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# **Democracy and Minority Inclusion**

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**Political Concepts beyond the Nation State:  
Cosmopolitanism, territoriality, democracy**

Are we moving beyond the nation state? Many Western liberal democracies find themselves confronted by issues of mass migration, massive social and ethnic divisions and other ‘problems’ apparently brought on by global political and economic forces. The question then becomes, are current nation states capable of tackling such problems?

In this paper I will focus on the cases of two such liberal democracies, namely Australia and New Zealand, and look at how they tackle state interaction with their respective Indigenous populations. The Indigenous populations have been chosen as a focal point both due to issues of delimitation, and because they can in some ways be viewed as an extreme test case for minority inclusion and accommodation. The case material has been collected between February and July 2004 and has not been thoroughly analysed yet. However, I will here present some tentative findings, focusing particularly on the role of political institutions in facilitating exchange between the different population groups.

### **Theoretical considerations**

This paper was originally entitled ‘Negotiating Minority Rights’, but I have changed the title to ‘Democracy and Minority Inclusion’. This is due to the fact that I have changed my theoretical focus from rights based theories to theories of democracy, and also because I believe it is problematic to perceive the interaction between Indigenous groups and the state as too confrontational even before starting to collect data about these processes.

At the outset of my project, I focused on contemporary theories of minority rights as formulated within political philosophy. Looking primarily at contemporary liberal and communitarian writings on the subject, I found that they seem to have converged during the 1990s, finally resembling each other so much that people argue about which is which, and neither theory really providing anything in the way of practical guidelines for implementing or practicing their maxims. My suggestion is that in the case of widely diverging cultures and ethnies living within the same state, traditional liberal and communitarian proposals for solving issues of democratic legitimacy and justice do not get us very far. In fact, the whole area of normative political philosophy centering on issues of minority rights hardly seem to offer any tenable solutions in terms of concrete proposals or recommendations for accommodating difference.

In my search for credible alternatives I came across the work of Seyla Benhabib<sup>1</sup> who has worked with Habermas’ notion of deliberative democracy, especially in regard to women’s rights<sup>2</sup>.

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<sup>1</sup> See for example Seyla Benhabib, *The Claims of Culture. Equality and Diversity in the Global Era*, Princeton University Press, New Jersey, 2002.

To my mind, the currently best bid at a possible solution to the problem of accommodating difference lies within this normative theory of deliberative democracy. But even here, theories have a tendency to remain exactly at the theoretical level. And like so many other theorists before her, Benhabib doesn't really take issue with the practical problem of implementing rights, either. However, she does pave the way<sup>3</sup> for me to pose the question in what I find very interesting terms – namely *assuming that deliberative democracy is morally feasible, is it also institutionally feasible?* This is the question I have seized upon when designing my empirical research on minority participation in political decision making in Australia and New Zealand.

### Methodological considerations

There were several reasons for choosing Australia and New Zealand as case studies for this project, not least among them that they share a common fate of colonisation by Britain, both are settler societies, and both groups of Indigenous peoples have thus seen their societies become dominated by a culture (and importantly, for the purposes of this study, a political culture) that differs significantly from their own. Furthermore, some theorists think that Indigenous peoples should be granted more rights than other minority groups<sup>4</sup>, whereas others think that they are hardly likely to be able to survive as distinct groups<sup>5</sup>, which further adds to the proposition that the inclusion or exclusion of an Indigenous minority might be viewed as an extreme test case within the framework of deliberative democracy.

Having thus selected my two cases for investigating whether deliberative democracy might be viewed as an institutionally feasible way to go about ensuring minority rights, I came up with the following matrix for designing the number of interviews I wanted to carry out.<sup>6</sup>

	Australia	New Zealand
Governance	4 interviews	4 interviews
Media	4 interviews	4 interviews

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<sup>2</sup> This concern with the plight of women is reflected eg. in the chapter 'Multiculturalism and Gendered Citizenship' (chapter 4, pp.82-104) in Benhabib, 2002 plus in several of her other publications

<sup>3</sup> Benhabib, 2002, p.125

<sup>4</sup> This view is especially strongly expressed by Will Kymlicka in his book *Politics in the Vernacular: Nationalism, Multiculturalism and Citizenship*, Oxford University Press, Oxford, 2001, p.55.

<sup>5</sup> See for example Benhabib, *The Claims of Culture*, p.185

<sup>6</sup> I should add that I had by then already decided on doing a qualitative study. There are several reasons for this which I will not go into here, suffice it to say that as a Habermasian notion of deliberation is hardly quantifiable anyway, it wouldn't make much sense to investigate a qualitative concept using quantitative measures.

Education	4 interviews	4 interviews
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This matrix is based on ideas put forward by Adeno Addis in his essay ‘On Human Diversity and the Limits of Toleration’<sup>7</sup>, where he speculates about which institutions it might be important to look at if one is to foster an milieu of deliberation. One can of course always debate about whether this list should be expanded, but there seems to be little doubt that the areas of governance, media and education all are important in both influencing public debate and serving as forums for this debate.

Aiming for a qualitative description of the dynamics of the interaction between the two population groups in each country rather than for statistically significant material, the strategy was to aim for a handful of interviews within each category in the matrix with people placed as centrally as possible within the systems – be that liason officers within ministries or departments, spokespeople for Indigenous interest organisations, or journalists working on a daily basis with reporting on Indigenous issues. This elitist approach can of course be criticized, but has the advantage of solely focusing on those people actually seeking engagement or debate, and having experienced it/having experiences being rejected. Out of this came 29 very open-ended interviews, divided between in total 12 government/interest group representatives, 11 media representatives and 6 interviews with people involved in the education sector within the two countries.

## Cases

One important first thing to mention about my two cases is that while Australia and New Zealand might look fairly similar viewed from Europe, there are huge differences between them. First and foremost, Australia is a federation with strong state governments resulting in significant political differences, and a voting system based on single member constituencies dominated by Labour and The Liberal Party. In opposition to this, New Zealand has abolished its regional structure and now has a central government elected through mixed member proportional representation and with no upper house and several political parties. So there are many factors impacting on institutional networks within these two countries – possibly so many that a contrastive rather than a comparative analysis would make more sense! On top of this, there are also enormous demographic differences

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<sup>7</sup> Adeno Addis ‘On Human Diversity and the Limits of Toleration’ in Ian Shapiro and Will Kymlicka (eds.), *Ethnicity and Group Rights*, Nomos XXXIX, Yearbook of the American Society for Political and Legal Philosophy, New York University Press, New York, 1997.

between them, both in terms of population size and - particularly important for my study – in terms of the percentages of Indigenous people within them. Thus Maoris comprise approximately 15% of the New Zealand population, and this number is growing due to differences in birth rates, whereas the diminishing Aboriginal population comprises somewhere between 2 and 3% of the Australian population.

Adding to these differences, I should also mention that I concentrated my data collection in Australia to Western Australia where I was situated. Thus I have primarily focused on interaction with the state rather than the federal government for Aboriginals in Western Australia, whereas I was situated in the capital city of Wellington in New Zealand, which has no regional governments anyway.

I shall spend the remainder of this paper exploring whether and how actual diverging communities deliberate among themselves about political ends, using case material from my study of Aboriginal and Maori interaction with the political decision making apparatuses in their countries. I shall put forward data showing how these national minorities utilise existing structures to get their interests represented and have their opinions heard. It then remains to be seen whether such processes of deliberation and interaction are best understood at national, regional or community level, and to what extent the existing state apparatus provides deliberating parties with opportunity structures to be heard. I stated in my original abstract for this conference that one of my proposals would be that future understandings of the state and state level policy is very likely to focus on the provision of institutions and structures that can be utilised at regional and community level to solve problems of day to day interaction between citizens who are members of widely diverging cultures – this is an issue I will return to at the end of this paper.

### **Institutional structures**

The question I was aiming to answer by my empirical data collection was whether deliberative democracy is institutionally feasible. Hence a major focal point in my interviews was institutional structures and in particular access to institutions, both via face to face interaction, diverse forms of mediated interaction, and the various ways in which these institutions communicated with the surrounding society/received input from the surrounding society.

One way in which the issue of institutional design cropped up in interviews, was through a focus on the land reclaim processes that are currently going on in New Zealand. In brief, the Maori and English signed a Treaty in 1840 known as The Treaty of Waitangi, where the English Crown

promised some degree of protection for Maori culture and land. While the judicial aspects of this are extremely complicated, there is no doubt that a majority of Maori people in New Zealand believe that their Treaty rights have been breached, and the New Zealand government has therefore started a process whereby these claims are heard and legal action is being taken.

The legal aspects of these processes were far too intricate for me to go into, but I was nevertheless interested in speaking with some of the people involved in these interactions to hear about how they perceived the dynamics of the negotiations and legal hearings. Thus I interviewed both a government representative, namely the Chief Executive Officer for the Office of Treaty Settlements, a spokesperson for a Maori tribe currently going through the claims process, and a historian working with both sides and trying to establish historical links between tribes and land, tracing both written documents and oral history.

One thing these people all had in common was a great emphasis on the usefulness of establishing institutions to represent the different interests between the parties, and not least to establish trust both between these institutions and the people it represented. And as the following quote from the CEO from the government institution shows, he was also concerned with duties towards the wider public:

**AH:** Too many grievances of the past have resulted from the Crown coming along and dealing with whoever came along first or whoever was compliant [...] In terms of giving that process [of legal redress] some sort of legal representation, well, again I don't know of any claimant groups who have said 'no, we don't want to have a legal personality for our entity'. They need that to protect themselves, to protect their beneficiaries, to receive the settlements assets. [...] We can't tell groups how to organise their own affairs, but we have been in negotiations for 15 years, we know what works and what doesn't. So part of it is just sharing best practice, and by and large claimant groups like that. They don't take everything the Crown says as Gospel, of course not. But they are *keen* to have access to information. The other thing is the reason that I have already outlined: the Crown has a duty to the wider claimant community, and, I would argue, to the wider public, to ensure that the people it is negotiating with have some mandate to do what they are doing.

Evidently, AH was very well aware of such important issues as legitimacy ('whoever came along first' vs having a 'mandate') and the importance of having access to information. This was also a theme highly prominent on the home page for the Office of Treaty Settlements, where the different steps in the claims process are explained, and very detailed information about previous settlements can be found<sup>8</sup>. Under such headings as 'What is a settlement?', 'Negotiation process'

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<sup>8</sup> See [www.ots.govt.nz](http://www.ots.govt.nz)

and ‘Settlement process’ a step by step guide to what a claims process entails can be found. It was very clear during my visit that OTS placed a lot of emphasis on adequate information both towards the claimant groups and in relation to the wider society, although AH expressed the view that the media were not always conducive to this goal.

Further reflections on the responsibilities towards both Maori and the wider community is evident in the following quote by one of the historians working for The Waitangi Tribunal, which is responsible for hearing the claims and establishing the historical links before land cases go to court. Here he reflects on the need to accommodate two cultural traditions in one judicial process:

**BR:** We are a bicultural organisation in both respects, that is we have bicultural membership and bicultural practices, and we are where law and history meet. There is a lot of European legal process that we *have* to go through, and lawyers are a very important part of everything that we do. We *are* a judicial body, that’s the nature of the Tribunal, and that comes from the European side of things. And the Maori side is sort of blended in with all of that.

While I do not at present wish to embark on a critical discourse analysis of my data, I do think that BR’s statement here raises some interesting issues of how different discourses might impact on each other in these cross fields he identifies between law and history as well as between traditional Maori ways and their need to respond to modern societal forms of organisation. In the following quote he further reflects on the need for Maori groups to organise themselves in institutions that are recognisable from a European legal perspective:

**BR:** [...] we have found that the groups that have gone with customary structures that are rooted in ancient traditions have often had a fundamental difficulty in distinguishing between ceremonial control and effective organisation. The classic case of this is with the group called Tainui from Waikato. They had a *very* strong tradition of customary leadership taking on key roles [...]. And so their structures were oriented towards a sort of ceremonial control and maintenance of the culture at all costs. They found that that wasn’t an appropriate structure for the management of nature resources and they got into trouble soon after their Treaty settlement. Theirs was the first major *tribal* Treaty settlement in 1995. And they have had to go to a different sort of European style management structure to deal with the assets that they have acquired as a result of their Treaty settlement.

Here the clash between tradition and modernity is further spelled out. This need to establish recognised organisational structures also appears to be recognised at least by the representative for the Ngati Toa tribe I also interviewed on these matters:

**MP:** We have been able to establish working committees and things, with representation from tangata whenua groups - from the local Maori tribes - on each of those committees with the various local authorities. Which has helped to enhance our levels of understanding of how these councils work, it has increased their understanding of what our aspirations are and what our values are, and all that sort of thing. And it has helped to break down some of the suspicion, which has accumulated over the years because councils have been largely responsible – along with the central government, obviously – for the alienation of land and resources. [...] I mean, we are in the fortunate position where we are well organised, we formed ourselves into an incorporated society, a legal entity that has a mandate from our people to advocate for and represent the interest of Ngati Toa at a political level, whether it be national or local government level. And we have proven over the years – the Runanga [forum or council] has been established now for, well since 1989 this body has been established, and it has proven that it has the capability to represent the needs of the people and it is recognised by these various government agencies and local authorities as being *the* representative, administrative, and political advocate of Ngati Toa.

While I do not want to paint an overly rosy picture of the situation in New Zealand, there is no doubt that these experiences of creating representative institutions for Maori have been highly significant both for the tribes themselves, but also for other societal institutions that have now been given an entry point for most tribes around the country. Furthermore, I believe it is significant, as MP also points out, that this development also has led to greater Maori understanding of how local and national governing institutions work in practice and has facilitated increased exchange of viewpoints and, as she says, sharing of aspirations.

This issue of getting organised and somehow form groups able to represent Indigenous interests in interaction with governmental structures was also an issue high on the agenda with many Aboriginal people I spoke to in Western Australia. In fact, I was fortunate enough to be in the country when the Australian Prime Minister John Howard in April 2004 pronounced the 15-year experiment with ATSIC (Aboriginal and Torres Strait Islander Commission) a failure and announced the immediate abolishment of this separate representational body. While in theory this was a federal body comprised of local representatives directly elected by Aboriginal people themselves and responsible for providing a number of state government services to Aboriginal people, in fact, few Aboriginals exercised their vote; and this fact coupled with a corruption scandal and other problems had led to what John Howard claimed was widespread dissatisfaction with the Commission.

I was able to conduct an interview with the head of ATSIC in Western Australia approximately three weeks after the abolishment of the organisation was announced and 6 weeks before John Howard's declared final end of it. In this interview she shared a few thoughts with me concerning

institutional legitimacy and some of the possible reasons for ATSIC's failure to establish itself firmly within the Australian governmental system (I should add that both she and the WA Premier Geoff Gallop greatly emphasised the good relationship between the WA state government and the local ATSIC branch<sup>9</sup>).

**CH:** Sometimes, depending on how groups have been herded together and things, you've got to come up with an entirely new model [of governance]. But the people have to be involved in terms of determining what it is, [...] so that the authority is recognised. In the consultations that went with the creation of ATSIC, people said 'yeah, we want people to represent us, there ought to be regional bodies as well as a national body'. [...] Not *one* of our traditional cultures has voting as the way of determining who has authority. So 14 years ago we kind of thought, 'well, ok, alright we'll vote for people'. This far on, because you are looking at things in a more mature political sense, and there has been all this other work on governance, you kind of say 'well, hang on, it was *never* gonna work!'. Because there would always be a ground swell of people in the Indigenous community who said 'hang on, they don't have authority'. And you are right, they don't! Because that is not how we gave people authority. So there is that stuff – regardless of what environment we are in, our structures have to be able to be adapted to fit not only people's different needs, but also that more maturing political discussion and development.

While this 'experiment with Indigenous self-government' as one commentator dubbed it<sup>10</sup> failed, other people working to represent the interest of Aboriginal people in the state were using different strategies at the same time. This is for example evident in the following excerpt from an interview with a lawyer representing an Aboriginal interest organisation for a particular tribe called Nyoongar, whom I also interviewed. (This organisation is called SWALSC or the South West Aboriginal Land and Sea Council).

**WT:** The way that we get authorisation and our instructions was by setting up working parties. Working parties are there to represent the major families within Nyoongar country. And there is about 260-280 odd core families. So everybody comes down from those various families. So what we did was hold meetings with all of those families and to bring everybody together...[omission of family names]. And the family then nominates who they want to represent them in these working parties. And so the representative's job is to feed our information back to their families and to bring their information from the family to the working party. And so those working parties make the decisions about what we do with future acts, and give us our instructions.

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<sup>9</sup> This CH did both in my interview with her and at a previous government seminar where both she and Dr. Geoff Gallop participated on March 31<sup>st</sup> 2004. Cooperation with ATSIC was also a recurrent theme in several interviews as well as publications both by the WA government and ATSIC itself.

<sup>10</sup> Meaghan Shaw, 'Howard puts ATSIC to death', April 16<sup>th</sup> 2004 in The Age.  
[www.theage.com.au/articles/2004/04/15//1081998300704.html](http://www.theage.com.au/articles/2004/04/15//1081998300704.html)

Evidently, this is a very different way of organising representation, but in opposition to the atmosphere at the ATSIC office during my stay, this woman was much more optimistic about the situation for the particular group of Aboriginal people she represented and rather proud of their achievements in terms of getting organised and being heard. She was adamant that authority was a bottom-up phenomenon within her organisation.

**WT:** It is a very demanding system, it is also a very expensive system in that the sheer cost of advertising, the mailouts, the community meetings – but it is a necessity in terms of the courts, to show that we are authorised. It is also a necessity in terms of us, to show that we are getting out to as many people as possible. And we really are getting our instructions from the community, and are keeping the community involved in the decision making.

In other words, WT was preoccupied with legitimate representation not only in a legal sense, but also in terms of accommodating existing traditional Nyoongar notions of legitimacy, as well as appearing to have a legitimate case in confrontation with the wider public. Thus she put great emphasis on processes of communication – in particular on face to face interaction with interested parties. This is reflected in her following statement about Nyoongar reactions to government bureaucrats taking part in meetings.

**WT:** When people come into a meeting who they haven't had dealings with before, there is suspicion. And they are certainly not as welcome. It just comes down to that initial contact. Once they've seen the same person 2-3, whatever, times, they are much more welcome. But there *is* weariness initially.

While she does not directly use the word 'trust' here, I do believe it is possible to draw her comments on 'suspicion' into the social capital debate surrounding the issue of trust creation and institutional structures. The question of whether institutional structures can impact on trust levels in society is something debated by Eric M Uslaner in his contribution to Hooghe and Stolle, where he argues that it is doubtful that the state itself can produce trust<sup>11</sup>. He states on p.171 'I shall argue that state structures cannot produce trust, but state policies can'. This I find a very interesting proposition in terms of analysing the creation and demolition of ATSIC, and possibly comparing and contrasting this with something like SWALSC or the New Zealand system built up in response to Treaty of Waitangi claims. While I have no conclusive response to this statement by Uslaner yet, I do believe that my previous evidence quoted in this paper indicates that structures might in and of

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<sup>11</sup> Eric M Uslaner, 'Trust, Democracy and Governance: Can Government Policies Influence Generalized Trust?' in Hooghe and Stolle (eds), 2003, p.171-190

themselves affect outcomes – also in terms of trust creation. The obvious next move would then be to debate to what extent structures are a product of policies or vice versa, but this is a question I will leave open for now.

Another obvious example from my data is the phenomena of separate Aboriginal institutions vs integrated Maori sections in institutions, which I came across during my data collection. ATSIC was already under heavy political fire at least from the federal government and media when I arrived in WA, and one reason that was often pointed to, was that it was responsible for health provisions, economic assistance and other welfare benefits directly distributed to the Aboriginal population outside the existing general state system. Hence one of my respondents said that many Australians were left with the feeling that ‘I thought we were all Australians, why are these Australians, just because they are Aboriginal, getting these different things?’, and John Howard talked about ‘mainstreaming’ Aboriginal welfare provisions<sup>12</sup>.

Leaving aside the question of social fairness, there seems to be little doubt that the fact that Maori families in need would collect their benefits from the same source as everybody else in society does make a difference. On the other hand, ensuring regular encounters between Aboriginals and the Australian population in general might be easier said than done due to demographic factors. Because, while Maoris comprise approximately 15% of the New Zealand population, only 2% of all Australians are Aboriginal. Adding to this, large segments of the Aboriginal population still live on reserves and might not be particularly interested in regular encounters (many reserves are owned by Aboriginal groups who control entry to their land through the Department of Indigenous Affairs). This issue of separate vs integrated service provisions and ‘mainstreaming’ is something reflected upon by the head of the WA ATSIC branch in the following quote.

**CH:** ...for a lot of years now for the broader Australian society there has been a general debate raging about the whole prospect of Indigenous specific programs versus ‘well, hang on, aren’t Aboriginal people part of the Australian population?’. The whole push to mainstream which we are seeing more and more now in terms of changes to ATSIC and ATSI. Threats to the continuance of Indigenous specific organisations like legal services, medical services, things like that.

ATSI is the Aboriginal and Torres Strait Islander Service, responsible for delivery of welfare provisions and other services directly to the Aboriginal population. ATSI is funded directly by the

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<sup>12</sup> See for example the report by Catherine McGrath, ‘Federal Government plans to abolish ATSIC’ from ABC Online, Thursday April 15<sup>th</sup> 2004, available at [www.abc.net.au/pm/content/2004/s1088224.htm](http://www.abc.net.au/pm/content/2004/s1088224.htm)

federal government, and is thus a system that runs in parallel with the state provisions within these selected service areas. This was undoubtedly part of the contention about the future for ATSIC and ATSIIS during the media storm it got itself embroiled in over possible corruption scandals, and it is something further reflected on by CH.

**H:** [...] I do guess that this has been part of the the dissatisfaction with ATSIC that a lot of mainstream Australians felt that...

**CH:** Oh yeah, 'why have something special?'. I mean, I suppose it is worth while to say something about Indigenous organisations that provide specific services, for instance Aboriginal medical services, legal services – they tend to be particularly targeted when this mainstreaming debate comes on. 'Look, why should an Aboriginal person get free representation simply because they are Aboriginal?'. You know, representation in the courts for instance. There is not the unpacking of that to say, well for a whole range of reasons there is a disproportionately great number of Aboriginal people who are likely to find themselves in the justice system. The justice system does not work in their favour. They may not have an understanding of what is going on around them in any case. We know that a disproportionate amount get incarcerated. So all of those things, and that you need a specialised service that *understands* that and can deal with people, respond to their needs, being fully cognisant of that whole context in which people find themselves.

So while CH advocated for some form of specialised service provision for Aboriginals, the general approach in New Zealand appeared rather different. Here Maori issues often seemed much more integrated in the daily running of most organisations. Using one example from my data within the educational sector, the following excerpts from my interview with a handful of representatives from NZEI (New Zealand Education Institute, in effect a teachers' union) centres around their organisational structure and the Maori place within this<sup>13</sup>.

**SA:** ... we have a structure for Maori, and these are the Aronui Tomua, which is the local organisations, and as you can see there that's the branch level [refer to diagram]. And this goes through exactly the same way, representation at district council and annual meetings. And Maori have their own annual forum that goes *before* the annual meeting, [...] called Hui-a-Tau. Maori have a *selected* group, isn't it? So that's a difference. Because Maori make decisions themselves about whom they want, rather than that notion that we have, that you do it through a ballot box. [...] Maori have their own procedures in getting representatives. And that's reflected all the way through to the decision making body [...]

These considerations seem to go very well along with what CH reflected on concerning possible explanations for the failure of ATSIC to establish itself as a legitimate body among Aboriginal citizens. In contrast, the NZEI representatives appear to show great awareness of such

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<sup>13</sup> See their own organisational diagram as given to me during the interview in appendix one.

issues of legitimacy both within the organisation and in the wider Maori community – just witness the following exchange between two people attending the meeting, the former a Maori woman and the latter a Pakeha one.

**TH:** ... the two ways in which people are selected or elected are quite different within NZEI. And for Māori we use the basis of *tinu rangatiratanga*, and we try to utilise that [...] you have got 112 branches and 28 Aronui Tomua, each of those Aronui Tomua have their own *tinu rangatiratanga*, their own ability to sort through their own issues. And so the selection process for representatives comes from that basis. So the rohe will come, so the group will come to the national hui and put out who their representative will be. And it is not for another rohe, for example, another group, to challenge the selection of that person<sup>14</sup>.

**SA:** And that reflects Maori structures outside, doesn't it? I mean, outside of NZEI and how they operate within their marae<sup>15</sup> and things like that. I think what is reflected here in NZEI is reflected in our society, it is a power struggle. It is a power struggle for resources and for recognition of equal status that is confirmed by the Treaty that isn't a reality.

But while there was evidently a great deal of awareness of Maori cultural practices and the need for them also to be represented within the organisational structure, there was also a great deal of critical self-reflection on the part of those people attending this group interview. One Pakeha man attending the meeting made several comments on this account, one of them being the following:

**SD:** The second comment that I would make is that where this looks equitable – this is my *personal* comment rather than anyone else's. There is an equity of structure, but I am not sure there is an equity necessarily of power within that structure.

Everybody also seemed to agree that while NZEI generally was able to get access to The Ministry of Education and have their issues heard, those issues brought forward were rarely those raised within the Maori branch of the organisation.

Despite any possible differences in political impact for Maori vs mainstream strands within NZEI, I do believe the sheer fact that accommodating different traditions within the organisational structure was a focal point for the organisation in itself says something important about differences between the Australian and New Zealand approach to such issues. Further in connection with educational issues, I am thinking in particular of a visit I paid to the WA Department of Education, where I interviewed the Director of the Aboriginal Education Directorate, which is a separate

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<sup>14</sup> *Tinu rangatiratanga* briefly speaking means self-government, a rohe is a group, and a hui is a commonly used term for a meeting in New Zealand English.

<sup>15</sup> A marae is a Maori meetinghouse.

branch within the Department of Education - both structurally as well as in terms of the physical location inside the building. This directorate is specifically responsible for monitoring the achievements of Aboriginal students and come up with policy initiatives to better the educational levels for this group of pupils. Special initiatives were also in place within the New Zealand Ministry of Education – here I interviewed the national coordinator for the Pouwhakataki group<sup>16</sup>, whose office was located among the rest of his colleagues. The Pouwhakataki group is comprised of 19 officers working locally in schools (most of them with a teaching background) where they advise parents and pupils about educational options and mediate with the system in case of conflict – eg. when pupils are expelled for bad behaviour. This is done to build confidence in the public education system among parents and pupils, as well as among the wider Maori community.

These may be small symbolic differences, but nevertheless it is played out in the realities within schoolyards, where a large majority of Maori students attend public state schools, whereas many Aboriginal people – especially in more remote areas – have set up their own private schools. These schools are organised within the Aboriginal Independent Community School system<sup>17</sup>, and while they obviously have to conform to some general state guidelines concerning curricula etc, they are largely independent from the state structure and in fact obtain most of their funding from federal funds (as well as parent contributions).

While one can always argue over the significance of these differences, I do believe they could potentially provide an interesting topic for analysis when assessing the institutional feasibility of deliberative democracy. Further on these issues of differences in organisational structures, I am reminded especially of Skocpol et al's article<sup>18</sup> on the links between the US federal system and the organisational structure of civic associations in that country. As she demonstrates, there seems to be a high level of correlation between political and associational structures in the US. On p.533 it is stated thus: 'organization-builders who face complex challenges in conditions of uncertainty are inclined to copy well-understood, already legitimate models in their environment'. If this is a proposition that can be transferred to other national contexts, it could shed some interesting light on the relative successes of organisations like for example ATSIC and SWALSC in Western Australia,

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<sup>16</sup> The group describes itself in the following way in a brochure given to me by the coordinator: 'We're employed by the Ministry of Education to work with whanau, hapu, and iwi [family, clan and tribe/people] to help Maori get the most out of education'.

<sup>17</sup> See [www.aics.wa.edu.au](http://www.aics.wa.edu.au)

<sup>18</sup> Theda Skocpol, Marshall Ganz and Ziad Munson, 'A Nation of Organizers: The Institutional Origins of Civic Voluntarism in the United States' in *American Political Science Review*, Volume 94, No.3 September 2000, p.527-546.

and Ngati Toa and The Waitangi Tribunal in New Zealand, perhaps in particular on what role respectively state and federal levels play within Western Australia and how these levels interact.

## **Conclusion**

I stated in the introduction to this project that many Western democracies face issues of mass migration, and massive social and ethnic divisions. This paper has solely focused on how two such democracies, namely (Western) Australia and New Zealand, deal with these challenges in relation to their Indigenous populations. In addition to the social and ethnic divisions existing between the Anglo-Saxon majority population and the Indigenous groups, it is also clear that both societies host many other ethnic migrant communities within them. While the challenges brought on by these two different types of minorities may not have the same solutions, I still believe the issue of Indigenous minorities in and of itself warrants research on how such problems of co-existence might be solved.

Here my examples of different institutional structures as found within Western Australia (for example ATSIC and SWALSC) and New Zealand (for example structures set up to deal with Treaty of Waitangi claims) and my tentative comparison of institutional structures within the education sector in the two countries hopefully point towards what might be a fruitful path to follow in terms of solving such problems of efficient (and fair) interaction. Obviously, my analysis is greatly in need of expansion and conceptual clarification, and the fact that my data is not quantifiable and not collected with any quantitative success criteria in mind, greatly limits the enunciatory power of any conclusion I might draw.

Furthermore, I have in this paper focused almost exclusively on the importance of institutional structures, having abstained from an analysis of any actual deliberative processes that might take place within these institutions. It is clear that with a research question asking whether deliberative democracy is institutionally feasible, the actual deliberative process is something I will also have to turn my attention to. So far I have not commented on any of the data I collected in interviews with people working within the media sphere in these two countries, but I believe adding this, as well as other data, to my material will carry me far in terms of assessing any possible deliberative practices.

In general, it is clear that with such recently collected data material, only tentative conclusions can be drawn. Nevertheless, I hope to have made a convincing case that institutional design and its relation to both overall political structures in society (be that federal or state levels etc) and to traditional (political) structures within the Indigenous group has an important influence

on the relative successes of Indigenous/state interactions. I stated previously in this paper that ‘future understandings of the state and state level policy is very likely to focus on the provision of institutions and structures that can be utilised at regional and community level to solve problems of day to day interaction between citizens who are members of widely diverging cultures’. This might be taking my point too far, especially if it is taken to mean that such institutions are an indication that we are moving beyond the state. Rather, I believe to have shown that state influence on institutional design seem to be a fundamental factor in determining outcomes of interaction processes between Indigenous groups and the wider community.

So while setting up mediating institutions between different population groups who do not necessarily see themselves as core citizens does not spell the end of the nation state, I do believe it points towards a new type of focus for the state. Clearly, nation states are traditionally concerned with setting up institutions for facilitating governance, but these institutions I am here talking about seem to be of a different kind, apparently not directly representing national interest. The paradox of the New Zealand government setting up institutions which in effect are supposed to scrutinize the government and protect the interests of a national minority, was something commented on by the historian BR quoted earlier in this paper. He partly explains it as a result of international pressure:

**BR:** Maori always have had the advantage of international contact. This goes *way back*. The Kingitanga [King Movement] acquired a printing press from Austria in the 1850s. There were Maori who were involved in what was sort of like a New Zealand version of the African National Congress. [...]. And the Young Maori Party was very much in line with that sort of international liberal, not necessarily anti-colonial originally, but progressively anti-colonial. Ratana, which was an unusual Maori religious movement, their leader toured the world in the 1920s and he even spent quite a bit of time in Japan, and was impressed with the degree to which the Japanese were able to throw off the shackles of European control. And, of course, the Labour Party has always been part of an international trade union network; when Maori came into that, those connections worked for them as well. So the Maori Battalion in WWII was continuing a sort of tradition of making international connections. And that, I think, has strengthened the Maori movement. It sees itself as not just its own movement, but part of an international movement.

In these terms, it is clear that Maori are looking beyond the nation state and have forced the New Zealand state to take on a new role compared to the traditional conception of the nation state as the territorial and political home for a unified people. In extension of this, I believe the same thing can be said for Aboriginal people in Australia, who may not have achieved the same results as their Maori counterparts, but who are certainly also orienting themselves internationally and forcing state institutions to think along lines of ethnic diversity within the state.

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