

RACE CRIME AND JUSTICE – EXAM NOTES

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Preview Week One –

History

- Reading Quote - Bruce Elder: “Blood on the Wattle: Massacres and Maltreatment of Aboriginal Australians since 1788” - The blood of tens of thousands of Indigenous Australians killed since 1788, and the sense of despair and hopelessness which informs so much of modern-day Indigenous society, is a moral responsibility all white Australian share. Our wealth, our lifestyle, the much touted “Aussie way of life”, have all been achieved as a direct consequence of Indigenous dispossession.

Invasion -

- **Acquisition:** By way of peaceful settlement of unoccupied land where there is no legal right or possession of the land
 - **Declared terra nullius – land belonging to no one**
 - Indigenous considered so primitive they lacked any civilisation
 - ‘Low in scale of social organisation’ so occupancy of colonial land was ignored as they were barbarous and so entirely destitute.. of the rudest forms of civil polity that any claims as to whether proprietors have been utterly disregarded (Mabo v QLD No. 2 1992 – Brennan J 39-40)
 - No treaties were signed as they were subhuman who were to be extinct and hunted, raped and massacred
- **Conquest:** Subjugation and assumption of control over a place and peoples
- **Cession:** Formal giving up of rights..

Meaning of land to indigenous Australians

- No English words could give a sense of the links between an aboriginal group and its homeland – land has a spiritual, cultural, political and economic value and supports identity, spirits and social relations as well as cultural integrity and survival – removed from the land we are removed from ourselves (Dobson 1997)
- Terra Nullius resulted in the ‘dispersal’ of indigenous peoples from their land using violent force and large scale massacres – far from a peaceful settlement

- Natives as vermin to be cleared of the face of the earth – giving average Australian’s a tone of brutality and cruelty when dealing with indigenous
 - Murders talked about as if it were a sport or some troublesome animal
- Colonisers employed a variety of means to drive indigenous away and some 20000 people died as a result of direct violence as frontier violence was acceptable and encourage so people would go out on abo hunts for fun

Indigenous Resistance

- Myth that indigenous people didn’t resist – the Indigenous did resist and often engaged in guerrilla warfare
 - Often killed to provide a lesson to other indigenous people in the area..
- The war was desperate and brutal however white settlers won with superior fire power and would fit until entire tribes were wiped out
 - Orders to hunt and kills all aboriginals women, children and men were given
- Dispossessed as the settlers justified their taking of the land as the indigenous were just nomadic and could move on from their land (ignoring the deep spiritual connections with the land)
 - Often took food such as sheep or cows – as they were hunting and gathering off the land not stealing
 - Large number of starvation (especially children at this time)
- By the 1870s all fertile areas of Australia were taken by white settlers

Native Police Force

- Disperse natives through uses tribal rivalry so they trained indigenous men and used them to their advantages and could wipe the blood shed off their hands
- The violence continued into late 1920s (last recorded in 1928 in Alice Springs)

Indigenous Deaths

- Large number of deaths as a result of the on-going violence and malnutrition from being removed from their lands
- Diseases also contributed to the deaths (small pox for example)
 - Diseases brought by British that indigenous didn’t have immunity against and killed about half of the Sydney Basin population
 - Estimated 750,000 - 1.5million by the 1920s declined to between 50-90 thousand people

Social Darwinism

- In the natural court of events the subhuman natives were to die out – only natural that the more highly evolved Europeans race would triumph
 - Plummeting population due to social Darwinism
- However they did not die out and there were interracial births causing fear of the contamination of British bloodlines
- Leading to the need for better policies (not just murder) to control the indigenous

- Christianity also spreading at this time denoting a need to establish a more sympathetic response to Aboriginal peoples

Protection/Segregation Period – Social Darwinism – primitive natives would eventually die out so placed on reserves under strict control until extinct..

- **Phase 1: 1840s-1930s – Smoothing the dying pillow**
 - *Protection-segregation policies were underpinned by two connected racial assumptions. The first was that there was a significant biological difference between Aboriginal and non-Aboriginal people. The second was that Aboriginal people were inferior to white people. Aboriginal people were a 'dying race', who should be kept separate and protected until they eventually (and inevitably) died off (Rimmer, 2006).*
 - Policies differed by jurisdiction in Australia however was presumed in this first phase they would simply become extinct
- **Key Period: 1890-1911**
 - Regulated and controlled the lives of indigenous – e.g. needed permission to marry, to be employed, to move about, compelled to live in a certain location (reserves)
 - Major forms of state protection legislation emerged everywhere
 - Except Tasmania where they were wiped out (3000 indigenous to 200) and those left removed to Flinders Island and in 1995 last full blooded Tasmanian Aboriginal died (history and culture wiped out)
 - **QLD** - Control of Opium Act s6 – appointed indigenous with 'protectors' who were police officers that were to ensure no opium or alcohol was used and they were to negotiate employment for indigenous
 - Exemption certificates could be issued – honorary whites – if there was the successful fulfilment of social behaviour criteria which essentially required all ties to cultures and tribes were severed then they were allowed one to move around more freely (also what you looked like..)
 - Exhibits the fluid quality of racial classification
 - Granted only to those who demonstrated the capacity to survive in the outside world, in other words, they were imbued with capitalist values concerning money, time and work. But the standards required for exemption were high; certificates were not freely issued (Historian, Thom Blake).
 - **Life on the reserve** – all aspects of life strictly controlled
 - In QLD in 1939 some 7000 indigenous were incarcerated on reserves
 - 21-27% of indigenous in NT, SA, WA to 33-41% in the eastern mainland in supervised reserves
 - Needed permission to leave, limited time parents had with children, traditional language and culture forbidden, off sight employment required permission and protector negotiated

contracts and wages held 'in trust' (stolen as majority never saw this money again)

- Exploitation continued well into 20th century with 32 hours of unpaid work – not until 1971 did they gain control of their money
- **Problem of the half-castes 1930s**
 - Became apparent that they were not just going to die off and there were a growing number of half castes...
 - Began to overlap with assimilation policies which intended to mainstream half castes into white society
 - Wanted to keep the white race – so removed women to reserves and statutes amended to deal with half castes and involved greater control of sexual relations
 - Amendment made it punishable by 6 months in prison for aboriginal women and white man to have sex in QLD

Towards Assimilation – 1930s

- New policies began to be implemented to integrate aboriginal people into main stream society – however they had to forgo all customs, cultural and live like white people..
- Protests by aboriginals and women's rights groups began..
- Reform delayed by WW2
 - Could not sustain the eugenics policy purifying the white blood stream after Hitler's Germany..
- UN declaration of human rights declared racial equality following the war
- 1940-1972ish Assimilation Policy movement really began to move towards assimilation from protection segregation
 - Way to absorb into white society or a way to gain equal rights
 - Some saw it as a positive shift others negatively as another form of racism
- States moved at their own paces however by 1951 all Australian government claimed they were acting in accordance with an assimilationist policy
 - Not until 1961 at the Native Welfare Conference that an agreed definition on assimilation was formulated: all eventually attain the same manner of living as other Australia's enjoying the same rights and privileges, accepting the same responsibilities, observing the same customs and influenced by the same beliefs as other Australians
- However few full citizenships were actually granted and it just made them become like white people, forcing removal of indigenous culture, to become part of the superior race
- Some government benefits extended to indigenous, alcohol was allowed in victoria (allowed to drink before vote..)
- 1962 vote in federal elections
 - WA 1962 state elections
 - QLD 1965 state elections

- Institutionalisation and reserves continued and bled into assimilation era – general view that they needed to be faded out – however still very restrictive legislation in place in assimilation era
- By the 1960s states moved towards repealing restrictive legislation but NSW kept restrictive up until 1971
 - Reform a slow process resisted by non-indigenous people especially in rural communities
 - In the 60s and 70s aboriginals began to get angry and vocal in rural Australia especially where they weren't even allowed into local cinemas or pools

Child Removal Policies – The Stolen Generation

- Were not distinct policies bled into each other since invasion..
- Many children were abducted from families during invasion to work as servants – however during the protection and assimilation era between 1910 and 1970 between 50000-100000 children were removed from their families
 - Children taken to be raised by white families and to work as slaves early on.. Justified as civilising and Christianising (really free labour, companionship, sexual services, knowledge of bush and linguistic skill..)
 - Children were even taken in reserves and kept separate from families on same reserves
- The possession of the children indicated ownership of the future ensuring their survival as a sovereign state..
- Following 1869 in Victoria legislation began to allow the removal of children
- The thrust of child removal policies was to breed out aboriginality through biological absorption of indigenous people into white society..

Conclusion – Protection/Segregation and Assimilation/Child Removal

- Construction of Indigenous people as the 'other'
- The invasion and policies of protection-segregation and assimilation constructed indigenous as societal "outsiders" (deviant/criminal) and facilitated social, economic, and political disadvantages
- Criminalised at higher rates, self-fulfilling prophecy – crucial factor in their relationship with police today..
- Disadvantage was fostered – paid less, not permitted to work, to travel or compete against white labour, limited access to education and social mobility couldn't rise at all
- Denied right to live by their own rules and policies – law extended its arms into every aspect of life
- Indigenous crime and criminalisation today can be understood as a consequence, in part, of the early processes of colonisation (invasion – conquest and dispossession) and later processes (protection-segregation and assimilation)
 - Loss of land, culture & identity
 - Breaking up families and kin ties

- The state's moving Indigenous people into reserves, and moving Indigenous people around more generally (that is, away from their home areas)
- The state's moving Indigenous people away from areas where they could be self-sufficient
- Indigenous people not being permitted a voice in the political system
- Indigenous people being subject to governmental and other controls against their will
- Indigenous people being segregated from the economic mainstream
- Indigenous people not being respected
- Indigenous people not having similar rights as other citizens
 - Made it difficult to become self sufficient, fragmented family, reduced autonomy, reduce their power to make decisions over own life, psychological issues, created second class citizens