GOVERNING INDIGENOUS ALTERITY: TOWARDS A SOCIOLOGY OF AUSTRALIAN INDIGENOUS ISSUES.

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Abstract

In this paper I explore some of the ways in which the notion of liberal governmentality – the idea of governing through freedom – might usefully generate a specifically sociological insight into some of the ways in which Indigenous peoples are currently governed in the Australian context. It will be my argument that although much current research takes the development of Indigenous rights premised on the recognition of Indigenous difference as foundational to liberal governmentality there is a tendency, nonetheless, to continue to regard this mode of governing as continuous with earlier coercive, colonial forms of power. Drawing on some fieldwork I hope to show some of the (small ways) in which rights and freedoms rather than opposing power can in fact be said to be constitutive of new fields of (liberal governmental) power.

Keywords: Indigenous affairs; governmentality; Indigenous rights and settler-colonialism.

Introduction

Over the last two decades a range of scholars across the social sciences have become interested in the ways in which liberal democratic states have responded to the collective/group rights claims of Indigenous peoples and other minority populations, particularly, as these claims and state responses to them have become affirmatively anchored in the recognition of cultural difference. In the settler-colonial states and societies of Canada, New Zealand, Australia and the United States in particular, this form of recognition has included legislation which recognises Indigenous peoples’ native title and land rights, their rights to corporate and collective forms of association, and administrative arrangements that have accorded some measure of self-government to First Peoples, usually in the form of powers associated with local/municipal government. In many cases these (and other) statutory and administrative mechanisms of recognition have followed the development of common law rights which have accorded Indigenous peoples’ rights as Indigenous peoples – that is, as culturally distinct peoples who are recognized to be so, and who have continuing relationships to lands and territories usurped during colonial invasions and subsequent settlement.

In theoretical terms, settler-colonial states which have developed these non-violent responses to Indigenous peoples’ rights claims are now regarded by many commentators as exemplars of a particular kind of transformation towards mode of governance which relies less on the use of violence and coercion against subject
populations and more on a combination of juridical, political and administrative arrangements to facilitate government through the freedom and agency of those populations. In light of this shift from sovereign, coercive forms of government, politics and administration in Indigenous Affairs here in Australia, and in the other settler-colonial jurisdictions has been characterized by a number of scholars over the last ten to fifteen years as displaying many features of ‘liberal governmentality’.

In this paper I want to explore some of the ways in which this notion of liberal governmentality – the idea of governing through freedom – might usefully generate a specifically sociological insight into some of the ways in which Indigenous peoples are currently governed in the Australian context. By specifically sociological insights I mean those analyses that arise when the inter-play of politics and power at both the macro, institutional and discursive level and the micro, subjective level of experience and identity are taken to inform the researcher’s approach to, and understanding of, government.

To this end, my paper takes as its starting point some of the studies of Australian Indigenous affairs which draw on the notion of liberal governmentality, and in particular those that address the issue of the state as progressively rights-conferring (e.g. Beckett 1988; Rowse 2000; 2002; Peterson 1998; Cowlishaw 2006). Such an approach, however, is not the dominant one. In fact, notwithstanding the state’s recognition of Indigenous alterity via the various rights regimes established – native title rights, land rights, Indigenous specific welfare rights/CDEP, recognition of cultural norms and customary law – most research tends to regard this latest phase in the Australian state’s relationship with Indigenous people less as an example of ‘government through freedom’ and more as a case of disguised or continuing colonial oppression (e.g. Wolfe 1992; Povinelli 2002; Behrendt 2003; Morrissey 2006; Altman and Hinkson 2007;). As I hope to show in an account here of one fieldwork moment, this produces two problematic effects.

First, in presuming the persistence of colonial domination, notwithstanding legal and policy changes, a binary opposition between Indigenous and non-Indigenous agents and agencies is maintained. Following the work of several anthropologists who have developed notions of the inter-cultural to grasp the extent to which relations between Aboriginal and non-Aboriginal people ‘occur in embedded subjective fields’ (Merlan 2005; Sullivan 2011: 17), I suggest that to think in terms of coerced Indigenous subjects is to not only efface the political agency of Aboriginal people, but also to simplify what are rather more complex interactions between rights-producing state categories and the subject positions of both Aboriginal and non-Aboriginal people. Second, thinking in terms of state and other institutional arrangements as coercive tends to obscure the ways in which recognition of Indigenous alterity (and the rights regimes which over-arch this) are constitutive (as opposed to repressive) of Aboriginal subject positions. Third, thinking in terms of the constitutive nature of rights allows us to ‘think sociologically’ about the inter-linkages between the ways in which subjectivities are ‘made up’ at both the micro level of daily life and experience, and at the macro level of institutional and discursive processes and formations.
Recognising Rights

Writing in 1988 the anthropologist Jeremy Beckett commented:
Looking back over the last twenty years, Australia may be said to have transformed its Indigenous population from virtually passive colonial subjects, situated inside the state but outside the nation, to a political constituency of citizens who are simultaneously a minority (Beckett 1988: 17).

Within a matter of years, scholars such as Rowse (1995) Peterson (1996), Altman (1991), Smith (2003) and others (following Beckett) were taking seriously the idea that a range of institutions established to give expression to Indigenous rights, particularly those established under the Aboriginal Land Rights Act (ALRA) (Cth), state-level land rights legislation and the ACA Act, were key sites of revised Indigenous political agency. In this way, land rights legislation in the 1970s and 1980s facilitated the creation of Aboriginal land trusts and land councils to represent the interests of traditional owners and local Aboriginal constituencies. More recently, Native Title legislation has prompted the creation of Native Title Representative Bodies (NTRBs) and the expansion of an Indigenous-owned land base. In addition to legislation recognizing Indigenous peoples’ rights to land, legislation enabling Aboriginal groups to incorporate to deliver specific services to local and regional communities has significantly widened the scope of Indigenous political and administrative initiative and activity. Today, around 2,500 Aboriginal organisations registered under Commonwealth legislation constitute an entrenched ‘Indigenous sector’ (Office of the Registrar of Indigenous Corporations 2013) delivering everything from health care, to education to local government to their Indigenous constituents.

I think it would be accurate to say that, from the perspective of the several scholars who have been concerned with the development of this institutional architecture, it is not possible to separate out this architecture from the rights and freedoms it confers. That is, Indigenous rights – to land and some measure of self-government - need to be understood as themselves artefacts of state power, rather than simply oppositional to power. Understanding power in this way is central, they would argue, to understanding the nature of modern liberal and advanced liberal governmentality (Beckett 1988; O’Malley 1996; Rowse 1993; 2002). Accordingly, the modern liberal state is seen as creating certain enabling structures of freedom while the advanced liberal state continues that project, all the while requiring, in addition, extended levels of entrepreneurialism and accountability from citizens (Rose 1999). In thinking about the effects of these forms of liberal governmentality on rights and freedoms, Wendy Brown has made the point that they therefore ‘produce often contradictory [and contingent] subject positions that may be entrenched as much as challenged or loosened through political recognition and the acquisition of rights’ (Brown 1995: 118).

That liberal government actively constitutes certain categories of rights and subject positions – with all the opportunities and constraints inherent in these processes and institutions – is, however, an account of power in Australian Indigenous affairs that has not gained much purchase. Instead, most research that focuses on the question of Indigenous rights has tended to invoke the liberal state’s continuing coercive power over Indigenous subjects. From this more dominant perspective then, the development
of rights is regarded as an on-going struggle against the state’s efforts to encapsulate and eradicate Indigenous difference.

Patrick Wolfe, for example, has argued in relation to the Mabo decision, that far from heralding a new progressive stage in Australian law’s recognition of Indigenous rights to land, the decision was another stage in ‘the sustained Australian state project of dissolving Aboriginal sovereignty into the larger Australian polity’ (Wolfe 1992: 886). Similarly, Elizabeth Povinelli has argued more broadly that, ‘Australian liberal multiculturalism is an ideology and practice of governance’ that entraps Indigenous people in its snares by forcing them to perform domesticated renditions of authentic culture while excluding any genuine otherness or as she puts it, ‘fundamental alterity’ (Povinelli 2002: 5). Likewise, in Achieving Social Justice: Indigenous Rights and Australia’s Future, (2003) Larissa Behrendt has also drawn on the idea of liberalism as oppressive government by other means. ‘Australian liberalism’ she argues, needs to be understood as ‘difference-blind liberalism … [which] reflect[s] one set of values and one culture, alienating those who do not share them’ (Behrendt 2003: 81).

I don’t have the space here to cite the many more studies which understand the recognition of Indigenous alterity, of Indigenous peoples’ rights as Indigenous people not in terms of the regimes established, land rights, native title rights, rights to some measure of self-government, and so forth, but as a sort of liberally disguised version of colonialism or if not, colonialism, then, as Morrissey puts it, a ‘hollow’ liberalism (Morrissey 2006) which masks or oppresses Indigenous peoples’ ‘real’ or ‘natural’ rights. As Patrick Sullivan has recently argued, however, it is not possible in empirical terms to sustain such an oppositional account of the Australian’s state’s relationship with Indigenous people – as though Indigenous people exist in a discrete Indigenous ‘domain’ where their ‘natural’ rights inhere and oppose the power of the state and the wider settler-colonial polity. As he puts it, ‘no Aboriginal or Torres Strait Islander group exists in isolation from wider non-Aboriginal processes’ (Sullivan 2011: 17). Accordingly, in thinking about Indigenous rights, Sullivan argues that the achievements of the last three decades need to be ‘consolidated’ on the basis of this understanding of the mutually constitutive relationship between Aboriginal and non-Aboriginal people and organisations.

Taking together the work of Sullivan who has developed a notion of the ‘inter-cultural’ to give expression to the productive entanglements between Aboriginal and non-Aboriginal people and organisations and those researchers mentioned previously who have understood liberal governmentality as productive of rights, the next section of my paper seeks to think through these insights in relation to one fieldwork snapshot.

Fieldwork snapshot

Several years ago I worked on a research project involving two of the Northern Territory Aboriginal Land Councils and a national NGO. The research took me together with a colleague from one of the Land Councils to five different communities in the Top End of the Northern Territory. What follows is one snapshot of my encounters with daily life in one of those communities.
Community 1: This is a community situated on former Aboriginal Reserve – land which the Commonwealth Government gazetted in 1951 for “the use and benefit of the aboriginals”, and which in practice the Commonwealth administered through the funding of a mission. With the passage of the Aboriginal Land Rights Act in 1976, Aboriginal reserves were automatically vested in Aboriginal Land Trusts. Today, the local land trust holds communal, inalienable title to this former reserve. The missionaries have long departed, however, just prior to their departure a community council was created and vested with many of the functions and responsibilities of local government. At the time, officials from the Commonwealth Department of Aboriginal Affairs and the Northern Territory Welfare Branch and the Department of Local Government were to assist local Aboriginal people to develop skills in governance, administration, program development and delivery. In practice, almost no such training took place.

At the time I visited this community it had a resident population of around 450 people. It had a school K-9, a health clinic, Centrelink Office, community store, Arts Centre, football club, CDEP Office, community centre and basket-ball hall, and a licensed club. There were a dozen different institutional stakeholders in the community ranging from the regional shire council to Federal Government departments. NGOs and the private sector were also present as stakeholders. How the local Indigenous population managed these relationships was probably not unlike many small, non-Indigenous communities. Elected members of the Community Government Council had decision-making responsibility for all policy and program matters that effect the community – in much the same way that a local government council would. A Community Manager and local administrative staff implemented and administered programs and decisions. The regional shire council operated as both a source of funding and technical support while the ten Territory and Commonwealth Government departments and personnel were also involved in allocating funding and delivering services to the community. Much of the on-the ground service delivery, however, was not performed by those departments at all but by the incorporated Aboriginal organisations – a regional Aboriginal Community Controlled Health Organisation, the school council, the football association, the Arts Corporation and others – all of whom received funding from governments to do this work.

A history of the community’s development charted this way makes clear the multiple entanglements between local Indigenous people and organisations and non-Indigenous people and organisations. Recognition of land rights and rights to local self-government as well as more recently native title rights has in this way placed requirements upon local Indigenous people to re-configure not only their daily lives around the interactions required by these arrangements but to reconfigure their social and institutional practices. Conversely, it could also be said that state, non-government and private sector agents and agencies have also reconfigured their practices as a result of these shifts based on rights recognition. One small example of what I’m referring to played out on our first day in this community.

The night before we arrived a group of young males (we were told) had gotten on the grog and the petrol and run riot. One of the school’s teachers we met emphasized that this was very unusual because as a rule, ‘at night you can hear a pin drop here’, he said. It was unclear what then happened except that a car accident occurred, and several people were injured one of whom had to be flown out to hospital in Darwin in
a coma. The remaining injured were successfully treated at the local health clinic. The accident and injuries of course, had ramifying effects throughout the community the next day. Local police aides had called in a senior police officer from a nearby town, and the full force of the law was there for all to see outside the council offices where two open paddy wagons had been filled with suspected offenders. Some friends and relatives of the apprehended suspects were vigorously questioning the police about the validity of their actions. Elsewhere in the community, some of the older women were angry about the actions of the young men involved in the accident and attributed this to ‘girl-boy problems’ for which they gave some of the girls a hiding. The (Indigenous) school teacher and registered nurse were both upset about this use of corporeal punishment, and called some of the older women to the school to defend the rights of the young women to not receive a beating when it wasn’t really known (and wouldn’t be known until ‘drug and alcohol arrived) what had caused the chain of events leading to the accident. The non-Indigenous school principal was more sanguine about this and said that whilst he hated violence this was not serious. He understood the role that the older women were performing. Meanwhile, the confusion over the previous night’s events and attribution of responsibility had made most of the students at school incredibly edgy and as a result inattentive. As it happened, the principal and teachers had arranged some time ago for a group of AFL ‘stars’ to visit the school and some of the children were already out on the oval with their sports heroes. A decision was made then that all the students’ interests would be better served if they could get outside and release some energy on the oval. The school-pick-up run and breakfast program initiated by the School Board in partnership with a national NGO was for this day at least, ensuring the kids had a great time playing football. Elsewhere in the small community, however, people were not so exuberant. Many of the men had convened to the house of the father of the hospitalized boy for ‘worry business’. This was all to the annoyance of the local (Indigenous) CDEP manager who said that there were people worrying who needed to be at work. ‘Good systems fail’, he said, presumably referring to the precarious trajectory of CDEP recently, ‘because of bad people’.

**Reflecting on the Fieldwork**

In some respects what I’ve written here is no more than a subjective, fragmentary impression, a personal snapshot of a day in one community as I encountered it with a colleague, one that can’t be taken to be representative of daily life and experience in any way. However, it’s also true to say that to a certain extent it does capture something of the complex entanglements facilitated by the wider discursive and institutional context: a context which exists in large part as a result of the legislative and administrative recognition of Indigenous people as rights holders. That this recognition is neither even nor consistent helps me make my point: the recognition of rights produces contradictory effects and positions particularly given the historical context of colonial relations and current entanglements between Indigenous and non-Indigenous people in this context.

The customary rights of the father and others, for example, to engage in worry business cross-cuts (perhaps even undermines) the more general right to culturally appropriate local employment institutionalized in CDEP. The CDEP manager is in this way positioned uncomfortably between these two logics of freedom. The more
general right of self-determination expressed in the powers of local government and local policing create subject positions for some of the local police aides at odds with those of their friends and relatives. After all, they are required by mainstream laws which protect property and people to constrain the freedom of those charged with violating these. The rights of children too, to not be subjected to corporeal punishment articulates uneasily with the rights of the older women to ensure relationships are forged ‘right way.’ Although the children were probably unlikely to assert their positions as rights-holders, the teachers, teachers-aides and principal nonetheless did so on their behalf. And all these subject positions are themselves micro, local configurations of a range of macro-level discourses and institutional arrangements.

What I want to suggest, therefore, based on my description of this one micro level encounter, is it is only one example of the ways in which one can identify vigorous Aboriginal agency at work, rather than neo-colonial oppression pure and simple. What’s more, the expression of that agency is not something that takes place in a discrete Aboriginal domain. Rather, relations between Aboriginal and non-Aboriginal people occur (and are occurring) in embedded inter-subjective fields (Sullivan 2011: 17). Inter-subjective fields which I see, for example, in the negotiating positions between teachers and older women; between police and the apprehended individuals; between the CDEP Manager and his employees. Furthermore, all these subject positions – of children, adult men and women, teachers, police, and so on are – as I’ve tried to show – contingent upon events and circumstances. Viewed from this micro-level the more enduring, macro-level configurations of rights discourses and the practices and institutions which give effect to these (in this case it would be the discourse concerning the rights of the child and its institutional expression in compulsory schooling, or the discourse of self-determination and its various institutional expressions here in community government, community controlled health care, and so on), are also seen to be actively constituted in locally specific and contingent ways, not simply as an oppositional force to power but as constitutive of new fields of power.

Conclusion

I’d like to conclude by suggesting that, methodologically, it’s important to retain a closer connection with lived experience and empirical reality in understanding the nature and dynamics of relations between Indigenous and non-Indigenous Australians. For me the tendency towards equating liberal governmentality with domination and oppression seems to be a product of a somewhat tentative engagement with the sheer complexity of situations like the one I have described, which is why I’ve gone into it in such detail. The operation of power, as Foucault reminded us quite some time ago, is constitutive as well as repressive, and this understanding is central to a specifically sociological analysis of Indigenous social life, as well as pointing towards the kind of sociological research that can best contribute to an improved scholarly account of the nature of the settler-colonial experience and the interconnections between the micro level of everyday interactions between and among Indigenous and non-Indigenous Australians, and the macro-level of the legal and political constitution of rights and citizenship identities.
Endnote

1 Here I am drawing on the later work of Michel Foucault, in particular his lecture, ‘Governmentality’, as well as the work of those scholars who after Foucault’s death developed his ideas on liberal governmentality. Within this body of scholarship the term governmentality refers to a historical shift away from the sovereign or absolutist assertion of political power and authority to a mode of governing that is premised on the ‘reflexive problematisation’ of government. The term ‘liberal governmentality’ then refers to all those processes of problematisation that attend this shift specifically as it comes to involve the exercise of power through the agency/autonomy/freedom of the governed. It should be pointed out, however, that none of this is to say that older, sovereign and coercive forms of political power don’t continue to run alongside the more recent liberal governmental exercises of power. Certainly in relation to the government of those citizens who are thought to lack capacity the government of ‘unfreedom’ continues (to use another Foucauldian term), and inter-links with strategies of governing through freedom. In this paper, however, I am interested in what are regarded as exemplars of liberal governmentality, or ways in which the state exercises power through the freedoms it (selectively) confers (in specific ways) on the governed. To understand liberal governmentality this way then is to understand the political freedoms inscribed in rights regimes as artifacts of state power – as opposed to forces and processes that are somehow separate from, and in opposition to the state.

Reference