LABOR AND LAND RIGHTS: THE GREAT SURRENDER

MARCIA LANGTON

As the Bicentennial comes closer, so does a complete betrayal on the question of Aboriginal land rights. Even the gains made under the Fraser government are being rolled back by the “pragmatism” of Labor’s right.

Marcia Langton is the Land Claims Coordinator of the Central Lands Council, in Alice Springs. She gave this speech at the opening of the Broad Left Conference at Easter this year.

Contemporary Australian political life is currently dominated by the politics of pragmatism and opportunism, of reaction and economic rationalism. There is little evidence in the Australian polity of any agenda for the achievement of social, political and economic justice for the oppressed, the poor and alienated of Australian society.

The most alarming aspect of this picture is the way in which the sovereign rights of Aboriginal people have yet to be recognised.

Despite the rapid approach of the bicentenary of the first act of dispossession, there has been no concerted attempt by the settler state to legitimise its occupancy of our land.

Australian governments repeatedly have refused to recognise Aboriginal people as being wrongfully dispossessed and of the need for the return of our traditional lands and for meaningful compensation for dispossession.

The historical fiction of the peaceful acquisition and settlement continues. Only the means have changed—from violent acts to legislative ones.

The present predicament of Aboriginal people is the direct historical result also of the doctrine of terra nullius, that legal fiction of British international law which justifies the total dispossession of Aboriginal people on the basis that British society, unable to recognise the political and juridical trappings of Aboriginal society of 1788, deemed the Aboriginal inhabitants of this land not to exist and therefore the land a colony ceded to the British crown. Aboriginal land was not conquered, according to this doctrine, but ceded, because it was, according to legal fiction, uninhabited.
Further, Aboriginal people today may not challenge this extraordinary conclusion because no new evidence may be introduced to the argument according to the logic of this kind of law-making — the law of British imperialism.

Successive Australian governments, not legally bound to deal with us in an honourable way above the oscillations of electoral party politics, have failed to recognise our humanity, our right to certain universal requirements of human existence and, most fundamentally, our right to sovereignty.

For 197 years Aboriginal people have fought for justice and an appropriate settlement with the settler state. Reconciliation of the two peoples is now more distant than ever.

It is, at the least, ironic and extraordinary that we are now petitioning a federal Labor government for a very circumscribed gesture of justice: for the retention of basic rights conceived by a previous Labor government and implemented by the conservative Fraser government; for the enactment of Labor Party policy on Aboriginal affairs; and for the fulfilment of commitments made by the present government to grant land rights in accordance with five principles.


The five principles are: Aboriginal land to be held under inalienable freehold title; protection of Aboriginal sites; Aboriginal control in relation to mining on Aboriginal land; access to mining royalty equivalents; compensation for lost land to be negotiated.

In March, the Cabinet released to the land councils its decisions on its preferred model for national land rights. This set of decisions does not provide for national land rights, but rather for state and territory rights, and pastoralist and farmer rights.

In reneging on its commitments to Aboriginal land rights, the dealings have been federal government to state and territory government, rather than direct and honourable dealings with the representative organisations of Aboriginal people.

The National Federation of Land Councils has repeatedly made it clear that any national legislation must be the
product of authoritative negotiation between Aboriginal people and the colonist government.

The typical strategy of bankrupt politicians dealing with our affairs has been to deny the representatives of plainly representative national Aboriginal organisations and summits. The political entities which are not representative, which argue for rights which have nothing to do with the welfare of Aboriginal people, nor even the welfare of Australians in general, are such bodies as the Australian Mining Industry Council, whose representativeness has never been questioned by the Cabinet or even its individual ministers.

Rather, these cabinet ministers turn to the devious strategy of blaming the alleged lack of compassion among the Australian people for their failure to meet their commitments — commitments made not just by the federal Labor Party, but by previous conservative governments.

The recent Cabinet decision to amend the Aboriginal Land Rights (Northern Territory) Act 1976 will, if pursued, among other things:
* give the Northern Territory government additional powers to control Aboriginal land;
* force Aboriginal people to accept that the Northern Territory government should have this additional power;
* legitimise the claims of the Northern Territory government and the state governments that they should have power over Aboriginal affairs, contrary to the spirit of the votes of over 90 percent of the Australian people in the 1967 referendum and contrary to the wishes of Aboriginal people.

In particular, the Cabinet decision proposed to:
* allow the Northern Territory government to compulsorily acquire Aboriginal land for public purposes;
* take away the right to claim unused stock routes and stock reserves;
* take away the right to convert Aboriginal-owned leases to Aboriginal land;
* impose a ten-year time limit on lodgment of claims;
* give the Northern Territory government ownership and control of all waters on Aboriginal land;
* make grants land conditional or determinable.

On the question of mining, while Cabinet proposals suggest a limited right to withhold consent for mining on their land, and to impose conditions for such developments, Aboriginal people require guarantees that the right to withhold consent will not be compromised, and that the right to negotiate will be open and not limited.

The government has been denounced by Aboriginal people in the Northern Territory because of its failure to provide for community living areas on pastoral properties ("excisions"); secure tenure for Aborigines living in towns and town camps; legislation for the protection of sites; mechanisms to redress the N.T. government's diminution of Aboriginal rights of access to pastoral leases under the Crown Lands Act.

The federal Cabinet's proposals in relation to Aboriginal people elsewhere in Australia have not resulted from discussion or negotiations with Aboriginal people. Rather, they are a reflection of what state governments have indicated they are prepared to accommodate, not what Aboriginal people desire or what has previously been promised by the Labor Party through its platform or the five principles.

**Burke government proposals**

For Aboriginal people in Western Australia, this means acceptance by the federal government of proposals from the Burke government which:
* do not provide for Aboriginal land to be held under inalienable freehold title;
* do not provide for Aboriginal control in relation to mining on Aboriginal land;
* do not provide for access to mining royalty equivalents;
* do not address the question of compensation;
* do not guarantee the protection of Aboriginal sites;
* do not provide Aboriginal people with the right to control
  access to their land;
but which reflect:
* dominance of the mining and other development interests
  within the Western Australian Labor government;
* the political expediency of the Burke government and its
  lack of commitment to justice for Aboriginal people and its
  refusal to recognise our sovereign rights;
* the inability and unwillingness of the federal Labor
  government to adhere to its party platform and to use its
  constitutional and judicial powers to intervene in a Labor
  state;
* the unwillingness of the Hawke government to show
  effective political leadership in this area of social justice.

Queensland position

The fate of Aboriginal and Islander people in Queensland
as a result of these Cabinet decisions is like that of the people
in Western Australia. Not one of the five principles of this
government's Aboriginal affairs policy has been adhered to
in either of these states.

As we understand it, the majority of Aboriginal people in
Queensland reject their state government's 'deeds of grant in
trust' legislation. They would prefer Commonwealth
legislation granting real land rights as opposed to the fifty-
year leases being granted to communities at the whim of the
state government and under the condition that communities
co-operate with the state community services legislation.

Of course, in Tasmania, the government refuses to accept
that Aboriginal people exist, let alone that they have any
legitimate sovereign rights, or that their demands for
compensation should be met.

The fact is that the federal Labor government has
indicated its preparedness to capitulate to the demands of
governments, particularly those in Western Australia, in
Queensland and in Tasmania.

Federal government record

The record of the federal government in relation to
consultations with Aboriginal people is a sorry one. In May
of 1985, the Prime Minister and Minister for Aboriginal
Affairs met with Aboriginal representatives from
throughout Australia to discuss the Preferred National
Land Rights Model.

At that meeting, it was agreed that, before any proposals
in relation to land rights were agreed to by the government,
widespread consultation would take place with Aboriginal
people, and that financial resources would be made
available to facilitate this process. This has not happened.

There was no consultation, before or after the Cabinet
decision, with the Aboriginal people of Western Australia
over the deal made between the federal government and the
Premier of Western Australia. The Aboriginal Affairs
Caucus Committee has asked the Minister for Aboriginal
Affairs to defer the implementation of the Cabinet decision
until:
* the committee has had discussions with land councils and
  officers of the Department of Aboriginal Affairs over the
proposals to amend the Northern Territory Act:
* Aboriginal people in Western Australia and elsewhere have had sufficient opportunity to consider adequately the proposals for that state, and have provided their response to the minister and this committee;
* this committee has had the opportunity to examine these responses, consider the options available and make recommendations to the minister and Cabinet, particularly with regard to matters that may require a possible review of the initial Cabinet decision.

The Aboriginal struggle for justice in this country needs the various political parties and groups who assert their support for land rights to unite behind the main objectives and not allow spurious ideological divisions to prevent them operating co-operatively.

A handicap which must be overcome is the tendency, apparent in the heady days of the anti-uranium campaigns of the 1970s, of vested interests and pressure groups to use Aboriginal land rights as their cause célèbre when their real objective was the prevention of uranium mining.

Once the decision had been made to develop the N.T. uranium industry, the support of these groups for Aboriginal people and land rights was most conspicuous by its absence.

What such groups fail to recognise is these acts of political opportunism serve only to discredit Aboriginal claims and frustrate and undermine our efforts for the recognition of our sovereign rights.

Similarly, there are those people who operate within political parties who lack the knowledge and commitment to our cause, yet trumpet their support and advocate action for their own political purpose, perhaps because of some internal party disputes. Invariably, these individuals act on their own volition without direction from Aboriginal people, from positions of almost total ignorance.

There are, of course, organisations and individuals who take particular care to consult with and be advised by Aboriginal people and particularly with Aboriginal representative organisations.

The churches, trade unions, prominent members of the various factions of the Labor Party, members of leftwing parties and interest groups, the Democrats, and even a small number of Liberal Party members and their supporters, have all shown a willingness to consult and listen to Aboriginal views.

However, as yet, the support articulated by such individuals and organisations has not been translated into an effective political voice.

The major task ahead of us is to ensure that we Aboriginal people have the means to have our voice heard, to redress the imbalance in public support for our cause which has resulted from the recent racist and divisive campaigns against us.

As an absolute minimum, the progressive forces in Australian political and social life should be united in their efforts to support Aboriginal people in their struggle for the resolution of the land rights question and for Aboriginal sovereignty.

The National Federation of Land Councils regards the recognition of the following rights as intrinsic to the resolution of our struggle for self determination:

- recognition of Aboriginal sovereign rights and prior ownership of Australia;
- the right to claim all unalienated land, including public purpose lands;
- the right to control access to Aboriginal land;
- the right to refuse permission for mining and other developments on Aboriginal land;
- the right to negotiate terms and conditions under which developments take place;
- the right to compensation for lands lost and for social and cultural disruption;
- the right to convert Aboriginal properties to inalienable freehold title;
- the right to excisions on pastoral leases.

These crucial matters of principle should form the foundation of any political program adopted by progressive individuals and groups in Australia. Until these objectives are met they should be at the forefront of the political agenda in this country.

Until the Australian non-Aboriginal people come to terms with these demands, then their status in the world community will continue to diminish. This is especially so as the contradictions of those who actively support the plight of indigenous people elsewhere in the world and who fail at every level to address satisfactorily the issue of our Aboriginal sovereign rights become apparent.

The current trend towards diminishing or taking away the existing rights of Aboriginal people must be reversed. as must the federal government's moves to abrogate its responsibilities for Aboriginal affairs to the states and the Northern Territory.

For progressive forces in Australia, their tasks in this regard are clear:

- The need for those who advocate Aboriginal sovereignty to inform themselves of the issues involved and consult with Aboriginal people and organisations.
- We must unite to reset the nation's political, social and economic agenda so that Aboriginal rights are accepted as a major priority, particularly as the bicentenary of the initial invasion approaches.
- We must subsume individual, party and interest group desires and provide every possible support for the claims of the Aboriginal people.
- The left should provide, at the request of Aboriginal organisations, resources (physical and material) for the purposes of research and back-up.
- The left must reassert its ideological positions and commitment to the question of Aboriginal sovereignty.
- We must mount a massive public education and advertising campaign to address the question of racism in the Australian community.

In so doing, we are addressing crucial related aspects of the question which concerns us all, the survival of the planet in the face of the dangers of nuclear holocaust and irreversible environmental damage, that is — structural violence in the form of racism and economic pragmatism.