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**‘Merging’ the Aboriginal population: Welfare, justice, power and the separation
of Aboriginal children in Victoria**

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Abstract

This paper sets out some of the parameters of social intervention in the family in Australia around the turn of the 20th century in ways which permit interventions in Aboriginal and non-Aboriginal populations to be broadly compared and contrasted. It focuses on forms of intervention underpinned by the kind of liberal political reasoning that allowed administrators to intervene on the basis of assessments of the capacity of families to govern themselves (Hindess 2000, 2001). The paper draws on archival material in Victoria, and the evidence of interventions in Aboriginal populations focuses on the removal of Aboriginal children from their communities in various parts of the state during this period. ‘Race’ comes to be constructed in terms that allow legislators and administrators to make discriminations within Aboriginal populations in order to manage them.

Key words: Aborigines; family; child removal; sociology; history

Introduction

The enduring aspect of Donzelot’s *The Policing of Families* (1979) is his analysis of the family as a technology of governing and its legacy in studies of the workings of power in relation to family. This can be seen in the inquiries deriving from Foucault’s studies of ‘governmentality’, studies that utilise concepts such as ‘psy’ techniques of governing, the public/private distinction as an artifact of government, the role of human sciences’ expertise in the arts of self-governing, the growth of actuarial techniques of assessment, and the intrusion of law and legal practice into family welfare (Foucault 1991; Burchell *et al* 1991; Barry *et al* 1996; Dean and Hindess 1998; Dean 1999). Donzelot showed that from the late 19th century the

‘responsible autonomous family’ became a major target of health interventions in Europe, and a vehicle for linking public concerns with private aspirations in the areas of health and well-being (Rose 1990:129). He analysed the family as a ‘strategy’, a point of intersection of a range of different practices - educational, medical, moral, psychiatric, judicial – concerned to shape and regulate the social sphere.

The strategy of ‘familialisation’ was for Donzelot a ‘moving resultant, an uncertain form whose intelligibility can only come from studying the systems of relations it maintains with the sociopolitical level’ (Donzelot 1979:xxv; Hirst 1981). Expertise took charge of a range of prophylactic techniques to intervene in the family, utilising medical, educational and philanthropic institutions but also with links to law and legal practice. In this period the family along with the school became key agencies underpinning modern Western ‘liberal’ forms of governance. Health and well-being would be governed by strengthening family as a technique of governing – the *conduct of conduct* - at some distance from central forms of rule (Rose 1990; Rose 2004:170). Australia borrowed from English social policy initiatives that focused on strengthening the family as the main vehicle through which to target social reform, and charity backed up by judicial forms of intervention were the central means for prudential government to ‘police’ the family (van Krieken 1990).

The governmentality literature analyses these developments in terms of new forms of power that draw partly on Donzelot’s concept of ‘psy-techniques’: a non-coercive, non-legal correction in the family where power takes the form of inciting families to seek to align their conduct to social norms (Donzelot 1979; Rose 1985; Ewald 1990; Hunt 1992; Hunt and Wickham 1994; McCallum 2004; Rose 2004). In cases of threats to liberal society, the state would intervene to ‘apply the norm’. Certainly most historical accounts identify family intervention in Australia as a site of tension within liberal forms of government, and Donzelot himself pointed to the paradox of a liberalised and more autonomous family, while at the same time ‘... the strangle hold of a tutelary authority tightens around the poor family’ (Donzelot 1979:108; McCallum 1993). Thus, governing the health and well-being of the population during the last part of the 19th century had significant implications for the development of modern family forms, and also was intimately connected with how individuals and populations were to be governed under specifically liberal forms of governing.

The aim of this paper is to set out some of the parameters of social intervention in the family around the turn of the 20th century in ways which permit interventions in Aboriginal and non-Aboriginal populations to be broadly compared and contrasted. The focus of the paper is on forms of intervention underpinned by the kind of liberal political reasoning that allowed the state to intervene on the basis of assessments of the capacity of families to govern themselves (Hindess 2000, 2001). The paper draws on archival material based in Victoria, and the evidence of interventions in Aboriginal populations focuses on the removal of Aboriginal children from their communities in various parts of the state during this period. 'Race' comes to be constructed in terms that allow legislators and administrators to make discriminations within Aboriginal populations in order to manage them. Let me first address the historical circumstances of the late 19th century move that made the family the main solution to the problem of health and well-being for the bulk of the Australian population, and then discuss the major frameworks both in legislative and social policy terms built around the Australian Indigenous family.

The 'family principle'

The family was a solution to the failure of institutional care to solve the problem of wayward children. In Victoria, the major legislative landmark was the *Neglected and Criminal Children's Act* of 1864 which established the institutional system of industrial schools and reformatory schools, backed up by orphanages (Victoria 1864). The procedures contained in the Bill reflected the view of English reformers like Mary Carpenter who believed that family and social neglect was behind the problem of children's waywardness. The reform movement, synonymous with European developments that established Mettray in France and Rauhe House in Hamburg, considered that children were the key to social improvement and that children in fact had a 'right' to a proper upbringing, if not by their parents, then by public or private institutions instead. The immediate impact of the 1864 legislation was to swell the numbers of children counted as neglected, and the subsequent overcrowding then compromised whatever moral and educational roles these institutions were to serve. But most of the criticism focussed on how larger institutional provision failed to provide children with the experience of how to live in families, and how it led parents to abandon their children and thus encourage family break-up and social dependence

(Jaggs 1986:36-38). There was a dramatic about-face in policy terms over the next few decades, from large barrack-type accommodation to a policy of 'boarding out' or foster care. The shift was designed to offer children a happy, healthy, secure childhood in 'respectable' homes. Women volunteer organisers would enjoy the government's recognition of their recently acquired domestic skills, joint philanthropic support for the unfortunate would be maintained, and boarding-out would encourage the working classes to be 'better parents' because the penalty for recalcitrance might be a complete and permanent separation from their children (McCallum 1983).

In the policy debates that ensued through until the turn of the century, the main point of agreement between reformers supporting industrial schools, and those supporting boarding-out, rested on the family as the key to producing healthy, well-trained and self-reliant children. Disagreement arose over the management of the children and whether government authorities or private charity could most effectively provide the family-type solution. The public/private distinction in policy debates effectively became subsumed under the predominance of the family solution. The failure of the industrial school movement to institute the 'family principle', in cottage-like surroundings and in a 'wholly patriarchal, homely, and affectionate manner' led reformers to prefer boarding-out as the way forward (Victoria 1872:16). The evidence in Victoria showed the industrial school to be a source of infectious diseases and an opportunity for parents to abandon responsibility for their children. So in the case of neglected and sick children, family supervision and foster care provided a space for disciplining parents about their family responsibilities (Tyler 1982-3). The evidence pointing to the 'policing' of this space unsettles the taken-for-grantedness of the modern family as a natural, unchanging or eternal category. Also, the burden of the past carried into the present included the 'ideal' family as an institution constitutive of children, governed by their biological parents. Even when institutional settings continued to exist as a fall-back to home based care, those settings became more 'cottage-style' in their design and attempted to imitate the ideal of a 'good country home' (McCallum 1997).

By the turn of the 20th century, the inward-looking domestic space had become an important site for making investments in health, happiness, personal adjustment and

self-reliance. The family was to become the source of governance which the state had failed to provide. But to deal with the children of the people ‘in a fatherly spirit’ required the hardware of coercive instruments (the ‘strangle hold’), including the newly invented children’s court. Donzelot’s analysis of the role of this court in conflating judicial and welfare functions was a nodal point of supervision and control of the family. The children’s court became ‘a visible form of the state-as-family’. This coupling of governmentalised power in the state and the family, as Tyler observed, was warmly endorsed by Melbourne’s *Age* newspaper in 1905:

The terminology used in discussions of the methodology of the children’s court reproduces that used in relation to the model family. The parental/fatherly mode of dealing with the wayward child is seen as ideal, with the judge ‘having ample power to act in the place of the parent as well as in the capacities of magistrate and jury’ (Tyler 1982-3:14).

There were now ‘brigades of counsellors and guidance officers’ spreading out from the court to monitor and manage the family. But the apparatus that sought to police the family of the delinquent intersected with a complexity of institutional forms: including health and welfare agencies, the school, and the normalising of family life through the progressive interiorisation of domestic life and the construction of the mother as the moral centre of the home (Tyler 1982-3:15; Reiger 1985). Even formal judicial authority became de-centered in the face of increasingly pervasive forms of knowledge and expertise that were non-legal. It is a ‘complex’ composed of elements with diverse histories and logics:

Regulations, practices, deliberations and techniques of enforcement increasingly required supplementation by the positive knowledge claims of the medical, psychological, psychiatric and criminological sciences, and the legal complex thus enrolled a whole variety of petty judges of the psyche (Rose and Valverde 1998:543).

In Victoria, the main philanthropic organisations concerned with policing the family included the *Charity Organisation Society*, the *Victorian Neglected Children’s Aid Society*, the *Society for the Prevention of Cruelty to Children*, the *National Council of Women of Victoria*, and the *Women’s Political Association*. The networks between charity and the police had first been established in the late 19th century through the more general policing of a destitute, disorderly and dissolute adult population. From early in the 20th century these formed vast networks of relations between police, penal and reform institutions, and proto-social workers who would oversee the evolving

parole system that helped to enforce a 'responsibilisation' of the family. In the early committals of neglected children the child's physical presence was required in the court no matter how sick or fragile, in some cases dying babies being hauled before the court (*Argus* 1908). A place for the philanthropic agent in the court proceedings was now well established. The philanthropists began to relay knowledge of the child from, and between, the police and the court. A formal and informal dialogue began to take place that established a space for special knowledge of the child, which then found its way into the committal procedure. Knowledge of the 'problem child', a palimpsest of increasingly detailed intersecting relations for each individual child, and then the case-file and the 'profile' that followed, were contingent on a pattern of institutional arrangements concerned with the surveillance and discipline of children measured against their performance of the 'family principle' (Foucault 1979).

From early reports of the *Victorian Children's Aid Society* in 1893, Selina Sutherland, Victoria's answer to Mary Carpenter, became a witness speaking for the child in the court (*Argus* 1894; *Herald*, 1899). She bore special knowledge of the child's background collected from neighbours and other informants, which included knowledge of the father's and mother's health and character and the state of the house (*Victorian Children's Aid Society* 1895-1901). Sutherland also helped shape decisions about the disposition of children. When it finally appeared, the *Children's Court Act* (1906) required that previously informal arrangements for providing specialist knowledge of the child be transferred from philanthropy to the newly appointed probation officers, who henceforth were to 'inquire and furnish the court with information as to the child's habits, conduct and mode of living' (McCallum 2004).

For both middle- and working-class families, an adherence to social norms was achieved through the inculcation of values of order and civility rather than being imposed 'from above' (van Krieken 1990). For poor working class families whose patterns of existence may be less likely to spontaneously accord with those of authorities, Donzelot described family life as a sphere of 'supervised freedom'. From the turn of the century, educational and judicial interventions were targeted at families who failed to subscribe to a set of norms and values. In this latter respect, Donzelot's analysis problematises the contribution of the human sciences and new kinds of expertise that was authorised by such bodies as the children's court, and increasingly

came to be a source of expert knowledge of the 'problem child'. Donzelot describes the resulting grid of governing techniques as a 'tutelary' or wardship complex that ranged from 'assistance-under-surveillance' to incarceration. Governing 'through the family' instrumentalised a set of administrative and disciplinary controls that coupled together welfare assistance and the penal with a capacity to call up information from doctors, hospitals, social workers and both public and private welfare agencies, in order to provide social assistance and a more intense scrutiny of families and individuals. When this was added to by psychiatric and psychological domains of intervention, the grid extended to a scrutiny over a broad range of family health and behaviour deviations. The program sought to strengthen and promote the family, to correct circumstances that would undermine it from within, and to channel through it all the techniques constituting a space called 'the social' (Hirst 1981).

'Merging' the Aboriginal population

At that time, some white people seemed to have a problem seeing mixed descent children with their Aboriginal parents and siblings. In my case, they looked at me and they didn't see a child, they saw only how much whiteness I had in me. They said that 'half-castes' were not wanted by their parents. In my case, that was a lie because my mother suckled me until I was taken and my tribal father accepted me as his own. The way I look at it, the missionaries and the government were just concentrating on colour and wanting a White Australia (Powell and Kennedy 2005:17).

That 'race' was constructed in terms of the requirements of administrators was undoubtedly visible in the eyes of the Aboriginal children themselves. From the late 19th century, while non-indigenous families became the object of attempts to strengthen familial ties and make parents responsible for their children's health and upbringing, a series of measures of racialised 'person formation' (Hacking 1986) were taken by the legislature, the judiciary and the bureaucracy whose objective was to separate indigenous Australian children from their parents and try to break up the bonds of family and community that had focused on the Aboriginal missions stations since earlier in the century. A Royal Commission during the 1860s in Victoria had reported on the increased mortality rates on the missions and mismanagement among the superintendents. The *Aborigines Protection Act* of 1886 created a new definition of 'Aborigine' so that those described as 'part Aboriginal' or 'half-caste' were officially defined as white and thus were to be removed from the missions (Victoria 1886). The *Act* was administered by an *Aborigines Protection Board*, which then put

in place regulations forbidding half-caste people access to the mission stations and their families. Children were removed from their parents on the missions when they were old enough to work, and under the authority of the *Protection Board* were sent out to service following a period of training at an Industrial School, or for adoption with non-Aboriginal families. Older people were given three years to find work and accommodation. D N McLeod, member of State parliament and vice-chairman of the Aborigines Board, summed up progress on the 'merging' of the half-castes and the gradual closing down of some of the missions and also the depots that were used as temporary holding and assessment facilities:

After full consideration and careful inquiry, the Board found it advisable to close two more depots in far distant parts of the colony; and feel sure that the remaining blacks will either join the nearest depots, or settle on some of the stations ... In connexion (sic) with the merging of the half-castes with the general population, the question of giving the boys and girls a suitable industrial training, in order that they might be enabled to earn their own living, has been well considered by the Board, and, after careful inquiry, the practice of transferring these half-caste children on leaving the station schools to the Department for Neglected children has been adopted; and the system of training the boys on the farm at Bayswater, and the girls at the home for domestic service, has been working remarkably well. All the children already transferred are happy in their new surroundings, and there seems every likelihood of them becoming useful members of the community (Victoria 1900).

Assurances of this kind provided in government reports - of a happy coincidence of the interests of the bureaucracy and the Aborigines - are contradicted in the routine correspondence among the mission superintendents, in the voices of Aboriginal people themselves, and in the continuing high levels of morbidity and mortality reported on a monthly basis by the mission superintendents to the *Aborigines Board* charged with providing 'protection' to Aboriginal people. As Powell and Kennedy (2005:44) note in their investigation of the circumstances surrounding the removal of children from their parents in the 1940s in Western Australia, there was also strong doubt over the legal basis on which children were removed from their parents and communities. Reductions in the number of missions would be accomplished by removing the 'half-caste' population and also because the mortality rates of 'full-blacks' would enable mission stations to be closed and their remaining occupants sent to other missions. As the Superintendent at Lake Condah mission J H Stähle expressed it:

As the blacks are dying out, and the Board removes the half-caste boys and girls by handing them over to the Industrial Schools Department, finality is greatly facilitated, and will, doubtless, be attained within a few years (Victoria 1900; Pepper 1980:32).

The locations of homes and other institutions for children removed from their parents appeared to be immaterial to the *Aboriginal Board*, and certainly many children were removed well away from the missions where their families resided. Steps were taken to ensure that children who visited their families in the mission were denied food or material support: for example, H P Bogisch at Lake Hindmarsh mission reported that 'Half-caste boys are coming occasionally for a visit, but are not supplied with rations' (Victoria 1901a). At Coranderrk station in 1901, Joseph Shaw assured head office that:

... (t)here are no half-castes here who do not come under the operation of the Act, and any children that do as they grow up are required to go out and earn their own living among the white people, so it is only a question of time when they will be able to be merged into the general population ... (Victoria 1901a).

For example, much effort was expended in attempting to move the population of Framlingham mission in the state's west to Lake Condah mission or even Lake Tyers mission in far east Gippsland. The mission superintendents, as C M Officer's report demonstrates, understood that the matter of separation would be administered by inducement rather than coercion:

... efforts might be made to persuade families living on either of these reserves to move to one of the other stations, Condah or Coranderrk, as vacancies occurred by death. On both those stations there are, at present, a good many old people ... and it cannot be long before they die. The vacancies thus caused could be taken by younger people. It is, however, to be remembered, that the Aborigines are a free people, and not prisoners, who cannot summarily be deported against their will. Some are so attached to their homes that it is almost impossible to move them, and the only means the Board have of enforcing their will is to stop the supply of rations, which has not always the desired effect. In a case where a man has made himself objectionable on a station by quarrelling, drunkenness or immorality, he can be removed by an Order in Council; but this means of removal would not be justifiable when people have done no wrong, and whose only fault is attachment to their homes ... (T)he Aborigines of Victoria are steadily decreasing in numbers, and the expense of managing them also decreases from year to year. In another twenty years they will probably be extinct and, in the meantime, the poor remnant of the original owners of this splendid State of Victoria should be dealt with kindly, wisely and generously (Victoria 1902-3).

It is clear from the records of the *Aborigines Board* that the methods of removal involved covert actions by administrators and mission authorities, usually involving a

withholding or withdrawing of material resources such as farm equipment or educational resources from the missions so that people would be forced to move to another mission station and that certain categories of people would be separated from their communities. At Framlingham the *Aborigines Board* ordered the mission school to be closed so as to 'encourage' the whole community to move to Lake Condah or Lake Tyers missions, a move which backfired when, as reported to the Board in November of 1890, the Aboriginal children then began attending the local state school in town which in turn led to parents of non-Indigenous children withdrawing their children from the school (Public Records Office of Victoria 1889-1946:19/11/1890).

From 1900, Aboriginal children removed from their families and the communities in the mission stations were passed over to the *Department of Neglected Children and Reformatory Schools* (DNCRS) to be placed in an institution or sent out to 'service'. Under this administration children were subject to provisions akin to a system of indeterminate sentencing that had been applied to non-Indigenous offenders for many years. Under its *Act* the *Aborigines Board* was initially able to transfer children described as 'half-caste' orphans, found to have 'depraved habits' or showing 'serious misconduct', to a reformatory school at the direction of the Minister. (The term 'orphan' in the department's documents was most likely a euphemism for children who had already been separated from their family and community on the mission.) Under Section 333 of the Victorian *Crimes Act* (1890) all young prisoners could be transmitted from jail to the DNCRS, from where they were placed either in reformatories or 'in service' (Victoria 1890). The transfer operated as a remission of the residue of the sentence of imprisonment unless, under Section 334, the offender was transferred back to gaol for bad behaviour. The DNCRS congratulated itself for its enlightened approach to young offenders, because the homes provided a 'healthy and more wholesome environment for a child's upbringing than jail' (Victoria 1901b). But there were a number of instances where Section 333 was used to perform a second punishment. Boys who had served their full fixed term of imprisonment, less a day or two, were then transferred to a reformatory to begin a further, indeterminate sentence. There were also plenty of transfers for bad behaviour, from placement in foster homes or employment, to reformatories and training schools. So children under care of DNCRS, including both neglected and offending children, were subject to a *de facto* indeterminate sentencing in the form of a transfer to reformatories, at the

discretion of the Minister and by-passing a court appearance (Victoria 1906). These provisions had particular implications when, in 1900, they were extended to all 'suitable' Aboriginal children whether orphans or otherwise 'in order that they may have the advantages of being dealt with in the same way as other wards of the State' (Victoria 1901b).

Meanwhile, back at the mission station, the decades-long ambition of the bureaucracy to decant people from across the state into a single rationalised institution had been at least partially successful. Lake Tyers in the far east of the state had become the preferred site and there had been large-scale movement of populations from communities in nearly every part of Victoria. Separation of children from families, and families from their communities and country, had been partially accomplished. Any remaining 'half-caste' family on the mission were those who had been provided with a certificate from the *Aborigines Board* indicating that their deteriorating health condition gave a warrant to continuing connection with family. In contrast to the objectives and circumstances of family maintenance applied to the non-indigenous child, the mission was destined to house 'poor remnants'. This is confirmed by reports on the population at Lake Tyers mission in 1918. An officer from the Lands Department reporting to the Chairman of the CBPA, is simply shocked by what he sees:

I cannot conclude without remarking on the emaciated appearance of some of the children and youths in the existing settlement evidently suffering from tuberculosis. I believe the exposed position of the houses and the sea air is injurious to them in Winter and they seem in need of a change to the hills, in fact a change in home for some of the suffering should be retained elsewhere, but this would be a matter for the consideration of your medical adviser (Public Records Office of Victoria 1889-1946:16/5/1918, emphasis added).

Conclusion

Two quite distinct legislative and administrative yardsticks were used for intervening in the lives of white and Aboriginal children. For the child-savers and philanthropists who had in their sights the feeble body of the white child, deprivation, poor health and pitiful circumstances were the signs that justified family maintenance and intervention. These children became the object of reform and protection, holding them in special homes until strong enough to be sent to a 'good country home'. In the case of the 'half-caste' Aboriginal population under the gaze of 'protection', quite the

opposite occurred. Deprivation and poor health were used as signals for non-intervention: they were signs that the children should be considered exceptions to the rule of intervention and removal, and instead returned to the mission. In contrast to white children, neglect and distress amongst the Aboriginal children was the signal that they should not be intervened upon. There is evidence that Aboriginal children in the care of the 'state as housefather' were placed back in the missions when they showed signs of a weakening of mind or body. This tended to ratify the mission as an institution in which to die. A negative eugenic principle was specifically applied to Aboriginal children within an overall policy of separation and removal of children from their families, as against a positive strategy of improving and consolidating the health and welfare of the white child by means of governing 'through the family'. Finally, it is important to acknowledge the ways in which Donzelot's ideas can be developed through an understanding of how 'family' has been and is racialised in order to manage certain problem populations.

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This article contains aspects of the history of many Indigenous men and women who were affected by government policies in Australia. The paper could not have been written without recognising their involvement and existence. In some Aboriginal communities, seeing the names of dead people may cause sadness and distress, particularly to relatives of those people. Aboriginal people are warned that names of dead people may appear in this article.

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