figures produced in the US and Great Britain and by bodies like WTO as well as repetition of cliches like the success of the US economy allows them to sustain the myth that we must adopt an expert, elitist and non-democratic solution in Australia. This builds easily onto the past Axminster tradition.

For example, by use of figures about US success which occludes the reality that full-employment is achieved in the US (and would be in Australia) by wages so low that in California 74% of applicants for food relief also return themselves as employed (Watson 1999 :compare Swinburne 1999), they can paint a positive picture of a disaster in human terms, the triumph of a capitalisme sauvage. But it is not the debatable socio-economic story they tell which is significant. That is told almost universally. Nor is it the competition state scenario. It is their refusal to learn from "foreign parts" the solutions which re-empower citizens regionally (e.g. the EU) or globally even as they lose power nationally. (see Castles and Davidson 2000 forthcoming) Typically, the index of one of these books does not include the headings: "citizen" ; "human rights" ;or "democracy".

This part of the debate cannot be avoided in Europe and has imposed itself on Britain. If Tony Blair, Bill Clinton, Jacques Chirac and Gerhard Schröder adopt a "third way", they are still obliged to seek to empower the democratic citizen and guarantee individual rights. In Australia, consideration of the standards proposed by the Europeans and the United Nations (e.g. Global Commission 1995) are simply rejected -not just ignored. In Australia, getting up to date does not mean reexamining whether Australian national identity and its political forms are deficient. Rather, simultaneously with a definition of national identity as requiring merely commitment to democracy, rights and the rule of law (as was done in the new oath of citizenship in 1993), there is no discussion of the content and substance of the political forms allowed except in the old terms. The mode of discussion at the 1998 Convention was little different from that at the Conventions one hundred years earlier. In no way did it reveal that the Australian population comes from myriad civic and political traditions, including democratic traditions much stronger than those of Westminster, even at its best.

The new nationalism builds on such closures. Only the new ethnic minorities and the original indigenous peoples look out to foreign parts for new solutions to the new global world. Indeed, they are obliged to do so to get justice in a world where the old Anglo-Celt nationalists rule at all levels of the polity. The absence of proportional representation of ethnics and other minorities in the judiciary, politics and the administration is less important here -since comparatively it is good- than the fact that members of ethnic minorities are only advanced if they take on the Anglo Westminster discourse, which some do fervently. (see Davidson 1997b)

Minorities who wish to preserve their dignity in difference turn outwards for support. Thus aborigines, after a long and futile battle for rights (to land; to culture; to languages) which was nearly always stymied by the courts and Parliament, have now started not only appealing to international law but also directly to the world and European courts for support. Similarly, refugees and boat people driven forth for myriad reasons from their birthplaces have had to resort to international tribunals and law to ensure protection of their rights. The local political system defends harshly and against international standards its right to keep such people out on the grounds that this is defending the national citizens' right to maintain control of his and her space.

The aboriginal people, after two centuries of genocide, which was hidden and even ten years ago often denied -any mention of it provoked sanctions, such as threats of dismissal from university posts- forced a grudging acknowledgement by the people who destroyed them and took their land that this had been done. Yet the basis in the common law for such genocidal actions was never acknowledged although it meant that the existing rule of law was incapable of solving the problem. All it could do was replicate the determined two century long repression of difference. The hopes which were raised by the Mabo and Wik cases which in convoluted argument reversed all previous law by recognising native title in increasingly wide territorial spaces, were soon tempered by the realisation that legal hairsplitting would mean little substantial change. Nor in the existing political regime could a tiny minority force change politically.

Indigenous leaders and groups therefore built alliances with peoples like them outside Australia and started to appeal to international tribunals and law as the only way to force justice from the national majority. Quite simply, they recognised that justice cannot be obtained where your oppressors make the decision. It is much better to appeal to people who have no roots in the past to obtain justice. (Dodson 1999) This realisation that the best defence of minority community rights is through an appeal to universal standards and not the dangerous path of asserting the right to community difference paralleled that of Muslims in Europe and even the Zapatistas of Mexico. It immediately provoked the response on both sides of the political fence that this was disloyal and treacherous. The overwhelming point of reference for the Australian state clearly remained the communitarian national position.

So, while indigenous minorities were learning that justice cannot be related to any community, the Australian state did not.

This was even clearer where refugees were concerned. When such people arrived they were often placed in near-concentration camps in remote parts of Australia. It became almost a policy of the immigration authorities to avoid due procedure required by international convention in considering their cases. They were simply flown back to their countries of origin regardless of what might happen to them there. The most recent example was that of a Somali whose planned return in late 1998 to almost certain death was conducted secretly. The state did its best to ensure that it was not stopped legally by racing through his deportation. Only prompt action by local and international lawyers with international links to Amnesty International prevented his being put on a plane until after due consideration of his case had been made. (Hamilton 1999) Aware that the state will try to throw them out regardless - and the case law in this regard has not stopped decisions of state under the extraordinary provisions of the relevant immigration, nationality and citizenship acts - refugees increasingly look to international bodies and conventions for solutions. This way, a dribble of international best practice makes it in to the debate through the legal system. (Davidson 1997a) In their case, the accusations of disloyalty levelled at aborigines cannot be advanced. Defence of the national patrimony "we" have inherited is usually the justification.

Overall, a search for approaches and values other than in the national communitarian tradition of Westminster to solve the problems of globalisation is limited to minorities. The overwhelming impression is that progressives in Australia are committed to the communitarian notion that justice can only be established by reference to historical community and not forward-looking universal values. It is on such an approach that all parties from progressives to Hansonites base their right to autonomy and independence. Where innovation or a new state of affairs is recognised it is limited to the economic and social realities of globalisation and not to the new ways of empowering people in those new contexts.

The real puzzle about this is why the majority of a population whose conditions of life have sadly declined on economic social, legal and political levels in the last fifteen years, has itself not refused to accept old solutions to new problems. Why for example, is there no real opposition to the exclusion of discussions about a fundamental revision of the Constitution when its supporters make clear that what is at stake is democracy. Why is there no insistence that democracy be discussed; a decision made about what it is today ;and steps taken to introduce procedures and institutions to attain it? Statistics show that Australians are unemployed , or underemployed (14%);that globalisation has brought a collapse of public facilities , education and health systems, and that more people divorce, take drugs, commit crimes , commit suicide. (Yearbook 1998;Swinburne 1999)Recent state attempts to destroy the union movement and to end traditional work conditions brought hundreds of thousands into the streets. The average Australian considers that politicians are completely unprincipled and that the political system does not work. They want elected officials , including an elected President ;they want a bill of rights; they want social services. Yet, despite such evidence, what exists is regarded as democratic. Despite huge mounds of evidence that malapportionment is constitutionally entrenched; judicial refusal to state that we should have one vote, one value; and a reality where even querying the system can get a person jailed (*Langer v The Commonwealth* (1996)70 ALJR 176), the state is not obliged to change.

So the main explanation for the triumph of the hegemony of state seems to be that it has successfully kept a discussion of democracy out of the public arena without losing its constituency. This makes the real problem not simply a nationalistically myopic leadership whose commitment to "the way we do things around here" makes them anti-democratic by contemporary standards, but the fact that the Australian people allow them to get away with that when they do not endorse such views. The crucial explanation, it seems, lies primarily in the successful hegemony of state , as I tried to describe it for the nineteenth century in the *Invisible State* . (Davidson 1991)The lack of an organised popular counter hegemony and the constant defeat of those who try to introduce new ideas into the debate while they are still relevant, is central to the ongoing commitment to the overall system. Even academic debate starts by assuming that what exists is democratic. It emphasises the virtuous role of minority parties of the Senate in controlling lower house majorities, without for a minute adverting to the fact that the Senate is not a democratically elected House. (Galligan 1995 : Emy 1997a and b;)Indeed, although One Nation received 14% of the vote in recent federal elections and yet no seats, where a lesser vote got seats for other parties who control a balance of power as a result, no real public objection to the lack of democracy was made. Since the Hansonites advance appalling racist policies , it is considered just that they should have no voice no matter what the price. It should be noted that nothing stated in this article denies that sooner or later Australia will come up to date . Rather my concern is that by that time the horse will have long bolted. Intellectually, it is most evident in the dependence of Australians on British and US sources about international political theory. Thus while postmodernism made it into the US in a distorted form long ago, long after Foucault , Derrida and Lyotard had disappeared from Parisian intellectual debate the Anglo distortion of

"governmentality" still rules here (Frankel 1998). It functions as an intellectual justification for the ALP writers discussed above and economic rationalism more generally.

The strictures of postmodernism against a totalising popular hegemony; whether it can be built, and whether it does not bring more harm than good do not have to be shared in their entirety to recognise a grain of truth in them. The key issue for Australian democracy is whether a viable counter-hegemony in favour of democracy can still be built in conditions of globalisation.

That that is possible is certainly the belief of the Europeans and of the Global Commission of the United Nations. It can be defended given certain concessions. But the forces blocking it are now immense. Australia experiences those pressures. The first is the loss of all core identities with "disembedding" and "distanciation". (Giddens 1990) These arise from the huge migratory fluxes which leave newcomers forever with multiple identities and attachments. (Eade 1997) If they never feel that they belong in one community only, they are also unable to find a common experience - say as members of the working class united by their experience of the factory - which would unite them against oppressive forces. (Davidson 1998) No longer are classes-even in-themselves - formed by production in advanced societies.

So, the material class based institutionally expressed conditions for a counter-hegemony based, say, on an international regime of human rights and democracy do not exist anymore. It is tiny ethnic and indigenous minorities who turn to the UN for redress against the injustices caused by the existing hegemonies here. The majority still staunchly refuse to see anything wrong with the system or argue that it parallels realities elsewhere.

A. Davidson

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