

Hindmarsh Island Bridge: An Anthropological Battleground

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In July 1994, the Minister for Aboriginal & Torres Strait Islander Affairs, Mr Robert Tickner, imposed a ban on the construction of a bridge between the township of Goolwa in South Australia and an adjacent island situated near the mouth of the Murray River and known to Aboriginal people as Kumerangk, or to white Australians as Hindmarsh Island.

The ban was imposed because of assertions by a small number of Aboriginal women that the island and its surrounding waters were central to claims of secret, sacred "women's business" said to be part of the oral tradition of the Ngarrindjeri people.

Six months after the ban was imposed under the Commonwealth's *Aboriginal and Torres Strait Islander Heritage Protection Act, 1984*, a judge of the Federal Court sitting in Adelaide set aside the Minister's decision on the ground of procedural irregularities in the imposition of the ban. In particular, the Court ruled that the Minister was in error in declining to read the contents of certain secret envelopes which were said to contain details of the secret, sacred "women's business", but which the applicants had refused to allow men to read. Moreover, the Court held that the task of reading the contents of those envelopes was not capable of delegation (for example, to a woman adviser inside the Minister's office).

The decision of the Federal Court was subsequently upheld by a decision of the Full Court of that Court in December 1995.

In the meantime, following claims from a number of people within the Ngarrindjeri community - and principally from those women who have since become known across Australia as the "dissident women" - that the claims of secret, sacred "women's business" were without foundation, the South Australian Government appointed a Royal Commission to investigate whether or not the claims were fabricated.

The Hindmarsh Island Bridge Royal Commission provoked immediate controversy. Its deliberations over the course of the following five months (in which over 6,000 pages of transcript were recorded and 60 witnesses examined), continued to attract controversy and were the target of a number of attempts, through legal action in the South Australian Supreme Court, to close it down.

Many people criticised the Commission as an attack on Aboriginal spiritual values. In reality, it sought to do no more than ascertain when these beliefs first originated and, if in recent times, whether their origins lay simply in opposition to the bridge.

Whether the *contents* of those beliefs were true or false was simply irrelevant.

From the outset of the Commission, the women who asserted the secret, sacred “women’s business” declined to play any role. There were, however, many parties before the Commission. All of them were represented by experienced barristers. As a consequence, the issue of whether or not these claims could be substantiated as part of long standing Ngarrindjeri oral tradition was canvassed repeatedly throughout the course of the Commission’s hearings.

All of the “dissident women” gave evidence and subjected themselves to cross-examination. For the most part, their evidence was that they had never heard anything of secret, sacred “women’s business” on Hindmarsh Island, despite the fact that many of them had a similar genealogical lineage to those who were asserting the existence of secret, sacred “women’s business”. The “dissident women” were a diverse group, ranging in ages from their early forties through to seventy five years of age. In her report to the Government, the Commissioner, retired District Court Judge Iris Stevens, found all of them to be truthful and credible witnesses.

However, for the most part, the Commission was a battle between the anthropologists. Two anthropologists from the South Australian Museum, both with extensive field work and a deep understanding of the ethnographic material on the Ngarrindjeri, gave evidence to the effect that the secret, sacred “women’s business” of Hindmarsh Island was a matter of recent invention, probably dating from in or around April 1994 when opposition to the bridge was mounting. In particular, they stressed that the emergence of secret, sacred “women’s business” at that time, particularly among urban, politicised Ngarrindjeri, was most likely explained by the perceived need to make use of the powers available to indigenous people under the Commonwealth *Aboriginal and Torres Strait Islander Protection Act, 1984*. Their evidence also established the likelihood of cross-fertilisation of tradition between neighbouring cultures. In other words, in seeking justification for their stand against the construction of the bridge, the oral traditions of neighbouring tribes were being borrowed and adapted for the Ngarrindjeri. In some of these “foreign” cultures, there was a marked demarcation between the gender based secrets of males and females - unlike the Ngarrindjeri.

At the end of the day, the Commission found that the case for fabrication was overwhelming. On the strength of the anthropological evidence, no other view was open. The evidence of the “dissident women” merely supported what the anthropologists were saying from their own field work and their exhaustive review of the ethnographic data.

Both the South Australian Museum anthropologists who gave evidence and, more particularly, the “dissident women”, only agreed to participate in what was always going to be a difficult and controversial inquiry because of their regard for Ngarrindjeri tradition. Certainly in the case of the “dissident women”, their principal concern was and remains the integrity of Ngarrindjeri culture. In particular, they resented the manipulation of their traditions for political ends.

Sadly, the controversy surrounding the Hindmarsh Island bridge continues. As the Federal Government is required to do under the Commonwealth's *Aboriginal and Torres Strait Islander Heritage Protection Act, 1984*, a further application by the proponent women (made two days before the findings of the Hindmarsh Island Bridge Royal Commission were made public), has been referred by the Minister to a reporter under Section 10 of that Act. As a consequence, the current President of the Administrative Appeals Tribunal, Justice Jane Mathews, has been commissioned to prepare another report, this time to the Federal Minister, in relation to the matter. It is not anticipated that this report will be finalised much before May or June of this year.

Many observers are concerned that any finding by Justice Mathews' inquiry which is at odds with the findings of the Hindmarsh Island Bridge Royal Commission will merely serve to exacerbate existing divisions within the Ngarrindjeri community. Whatever the findings of the Mathews' inquiry, those divisions are unlikely to heal for some time.

Whilst many within the Ngarrindjeri and white community blame the South Australian Government and its Royal Commission for these divisions, the real cause is, of course, the claims which were made of secret, sacred "women's business" which led to the ban on construction of the bridge. If it is the case, as the Royal Commission so unequivocally found, that the secret, sacred "women's business" of Hindmarsh Island was indeed fabricated, then a small section of the Aboriginal community has done its brothers and sisters a great disservice.

The tragedy of Hindmarsh Island is that beneficial legislation intended to advance the interests of the Aboriginal community may well have been used for purposes which can only set back existing and future heritage and land title claims. For the sake of both white and Aboriginal Australia, one hopes that those effects are limited to this issue and to this site.

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