

The Whitlam Legacy – Reflections on Foreign Affairs, Human Rights and International Law

Seminar presented by Dr Adam Hughes Henry, E.G. Whitlam Research Fellow

on

Wednesday, 21 November 2018; 12pm – 3pm

at

The Whitlam Institute
Female Orphan School, Western Sydney University
Building EZ, Parramatta South Campus
Cnr James Ruse Drive and Victoria Road, Rydalmere

Program

12:00pm	Introduction: Whitlam Institute
	Welcome to Country
12:15pm	Presentation: Dr Adam Hughes Henry, E.G. Whitlam Research Fellow
12:45pm	Responder (TBC)
1:00pm	Lunch
1:15pm	Presentation: Professor Frank Bongiorno
1:35pm	Presentation: Emeritus Professor James Cotton
1:55pm	Presentation: Professor Roderic Pitty
2:15pm	Presentation: Dr David Lee
2:35pm	Short Afternoon Tea Break
2:45pm	Discussion
3:20pm	Wrap-up and review
3:30pm	Close

Members of the Board

The Hon John Faulkner (Chair)
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Background

The election of the Whitlam Government after 23 years of conservative rule is an epoch moment in Australian political and social history. In the realm of international law and human rights, Whitlam's ascendancy appeared revolutionary. The language and ideas expressed by Whitlam reflected his own connections to the 'Liberal Internationalism' from the Chifley period (1945-49) in the fields of political, civic and economic rights. Internationalism had long been marginalized by Australian Cold War politics – but through Whitlam it had returned to the mainstream. This was not without innate political risks, as 'liberal internationalism' had been effectively dismantled by the Menzies Government during the 1950s. Dr Henry's research reflects on the possible inconsistencies and contradictions between a state's international and domestic policy in regard to respect for human rights and maintaining international legal obligations. It asks what lessons still need to be learned in the current international climate.

Research

Dr Adam Hughes Henry's research explores some of the philosophical foundations of the Whitlam approach to human rights and international law. He does this by drawing attention to its intellectual connections with 'Liberal Internationalism' and highlighting similarities and key differences between an older tradition of 'Liberal Internationalism' which greatly influenced Whitlam, and the style of 'Internationalism' employed during 1972-75. Dr Henry examines the tensions between Whitlam era commitments to civil, political and economic rights and the desire to expand Australian diplomacy in Asia. The examination reveals that the instruments of collective security available within the United Nations (UN), a notable component of the earlier 'Liberal Internationalism' used to uphold international law and Australian security in the face of serious violations, were not central to the style of 'Internationalism' of the Whitlam period. Dr Henry concludes with a reflection on potential policy lessons likely to have utility in Australia's present and future approaches in relation to human rights and international law.

About the E.G. Whitlam Research Fellowship

The E.G. Whitlam Research Fellowship was established by Western Sydney University in recognition of the Honourable Gough Whitlam AC QC's contribution to the Australian nation and, specifically, to its political, social, and cultural development. The Research Fellowship has been established for the purpose of promoting research in public policy that is guided by the values that oriented Gough Whitlam's social democratic vision and that show how this vision can be relevant for the 21st century. It plays an integral part in the development of the Whitlam Institute's public policy program.

About the Presenters

Dr Adam Hughes Henry is one of the Whitlam Institute's 2018 E.G. Whitlam Research Fellows. An historian with a broad range of research interests, his primary areas of research have been diplomatic history and human rights.

Dr Henry is currently a Visitor with the Australian National University, School of Culture History and Language (CHL); teaches at the University of Canberra; and is a Visiting Fellow, Centre for Critical Cultural Research (CCCR) at the University of Canberra. In recent years, he has been a Visiting Fellow in Human Rights at the University of London and a Visiting Fellow at the Australian National University.

Awarded his Doctorate in 2012 by the Australian National University, Dr Henry's PhD thesis entitled *Manufacturing Australian Foreign Policy from 1950-1960*, examined Australian history, Cold War history and diplomatic history from a range of perspectives, including political, social, academic and diplomatic. Central to his approach to diplomatic history was an integration of its policy and political dimensions, including the cultures of bureaucracy and professionalism, and an assessment of the ideological premises of international history against the documentary record.

Dr David Lee is Director of the Historical Research Section of the Department of Foreign Affairs and Trade. His publications include the *Second Rush: Mining and the Transformation of Australia*, Connor Court, Redland Bay, 2016 and *Stanley Melbourne Bruce: Australian Internationalist*, Bloomsbury, London, 2010.

Dr Lee's paper, entitled *The Whitlam Government and the External Affairs Power* examines the relationship between the Whitlam Government and the use and application of the 'external affairs power'.

One of the powers assigned to the Commonwealth by the Australian Constitution was over 'external affairs'. Framed as it was in 1900 for a Commonwealth of Australia that was not independent, the 'external affairs' power was a matter of debate for decades afterwards. On the election of the Whitlam Government in 1972, well after the Commonwealth of Australia had attained its independence, the scope of this power was still uncertain. Whitlam and his Attorney-General, Lionel Murphy, always held faith in the potential of the external affairs power. In the Curtin Memorial Lecture in 1961, for example, Whitlam foreshadowed a broad construction of the power that would hopefully provide the constitutional basis for the reform agenda of a Labor government. Not long after coming to power, Murphy sought ratification of the United Nations Convention on the Elimination of Racial Discrimination, the 1966 UN Conventions on Civil and Political Rights and on Economic, Social and Cultural Rights and the Convention concerning Protection of the World Cultural and National Heritage (the World Heritage Convention). The legislation which followed the ratification of these treaties included the *Racial Discrimination Act 1975* and acts pursuant to the World Heritage Convention, all of which would be enormously significant in Australian history and would depend on a broad reading of the external affairs power. This paper examines the Whitlam Government's ambitions for the external affairs power, particularly as it concerned the Commonwealth's relations with the States, and the High Court's subsequent construction of the power when Murphy was a Justice of the High Court.

Associate Professor Roderic Pitty has taught international politics at Sydney, Deakin and UWA, and worked as a research historian for DFAT on the *Facing North* volumes about Australian engagement with Asia. He wrote a chapter on Australia and UN reform for the book *Australia and the United Nations*, and several chapters for the book *Global Citizens: Australia Activists for Change* (Cambridge 2008). He has been an activist for Indigenous rights in Australia since the 1990s.

Professor Pitty's paper, entitled *Whitlam, the UN and Self-Determination: three steps forward and a failure* contributes to an understanding of the role of the UN in the Whitlam Government's legacy by examining the actions taken in recognition of Australia's relationships with Indigenous peoples, its partnership with New Zealand during illegal French nuclear testing in the South Pacific and support for a belated but successful transition of Papua New Guinea to independence. In each case the Whitlam Government made important steps forward that reflected its commitment to the basic human rights principle of self-determination.

One of the many differences between Whitlam's foreign policy and that of his conservative predecessors concerned his respect for and engagement with the United Nations. This engagement reflected both a difference of principle that was expressed in an appreciation of the importance for Australia of engaging with multilateral institutions, instead of relying on great and powerful friends, and a difference in practice as the Whitlam Government sought to respond in a positive way to the implications of decolonisation for Australia and its region. This paper will consider four examples of Whitlam's engagement with human rights and international law in the broader context of decolonisation. In three cases Whitlam made historic steps forward which retain great relevance for contemporary Australian foreign policy. These were: first, a bold recognition that Australia's relationships with Indigenous peoples have implications for Australia's relationships with other states; second, a strong campaign together with New Zealand against illegal French nuclear testing in the South Pacific; and third, support for a belated but successful transition of Papua New Guinea to independence. In each case the Whitlam Government made important steps forward that reflected its commitment to the basic human rights principle of self-determination. The fourth case concerns a situation in which Whitlam did not support self-determination

when he should have, namely independence for Portuguese East Timor, instead of its brutal incorporation into Indonesia. By examining each case in terms of relevant human rights principles and respect for international law, the paper will contribute to an understanding of the role of the UN in the Whitlam Government's legacy for Australian foreign affairs.

James Cotton (PhD (London School of Economics), is Emeritus Professor, University of New South Wales, ADFA, Canberra. He was a 1975-76 Procter Fellow at Princeton University, and studied at the Beijing Language Institute (1980). He has held academic positions in Western Australia, Newcastle Upon Tyne, Singapore, and the Australian National University; he has been a visiting professor at the London School of Economics and also at the University of Hong Kong. He was a member of the Asia Program at the Woodrow Wilson Center for International Scholars, Washington DC, 2009. In 2013 he was Harold White Fellow, National Library of Australia. His books include: *East Timor, Australia and regional order: intervention and its aftermath in Southeast Asia* (Routledge, 2004); (edited with John Ravenhill), *Trading on Alliance Security: Australia in World Affairs 2001-2005* (Oxford University Press/AIIA, 2007); (edited with John Ravenhill), *Middle Power Dreaming: Australia in World Affairs 2006-2010* (Oxford University Press/AIIA, 2011); (edited with David Lee), *Australia and the United Nations* (Department of Foreign Affairs and Trade, 2012); *The Australian School of International Relations* (Palgrave-Macmillan, 2013).

Professor Cotton's paper is entitled *The sources of Whitlam's assessments of East Timor and Indonesia, and the consequences for policy*. During the Whitlam Government, for historical but also for philosophical reasons, relations with Indonesia were regarded as vital and received direct prime ministerial attention. Despite his objective of transforming the bilateral relationship it foundered however on the issue of East Timor. Whitlam's preference for the incorporation of the territory into Indonesia encouraged the military faction charged with its realisation to ignore that self-determination that he regarded as the preferential means. Unlike some of his advisers who supported incorporation from realist premises, Whitlam's policy was founded on an idealistic attempt to redefine Australia's regional policy. In dealing with Suharto, however, Whitlam neglected to draw upon his extensive classical knowledge which would have provided him with a highly appropriate template for the dynamics of a praetorian regime. In addition, he was too willing to dismiss the East Timorese political elite many of whom, for ineluctable historical reasons, were of mestiço origins.

Professor Frank Bongiorno is Professor of History and Head of the School of History in the Research School of Social Sciences at the Australian National University. He was formerly Senior Lecturer at King's College London. Frank is a Fellow of the Academy of Social Sciences in Australia and the Royal Historical Society, and was Smuts Visiting Fellow in Commonwealth Studies at the University of Cambridge in the 1997-98 northern academic year. His books include *The Eighties: The Decade That Transformed Australia* (Black Inc., 2015) and, most recently (co-edited with Benjamin T. Jones and John Uhr) *Elections Matter: Ten Federal Elections That Shaped Australia* (Monash University Publishing, 2018)

Professor Bongiorno's paper addresses the death of Gough Whitlam in 2014, and how this event became in large part, an occasion for reflection on the present, diminished state of Australian politics and the disappointing course of Australian political history. Professor Bongiorno's paper - designed as a trial run for the opening of a book provisionally titled *The Political Lives of Australians: A History* and contracted to La Trobe University Press - examines responses to the death of Gough Whitlam as a way of exploring contemporary attitudes to the quality of Australian politics and national vision in a time that Manning Clark, following Cardinal Moran, would surely have called "an age of ruins".