

DOKTORI (PH.D.) ÉRTEKEZÉS TÉZISEI

**FEDERAL MULTICULTURAL POLICIES AND THE POLITICS OF INDIGENEITY
IN CANADA AND AUSTRALIA BETWEEN 1988-1992**

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Debrecen

2003

I. AREA AND OBJECTIVE OF RESEARCH

This dissertation explores the interaction of multiculturalism and indigeneity in Canada and Australia in the context of federal politics between 1988-1992. Double aims of this study are (1) to dispel the myth of success surrounding multiculturalism as a population management policy, and prove that minority interests in the two countries under observation are much more complex than what a social policy unacknowledging legal, historical, and philosophical backgrounds can manage in the long run; and (2) to highlight that indigenous interests (claims to land, identity, and political voice) in Canada and Australia cannot be realized and fulfilled, because they are perceived as threatening to fundamental national interests such as the maintenance of state sovereignty and protection of territorial integrity. Further explication below, including a chapter by chapter outline of specific problem areas, will justify these overarching aims. Furthermore, (3) by providing a comparative assessment of indigeneity and multiculturalism, my dissertation also intends to fill in a thematic gap in the body of historical, political, and legal academic writing about Canadian and Australian multiculturalisms. Justification of this aim will follow in the second, methodological section of this *Theses*.

Comparing and contrasting Canada and Australia, my study explores questions about the prevalence of multiculturalism as public policy. It argues that Canadian multiculturalism has developed within a context of serious federal crisis, and that the Canadian Multiculturalism Act (1988) can be regarded as a policy to search for and find a shared identity and so provide for a stable social order. Such a crisis has been absent from the history of Australia, where multiculturalism was launched not to manage federalism but to manage cultural diversity. In the *National Agenda for a Multicultural Australia* the phrase “all Australians” is a convertible item of political rhetoric to emphasize individual equality and/or shared national commitments. Unlike in Canada, attempts to entrench multiculturalism in a statute or in the Constitution have not been successful, which suggests that controversies about Australian multiculturalism are not acute enough to affect federal law and the structure of federalism.

Decades-long constitutional negotiations—designed to keep Quebec in the confederation—highlight a Canadian federal crisis where the federal structure of equal provinces does not match the historical social composition of two founding nations and several Aboriginal nations. The Meech Lake Accord (1987-1990) did not fail because of disagreements over the distribution of power among the provinces but because of Quebec’s insistence on a “distinct society” clause. In other words, there is an ongoing cultural paradox beneath the structural problems. The Constitution Act, 1982 recognizes the importance of preserving and enhancing the multicultural heritage of Canadians, yet this has not been enough to sustain actual

policies. By 1988 a separate Act of Parliament was ratified to ensure the future of federal policies because neither the constitution with its Charter of Rights and Freedoms (due to Quebec's dissent) nor a set of federal policies (due to the "opting out" formula) in the name of the "national interest" could do that.

Immigration trends imply that Canadian and Australian multiculturalisms in the descriptive sense have developed along broadly similar lines. In both countries, indigenous populations make the ethnic composition of the settler society much more complex. Yet, the underlying dualism of a benevolent bilingual and bicultural confederation in Canada has unwittingly assisted indigenous claims to add a third pillar to federal sovereignty (federal, provincial, and indigenous) and opt for proposals towards creating a third order of government. My study suggests that Canadian policy-making is driven by such internal pressures. The absence of internal divisions in Australia cuts off this option for Aborigines and Torres Strait Islanders, so Australian ethnic and indigenous policy-making tends to be more responsive to international initiatives rather than domestic ones.

Both countries use multiculturalism to pacify indigenous claims because it seems a good and riskfree way to manage problems of cultural diversity. When national minorities engage in "political rights talk," multiculturalism refuses to listen because it is not prepared to handle claims for group-differentiated self-government rights. Yet, the discourse of indigeneity has already moved beyond the individual human rights agenda into the battlefield of "sovereignty talk," demanding unconditional recognition of the group right of self-determination. For the purposes of my study, a special "merit" of the events in the transitional period between 1988 and 1992 is that they demonstrate an acute conflict between the interests of (indigenous) minority nationhood and the majority nation represented by the government, which generates inescapable government reactions. In Canada the scene of this struggle is the constitutional crisis, whereas in Australia it is the crisis of national identity generated by a pressure to re-evaluate the history of the land. In neither case do the solutions proposed by the respective governments fit into the predefined framework of multiculturalism.

Chapter 2 "Why Meech Lake Failed" focuses on underlying motives of Canadian identity that clashed in the constitutional debate over the distinct-society clause. Therefore, I treat the Meech Lake (and subsequent) constitutional negotiations as symptoms of a country suffering from identity crisis. I examine Indigenous peoples and multicultural groups—the major societal components that disturb a traditional view of Canada as composed of two founding nations. Starting at the constitutional debate and concluding with the Canadian Multiculturalism Act, I assess how the symbolic problem of identity surfaces in government

measures. This chapter brings together the loosely related topics of federalism, constitutional negotiations, indigenous rights and, more broadly, human rights, and multiculturalism in a Canadian context. A description of the structure of Canadian federalism and its potential to accommodate the political demands of enclosed societal cultures is followed by a closer look at the Meech Lake constitutional negotiations to see why Quebec's claim for recognition as "distinct society" was the most difficult problem to reconcile. I argue that other components of the Canadian polity may also qualify for special status: Indigenous peoples as national minorities can claim self-government rights whereas polyethnic groups cannot, however significant their economic and cultural contributions are. Finally, highlighting the identity- and society-forming principles in the Canadian Multiculturalism Act and testing them against the political and cultural structure of the federation, I propose to identify why this policy could not solve the federal and cultural identity crises.

Chapter 3 "Identity and National Minorities in Australia" presents how a seemingly unified national interest can be strongly debated. Since 1988 the issue of an Australian national identity has gradually come to the foreground in a way it has not happened since the turn of the century. At the beginning of the chapter I give an overview of two national myths that form the foundation for the modern Australian success story: a "lucky country" built upon a *terra nullius* stood firm and unshakable in 1988. The series of bicentennial celebrations strengthened such foundations of a nationalist rhetoric, because they provided occasion for accompanying summaries of historical achievements as well as for celebratory predictions for the future. However, a section of society evaluated the past differently, and their vision of the future was also different from the official Australian version based on the obsolete myths of *terra nullius* and "lucky country." I describe how an Aboriginal version of history came to light and examine a multiculturalist perspective of the future. Finally I propose to answer the question how and why the historical, federal and social contexts of Australian multiculturalism and identity politics are different from the situation in Canada.

Chapter 4 "The Charlottetown Accord" analyzes the governing model in the Charlottetown Accord (1992)—a model of government that almost succeeded. However, as it eventually did not, it is timely to collect the other options Canada might have chosen to reorganize itself. I will survey what other governing models (alternative to multiculturalism) have been offered in the course of debates and political negotiations, and what their foundations are in law and history. As opposed to previous negotiations for a constitutional change, the Charlottetown Accord incorporated the theory of Indigenous peoples' inherent right to self-government based on pre-existing sovereignty for the first time. Although the Accord failed at

referenda in 1992, its impact has been visible in later government policies. I argue that a special willingness to accommodate shared sovereignties over land, identity, and political voice is prerequisite to resolving the federal crisis. I propose that Canadian identity politics has emerged because of the structural troubles federalism had to face, and that any reform attempts to change the structure of government need to consider the identity of its elements. I critically investigate the third order model of government proposed in the Charlottetown Accord, and contrast it with the existing model of multiculturalism in a bilingual/bicultural context. Following that, I introduce the hypothetical models of secession and two-row wampum to see if they provide plausible solutions for the structural and identity crisis.

Chapter 5 “*Mabo* and the Native Title Legislation” attempts to answer why the *Mabo* judgment shook the foundations of the Australian legal and political system. I explore a historiographical and legal paradigm-shift ushered in by the *Mabo* decision. Following explanatory sections about the content and significance of the High Court’s 1992 judgment in *Mabo v. Queensland (No.2)*, which overruled its countervailing precedents, I will argue that the falsification of a legal concept, *terra nullius*, also consolidated a historiographical paradigm-shift in Australia. Legal and moral justice had been competing for recognition and both required unquestionable evidence to be provided by new academic research as well as a new approach by justices in the High Court. Their new policy is manifested in a willingness to find implied rights in the Constitution and to consult developments in international human rights and indigenous rights law in case domestic precedents are unsatisfactory. By unavoidable necessity, this practice derived from the Court’s role as an interpreter of a constitution without a bill of rights, from Australia’s tarnished international reputation for human (especially indigene and refugee) rights, and from the call from new academic social and historical research filling in the “great Australian silence.” Implications of the *Mabo* decision forced new legal and moral obligations on political leadership as well as the wider citizenry, and provided a radically new premise for the identity and citizenship debate by officially introducing Indigenous people as prior occupants and owners of the continent.

Befitting the requirements of a comparative and interdisciplinary study, chapter 6 consolidates the common threads of legal, historical, and political analytical evidence in the individual chapters; overviews the argument and the answers to the proposed questions; and leads to the final conclusions, which I will summarize in the third section of this discussion of the thesis.

II. THEORETICAL FRAMEWORK AND METHODOLOGY

Although multiculturalism is not an exclusively Australian or Canadian concept, these two countries have developed its institutions, policies, and theories further than other countries. A comparative analysis provides a better understanding of both local situations—and, ultimately, of the larger questions of collective indigenous rights movements—within a critique of liberal humanism and its politics. Although a better understanding of race and ethnic relations is crucial for us to grasp the essence of recent social turmoil and nationalist revival, and indispensable to advance the process of healing and reconciliation, I am not aware of a systemic study that has sufficiently explored the complex interaction between indigeneity and multiculturality—political manifestations of the concepts of multinationality and polyethnicity—in the federal contexts of Canada and Australia. Beside realizing the objectives described in the previous section, another important purpose of the dissertation is to fill in this thematic void.

For theoretical background, I especially rely on Will Kymlicka's *Multicultural Citizenship: A Liberal Theory of Minority Rights* (1995) for (1) terminology, and (2) the logic of how group-differentiated rights can be accommodated by an essentially individualist liberalism. Kymlicka's liberal theory of minority rights supports the proposition that it is possible to reconcile indigenous claims within the liberal rights framework. Kymlicka considers two major forms of cultural pluralism: "multination" states (with "national minorities") and "polyethnic" states (with "ethnic groups"). He provides a typology of minority rights, differentiating between self-government rights, polyethnic rights, and special representation rights. He also explores the connection between group-differentiated rights and individual rights, and argues that "external protections" for group-differentiated rights are not in conflict with individual rights but "internal restrictions" might easily be. He classifies arguments for group-differentiated rights into equality-based arguments, history-based arguments, and arguments for cultural diversity, and he explores how group-differentiated rights may affect shared identity for a stable social order. Although policy-formation is necessarily influenced by activist approaches which may not reflect an ideal theoretical position, Kymlicka's systematic treatment helps identify the forces that influence policy-formation.

I differentiate between indigenous and ethnocultural minorities, and recognize indigenous minorities as societal cultures and national minorities if they perceive themselves so. Ideally, ethnocultural minorities (often referred to as multicultural or ethnic groups in the literature) are the subject of multicultural policies; I demonstrate, however, that this is not

necessarily so in political practice. Some ethnocultural groups can also claim national minority status. On the theoretical level, an important thread of coherence for my diverse analyses is to examine how and why identity/identities are becoming central to cultural and political discourse in the diverse politics of identity, indigeneity, belonging, citizenship, and nationalism. In accordance with Kymlicka's theory, I use "culture" in the anthropological sense of "societal culture". In this sense, "community," "group," and "people" can be synonymous with "culture." Multiculturalism is primarily dealt with as a government policy directed at population management. I am aware, though, that it is also possible to discuss multiculturalism philosophically as a liberal theory and ideology, descriptively as ethnocultural diversity, and historically as a contemporary period of race and ethnic relations. These meanings also surface in the text, either defined explicitly or by the context.

I proudly acknowledge the definitive influence of some scholars' writing on my thinking: I have learnt insider facts about the Meech Lake negotiations from Patrick Monahan; Henry Reynolds taught me a revisionist, "black-armband" view of history; Bain Attwood called attention to the importance of perceiving history as historiography; Richard Bartlett taught me how to conduct logical legal deductions; Haig Patapan directed my attention to the political role of courts in a democracy; and David Brown lent me the concept of "multicultural nationalism," which I have revised.

My comparative and interdisciplinary cultural study of the period between 1988-1992 moves within the disciplines of history, law, and politics. Accordingly, it attempts to supersede relevant published works about the topic or some aspects of it in three areas.

(1) *Identity politics*

Post-1988 scholarly works usually focus on aspects of identity politics and citizenship rather than make a more detailed assessment of policies. However, the approach of identity politics can easily be politically biased, so a careful theoretical, historical, and legal grounding is needed for a study to proceed in this direction.

(2) *History, law, politics*

Comparative (Canadian and Australian) works on the historical and political background of race and ethnic relations are scarce. Their scope is usually limited to the examination of either multiculturalism or immigration (mostly in political context) or indigenous issues in one country (mostly in strictly legal context), and they usually only cover the period up to 1988. More recent legal and political developments, however, call for theoretically and historically informed studies which are also sensitive to the identity issues involved.

(3) *Sociology*

Studies abound on the sociological and demographic features—such as birth and mortality rates, health and unemployment, criminal statistics—of multiethnic societies. These quantitative works usually focus on very specific topics, and their research is based on fieldwork and statistics. These studies can provide a reliable source of data. I use them as numerical support and background to my analysis.

My study is qualitative, comparative and interdisciplinary, based on a close reading and textual analysis of written policy documents (including laws, acts, agreements, government and media statements and opinions). Accordingly, the dissertation consists of four major units: two of Canadian and two of Australian concern. The Canadian units focus on two constitutional compromises: the Meech Lake Accord (1987-90) and the Charlottetown Agreement (1991-92). The Australian units are centered around the Bicentennial celebrations (1988) and the *Mabo* decision (1992). Chapters do not follow the logic of the thesis chronologically, rather the dissertation has a *quasi*-radial structure: issues resurface in new contexts and so extend and generalize initial local meanings. In order to achieve this, I have consciously endeavored not to mix settings or set up untimely parallels even if they seemed obvious and unmistakable (such as between “aboriginal title” and “native title,” or the Multiculturalism Act and the *National Agenda*). The structure and composition of the chapters make these parallel developments self-evident, and the way the chapters build upon one another highlight differences even if I do not repeat them explicitly. The structure of my dissertation, in this sense, is similar to those comparative and synthesizing treatises which garner studies by various authors under one broad topic and so provide a polyphonic overview in multiple context.

Qualitative secondary sources informing especially on historiographical and identity-related sections of the thesis are treated as primary sources. (Because of the political nature of these writings, I approached such sources with special critical attention.) Because I presuppose knowledge of the historical background, introduction into Canadian and Australian history of race relations and immigration, as well as Canadian and Australian political structure is only provided to the necessary extent as topics develop in the relevant chapters. Occasionally it was necessary to quote longer texts where legal analysis (to be exact) and stylistic concerns (to demonstrate rhetoricity) required. I opted against placing these texts in appendices because they are closely interwoven with the argument in the chapters. The dissertation was submitted in English, and it follows the standard MLA style of parenthetical referencing keyed to a list of works cited.

III. CONCLUSIONS

In evaluation of the research results, first (1) I will summarize the conclusions of the local analyses of the individual chapters; then (2) I will describe the overall conclusion and thesis statement of the dissertation in its elements and in general; finally (3) I will evaluate the results of the study, its usefulness and originality, and its contribution to further research.

1. In chapter 2 I have concluded that the failure of the Meech Lake Accord pushed the country towards a federal and identity crisis inasmuch as it failed to reconcile the interests of national minorities with the interest of the nation as a whole within one legal framework. The leveling tendencies of the ideology of multiculturalism antagonized Aboriginal peoples and Québécois because over the years it had become impossible to push nationalist arguments through the wall of liberal egalitarianism. Continuing clashes over the constitution show, however, that inherent cleavages in the body politic have survived, so multiculturalism could not adequately respond to the federal and cultural identity crisis and it has remained a partial solution to a population management problem.

In chapter 3 I have concluded that the Bicentenary reinforced the nation-building myths of white Australia's past 200 years, while simultaneously opening a forum for discussing the nation's future. The Barunga Statement and the findings of the Royal Commission into Aboriginal Deaths in Custody put morally and politically binding obligations on the government of the day by bringing historical and social wrongs to light. Whereas the claims in the Barunga Statement were endorsed only by the governing party because of its implied differentiation between groups of society, the *National Agenda for a Multicultural Australia* enjoyed bipartisan support primarily because its central notion was equality for all Australians (and because it promised to improve economic efficiency). In the absence of legal recognition of enclosed societal cultures in Australia until 1992, governmental obligations were embedded in the language of moral justice and liberal equality instead of treaties and self-government rights. For this reason, the *National Agenda* seemed a sound nation-building document to lead the country into a new century.

In chapter 4 I have concluded that the Charlottetown Accord offered a model acceptable to all parties in the debate because it nearly satisfied both the ideal of national coherence and the demands of First Nations to inherent self-government. All parties had to give up something, though, for a compromise, which resulted in an uneven text that manifests residual moments of biculturalism (two nations), multiculturalism in bilingual context, and self-government (three

nations)—all for a national unity. The Accord failed notwithstanding, which cleared the ground for more radical models and increased the likelihood of their prevalence, despite their obvious irreconcilability with the national interest of political and economic integrity.

In chapter 5 I have concluded that the High Court’s decision made the historical paradigm-shift irreversible, and its legal judgment coincided with moral justice, so it could lend a new dimension to indigenous fight. By this, it rocked the foundations of the Australians legal and political system. *Mabo* demonstrated that litigation as a method to exercise rights can also be successful, but it strictly circumscribed the limits of self-determination. Thus it protected state sovereignty from the pitfalls of parallelism and opened the road for negotiation, legislation, and a communitarian concept of liberalism.

2. Supported by analytical evidence, the overall argument of the study points in the direction of the following eight—correlated and complementary—conclusions:

1. Indigenous demands have political consequences.
2. Governments are willing to support indigenous claims only to the extent that they do not incur political consequences.
3. Governments are prone to change their position according to their “national interest.”
4. In both countries multiculturalism serves as fundamental policy of nation formation.
5. Multiculturalism as an ideology is rooted in an individualist egalitarian conception of liberalism, which cannot handle claims raised by national minorities.
6. The demands of indigenous national minorities will be subordinated to the principle of national integrity (national unity).
7. In Canada in the period of observation the drive to maintain national unity manifests in efforts to keep the confederation together by constitutional reform.
8. In Australia in the period of observation the drive to maintain national unity incurs conscious politics of identity involving the use and abuse of history.

Summary: Government responses to social and cultural diversity in Canada and Australia do not, as a matter of course, embrace the full political consequences of recognizing the claims raised by indigeneity. The degree of willingness to accommodate indigenous claims of land, identity, and political voice depends on the perceived national interest, while the policy of multiculturalism is primarily a tool to satisfy minority claims within the framework of liberal individual rights. It cannot, however, satisfy the claims of “nations within” for a group-differentiated right of self-determination. Managing federalism is the ultimate priority of federal multicultural and indigenous policies in Canada, whereas in Australia a politics of identity dominates both multiculturalism and indigeneity.

3. Evaluating the achievements of the research I conclude that

- (a)** this systemic study of federal multicultural policies and the politics of indigeneity in Canada and Australia between 1988-1992, both in its chapter-by-chapter conclusions and in its overall thesis (as described above), satisfies its original proposals and fulfills its fundamental aims to highlight that multiculturalism is not a fully successful population management policy, because minority interests in the two countries under observation are much more complex than what a social policy unacknowledging legal, historical, and philosophical backgrounds can manage in the long run; however, at the same time it also emphasizes that indigenous interests (claims to land, identity, and political voice) in Canada and Australia cannot be realized and fulfilled, because they are perceived as threatening to fundamental national interests such as the maintenance of state sovereignty and protection of territorial integrity.
- (b)** the dissertation is original work because by the interdisciplinary study of the interaction of multiculturalism and indigeneity in Canada and Australia it supplies information on a previously uncovered research area.
- (c)** the originality and usefulness of the study is further emphasized by acknowledging that it examines cultural and theoretical issues of current significance (minority and human rights, multiculturalism, Indigenous peoples in multicultural states); and by discussing the transitory period of 1988-1992 and defining its major socio-political tendencies, it establishes the direction of further research for comparative and interdisciplinary studies of the post-1992 period.

IV. PUBLICATIONS

Articles:

1. "Perceptions of the Land and the Aborigine in Australia." *British and American Studies* 7 (2001): 47-54.
2. "Mabo and the Paradigm Shift in Australian Historiography." *Anachronist* (2000): 327-45.
3. "Az ausztrál őslakók földjogai." *Debreceni Szemle* 7 (2000): 360-79.
4. "Expelled at Adolescence: Miles Franklin's *My Brilliant Career*." *Breaking Ground: Eight Student Essays on Australian Literature*. Eds. Carl Whitehouse and Gyula Tankó. Budapest: ELTE, 1996. 43-52.

Accepted for Publication:

5. "Distinct Societies: Conflicting Indigenous and National Interests." *Postcolonial Subjects: Canadian and Australian Perspectives*. Ed. Mira Buchholtz. Torun, Pol.: Nicolaus Copernicus U, 2003.
6. "Reconciliation and Do-Gooders." *Studii de limbi si literaturi moderne* [Timisoara] (2002).
7. "Why Meech Lake Failed: Constitutional Notes to the Identity Debate." *Hungarian Journal of English and American Studies*.

Review:

1. *Australian Nationalism Reconsidered: Maintaining a Monocultural Tradition in a Multicultural Society*, szerk. Adi Wimmer. *Vision Splendid* [*Journal of Australian Studies* 66]. Ed. Richard Nile. St Lucia: U of Queensland P, 2000. 238-40.

Editions:

1. with Scott Fatnowna és Denise Woods, eds. *Jumping the Queue* [*Journal of Australian Studies* 72]. New Talents 21C. St Lucia: U of Queensland P, 2002. i-296.
2. with Sándor Tóth, ed. *Third Annual Curtin Humanities Postgraduate Research Conference Proceedings 1999*. Perth: Black Swan, 2000. i-238.