

An Easter Reflection

Thoughts on the Death and Life of a young Warlpiri Man

Abstract

A nation can only be as secure as its citizens. The death of a young Warlpiri man in the Northern Territory in 2019, and the recent trial of a police officer who, in the performance of his duties, shot and killed the young Warlpiri man is yet another affront to Australia's First Peoples. It should encourage governments and citizens alike to reflect on the high levels of insecurity that surround Australia's First Peoples and other disadvantaged communities.

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Introduction

A state and its constituent communities can be no more secure than its citizens. If individual citizens live insecure lives, the security of the state is diminished. President Putin's foray into the Ukraine demonstrates the incontrovertibility of that truth for the citizens of both the Ukraine and Russia. Our national conversation is dominated by the talk of threats against Australia and the need for Australia to invest ever more of its national budget on national security. But no one ever bothers to ask Australia's indigenous communities, with all their exposure to insecurity and violence, what 'national security' might mean for them.

The death of a young Warlpiri Man at Yuendumu in the Northern Territory in 2019, and the recent acquittal on all charges of the police officer who killed him, reminds us of how vulnerable the least advantaged members of the Australian community are. It should stimulate broad discussion of, and perhaps unease at, the wide divergence between the constant advocacy of rearming the nation against a putative threat from China and the constant threat of death that faces so many indigenous citizens.

First Peoples Genocide?

The indiscriminate slaughter of First Peoples began in the years immediately following the arrival of the First Fleet in 1788. By the 1850s, there had been some 200 incidents involving 4800 victims where indigenous people had been 'massacred' – the term used by the University of Newcastle's groundbreaking study [Colonial Frontier Massacres in Australia, 1788-1930](#) to describe the deliberate and unlawful killing of six or more undefended people in one event. By the end of the 1850s, only one of those incidents, but accounting for thirty people, had occurred in the Northern Territory. By the end of the 1920s, however, 414 massacres accounting for 11,353 people, had occurred Australia-wide. 79 of them took place in the Northern Territory, involving 3115 persons – over 27 percent of the national total. It is little wonder that the wanton killing of ancestors and kin is imprinted onto the memories and minds of the Northern Territory's First Peoples.

Until the 1850s, the massacres were perpetrated by white colonisers armed with smooth-bore muskets with an effective range of about 80 metres. Flour adulterated with strychnine, arsenic and plaster of paris were also used. After the 1850s, however, muzzle-loaders gave way to breech-loading weapons with rifled barrels, affording the weapons an effective range of almost 300 metres. White people with guns, travelling in groups and mounted on horses, became a continuing reminder of random killings and a constant source of fear among the First Peoples of Australia. The [concluding paragraphs](#) of the University of Newcastle study dealing with weapons used in massacres are stark. They offer a grim commentary on the place of police personnel and the irrelevance of 'white justice' in the collective memories of Australia's First Peoples.

. . . frontier massacres of Aboriginal [sic] people in Australia are a significant component of the violent colonisation of Australia. The overwhelming majority of the victims of frontier massacre are Aboriginal people, killed by Colonists. Frontier massacres have a traumatic and enduring impact on Aboriginal communities and are remembered to this day in oral histories, paintings, petroglyphs, and dance. Government agents of the early colonies and later states and territories, such as military and police, were identified as participants in around half of the frontier massacres. The data and timeline reveal clear patterns in frontier massacres. The regions of particular intensity in frontier massacres indicate the shifting location of the Australian colonial frontier at particular historical periods. The map data reveals that frontier massacres were rarely isolated events. Rather they were often connected at a regional level, raising new questions about the causes and aftermath of these events. While some frontier massacres are well documented, many were covered up and seldom spoken of in the colonist community. Very few cases were brought to court and of these only one of them, Myall Creek in 1838, resulted in the conviction and hanging of some of the attackers. After that, the practice of frontier massacre became more difficult to detect and the details more difficult to interrogate.

The historical massacres of First Peoples communities have cumulative and structural effects on their descendants, transmitting social scars and intergenerational shame through the subsequent generations. Many First Peoples communities commemorate these massacres by renaming the sites of the killings in direct reference to the slaughter committed.

A Question of Race?

It is difficult to escape the fact that white racism provides the lens through which the indigenous people of the Northern Territory see their relationship with both the government and the institutions of its justice system: the law enforcement and corrections agencies.

Michael Bradley, managing partner at Marque Lawyers in Sydney, might have spoken for many of the First People of the Northern territory when he [wrote](#):

Aboriginal people know this landscape too well. It's the three-card trick of Australian racism: ignore the intergenerational consequences of invasion, murder, dispossession and discrimination; blame the victim for his own disadvantage, laying the subtle groundwork of justification; exonerate the white population, the not-racist country we totally are and have always been. Yes it is true that [the Warlpiri man] resisted arrest with violence, and that there was confusion and no doubt fear in that room where he was shot three times in rapid succession, and that the foundation for reasonable doubt could arguably be (in fact was) found. It isn't the point. The point is that Black lives keep being extinguished. The point is that so often those lives end in police custody or prisons. The point is that if you were an Aboriginal person you would be staring wide-eyed at the fact that nobody has ever been found to have taken even one of those lives with intent. And you would be saying that that cannot be right. It cannot be right because it isn't. Our country's heart remains dark, stained by blood. Unaccounted. Our shame. Justice in this country hangs by a thread.

The Warlpiri man was barely nineteen years old. Like the vast majority of Australia's First Peoples, his life experience reflected his people's alienation from country, their dislocation from an ancient culture, their marginalisation, and the historical pain of their victimisation by immigrant settlers and administrators alike. Like most of the members of his community at Yuendumu, he was economically and socially disadvantaged. Moreover, he suffered [mental and behavioural](#) disorders as a result of his being born with foetal alcohol syndrome, and drug abuse during his adolescence. From birth, he had led a dislocated life, with petty misdemeanours marking a constant tension in his relationship with the law and law enforcement, not to mention his family and his community.

Still essentially an adolescent, he had not benefited from any of the safety nets that are available to most Australians – the early childhood health and education provisions, the social security system, and the education special needs provisions available to so many other Australians.

By any measure, the young Warlpiri man was a vulnerable member of a vulnerable community, where the use of physical force by police officers against First Peoples is endemic. The treatment meted out to Dylan Voller and other children at the Don Dale Juvenile Detention Centre in Darwin remains etched in the memory of northern Australia's indigenous community. The First Peoples of northern Australia have become accustomed and spiritually inured to the neglect and violence they experience at the hands of the justice and corrections institutions. It can hardly come as a surprise that the young Warlpiri man who was killed displayed "fight and flight" responses when confronted in the middle of the night by law enforcement officers.

White Justice?

After a five-week trial, the police officer accused of murder and two alternative charges of manslaughter and engaging in a violent act causing death was acquitted on all charges.

The upbringing and life of the police officer who shot the Warlpiri man could not have been more different from that of the victim. Born into a wealthy family and educated at an exclusive boys' school, he joined the Australian Army and served in Afghanistan. Upon discharge from the Army, he aspired to become a soldier in the SAS. His second choice was to apply to several police services, finally winning selection to join the Northern Territory police. He placed as Dux of his training cohort.

Privilege and entitlement seemed to come naturally to the young police officer. He was, for instance, represented by an experienced Adelaide Senior Counsel at his trial in Darwin, where his barrister succeeded in persuading the trial judge to exclude "tendency evidence" as lacking probative value. The prosecution had wished to present the police officer's previous history of violent apprehension of alleged offenders, and his email exchanges with former military colleagues that might indicate his attitude towards the policing environment in which he was placed. The trial judge decided to dismiss the prosecution's submission of such evidence, thereby limiting the jury's ability to consider the [broader context](#) of the charges.

As [reported](#) in the media, the police officer's texts to his military friends suggest a gung-ho and racially charged attitude to law enforcement in the Northern Territory. "Alice Springs he described as a "shit hole" ... like the "wild west" ... with "fuck all ... rules in the job". When he was deployed with a tactical squad it was possible to do "cowboy stuff with no rules." Military training instils high levels of confidence in recruits, bordering on bravado. It also inculcates a 'shoot to kill' approach to the use of armed force, quite different from the 'incapacitate to control' philosophy of traditional Australian law enforcement services. But when this bravado takes on overtly racist or even cultish overtones, there is cause for concern. Control and discipline can easily break down.

It was for this reason that the then-Chief of Army, Lt Gen Angus Campbell, directed that various 'death' symbols – including the Grim Reaper, the Skull and Crossbones, Spartans, the Phantom and the Punisher – should be prohibited in all Army units in both Australia and abroad. Such symbols were inconsistent with the ethos of the Army, and of the Australian community in general. Lt Gen Campbell [said](#), "[such symbology] is always ill-considered and implicitly encourages the inculcation of an arrogant hubris and general disregard for the most serious responsibility of our profession: the legitimate and discriminate take of life". It is noteworthy that the police officer was photographed on several occasions before the trial displaying a gothic [deaths head tattoo](#) on his forearm – including on the occasion when he was awarded a Lifesaving Medal by the Governor General for rescuing two foreign visitors during a flood in Alice Springs. These tattoos were conveniently photoshopped in his [family-supplied photographs](#) released after the bravery award and before the trial verdict was delivered. At least someone appreciated the insensitive and provocative implications such an aggressive emblem might convey to a threatened and racially vilified community.

Across all Australia's First Peoples communities, such symbols of death are deeply confronting. Cultural sensitivity alone would suggest that the Northern Territory Police should prohibit such images anywhere near First Peoples communities.

A distinguishing feature of the Australian justice system is trial by jury, where one can be acquitted or found guilty by one's "peers". For the trial of the accused police officer in the Northern Territory, an all-white jury was empanelled, guaranteeing that a white police officer was indeed sentenced by his "peers". But with an Indigenous population exceeding 30 percent, the Northern Territory's jury rules do not appear to reflect the composition of the community, excluding (as they did in the trial of the white police officer) any Indigenous representation. The aphorism attributed to Lord Hewart CJ, the Lord Chief Justice of England, "Justice must not only be done, but must also be seen to be done", is surely as valid in the Northern Territory as it is everywhere else.

Guns, the Symbol of Power?

During the war in Afghanistan, members of the Australian Defence Force provided dramatic proof that aggressive emblems are greatly magnified by guns. Emblems are intimidating and offensive. Guns are lethal. Firearms also represent the culture of power and punishment too often associated by First Peoples with the immigrant communities that bring with them alienation and dispossession. As the authors of an important [paper](#) on rock art depictions of firearms in Arnhem Land wrote, "During periods of culture contact between so-called Western and Indigenous cultures, [firearms] represent not simple one-directional power relationships, but complex interactions, shifting value systems, and unexpected engagements with introduced technologies". The "engagement with technologies" extends all the way from hunting bison (North America) and buffalo (Northern Australia) to the wholesale slaughter of First Peoples.

Police services in Australia have a deep and growing reliance on sidearms as a symbol of their authority and legitimacy. During the past half century, in Australia as in other similar nations, police services have become increasingly militarised as they adopt American concepts of law enforcement and American concepts of "the legitimate use of lethal force". Weapons, along with the uniforms worn by police members – very often modelled on military combat fatigues – are designed to intimidate. For many First Peoples communities, the very appearance of police officers in their communities is taken as a sign of exclusion and subjugation. And the First Peoples communities of northern Australia certainly remember the abuse and exploitation of women at the hands of the police. The journalist Paul Daly [captures](#) these sensitivities well, and it is worth citing him *in extenso*.

The Northern Territory police has its own shameful history of acute violence against Aboriginal people that manifests in the profound contempt many NT Indigenous people have for the force.

Some individual NT police – beginning with Paul Foelsche – stand out for their barbarity and for the historical stain their actions bequeathed to the NT mounted police (which evolved into the territory's chief law enforcement agency). Today Foelsche would be called a gun-nut for his obsession with firearms, and a ghoul for his twin fetish for Aboriginal ethnology and penchant for collecting Indigenous human remains.

The outback justice historian Tony Roberts wrote of Foelsche, who was in charge of the NT force from 1870 until 1904: "... the man who masterminded more massacres in the territory than anyone else was Inspector Foelsche. A former soldier he was cunning, devious and

merciless with Aboriginals ... Some considered him an expert on Aboriginals, not knowing that the skulls he studied were not merely collected by him.”

Foelsche is celebrated in territory history as a rough, resilient pioneer. So much so that a street was named after him in Darwin.

His contemporary William Willshire, a constable posted to Alice Springs in 1882, oversaw 20 years of disproportionate outback reprisal against the local Aboriginal people. He detailed some exploits in several books, not least *The Land of the Dawning*, which point to the psychopathy that led him to be charged with murder and, perhaps inevitably, pardoned. The settlers all but mutinied in his defence and he was not dismissed from the force. He resigned in 1908 – the first but not last territory police officer to be charged with murdering an Aboriginal person.

It seems imponderable that he could write *The Land of the Dawning* in 1896, while still a serving police officer and while continuing to mete out extreme violence. He writes of encountering a big group of Aboriginal people at Victoria River: “... camped amongst rocks of enormous magnitude and long dry grass ... They scattered in all directions, setting fire to the grass on each side of us, throwing occasional spears, and yelling at us. It’s no use mincing matters – the Martini Henry carbines at this critical moment were talking English in the silent majesty of those great eternal rocks.”

Of Indigenous women, Willshire mused: “Men would not remain so many years in a country like this if there were no women, and perhaps the Almighty meant them for use as He has placed them wherever the pioneers go ... what I am speaking about is only natural, especially for men who are isolated away in the bush at out-stations where women of all ages and sizes are running at large.”

Willshire has a street named in his honour in Alice Springs.

Then, of course, there was George Murray – the former Anzac who became an NT constable and orchestrator of the 1928 Coniston massacre where, according to the accounts of some Indigenous witnesses, up to 170 people were killed. Murray, also revered at the time and for decades after as a heroic frontiersman, was cleared in a government inquiry.

Bill McKinnon was the NT cop who murdered the Anangu man Yokununna at Uluru in 1934 and in so doing drove his people away from their home around what was for many years renamed Ayers Rock. McKinnon also lied to an official inquiry to cover his tracks, though his evil was exposed decades later, after his death, by the archive he left.

This is the tip of the iceberg when it comes to the territory police’s history of violence against Indigenous people. In the context of that bloody history, the tortured sensibilities and emotions of so many during and after this year’s trial of [a] police officer [name omitted] are easy to understand.

A jury acquitted [the police officer] of murder last Friday over the 2019 shooting of [a Warlpiri man] in Yuendumu. The court heard that [the young Warlpiri man] was shot three times, with [the police officer] arguing he had acted to protect his and his partner’s safety.

There is no suggestion that the events outlined in the [police officer] trial mirror the course of massacres and murders in the 19th and early 20th century referred to above.

But there is no doubt that the anguish of the Warlpiri people of Yuendumu at the verdict has its roots in that traumatic history. Not least because the 1928 massacre of Warlpiri at nearby Coniston is still very much alive in familial memory around Yuendumu, where distrust and suspicion of police has a very long tail.

It is hardly surprising that the First Peoples communities of the Northern Territory [advocate](#) the disarming of the police, with their weapons being locked in armouries. The death of the young Warlpiri man also strengthens the case made by First Peoples across Australia for much greater representation of First Peoples in the law enforcement, corrections and legal agencies of the Commonwealth, State and Territory governments. Despite First Peoples comprising thirty percent of the Northern Territory's population, First Peoples account for fewer than ten percent of the Northern Territory Police service's standing force of over 1500 officers. Moreover, the separate identification of the Aboriginal Community Police Officers group suggests a habit of racial identification and separation within the territory police force.

The Warlpiri people also advocate the need for cultural sensitivity training and indigenous language training for all police personnel. Concepts of assimilation (effectively the dismantlement of First Peoples communities), control, the suppression of dissent, paternalism, punishment and the deeply held view that First Peoples were inferior to whites (and therefore potentially criminal) militate against cultural and personal acceptance.

These attitudes were translated into the various Aboriginal Protection Acts that remained in force well into the 1970s in some jurisdictions. As Professors Thalia Anthony and Harry Blagg have [written](#):

Aboriginal Acts were used in practice to forcibly relocate Aboriginal people to a place of prescribed confinement, which in practice could include on government settlements, reserves, church missions, hospital lock ups, penal islands, cattle stations and other institutions. Often police officers assumed the role of Aboriginal Protector under these Acts and exercised broad powers over Aboriginal lives. Police also gained specific powers under legislation that allowed them to remove Aboriginal children from their families under "child welfare" legislation.

Police, and the exercise of police powers, are still seen by Australia's First Peoples as the state's principal instrument of oppression and as a continuing symbol of their insecurity.

In western and orthodox Christian communities everywhere, Easter is a time for reflection on the death of a Jewish man in Judea at the hands of members of an occupying force. Perhaps in Australia it could also be a time for reflection on the death of so many members of the First Peoples communities, whether by their own hand in detention or by the hand of peoples whose duty it is to protect them. And perhaps it is also a time to reflect on whether the vast amounts of national treasure and potentially vast quantities blood that are to be dedicated to national security are commensurate with the amounts that we as a nation are prepared to spend on the human and personal security of our citizens. Whether they are members of the First Peoples communities or of the immigrant communities that have more recently inhabited of this vast continent, their security is the cornerstone on which the security of the nation rests.

