4. Unintended rhetoric: The ‘Little children are sacred’ report

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Definition of Rhetoric: 1: the art of speaking or writing effectively

2.a: skill in the effective use of speech

2.b: a type or mode of language or speech; *also* insincere or grandiloquent language

(*Merriam-Webster Dictionary Online*)¹

Aristotle’s familiar conception of rhetoric as ‘the faculty of observing in any given case the available means of persuasion’, corresponds to the *Merriam-Webster* definitions 1 and 2.a. It suggests that rhetoric is something in which one might be trained and, after training, put to use. Rhetoric, in this understanding, carries with it a sense of intention. One employs rhetoric with the intention of setting a framework for discussion, or of persuading others to do or think something, or not to do so. The *Merriam-Webster* definition 2.b carries no such sense, except in the case of insincerity: rhetoric refers to features of the language that one uses, features that may or may not be intended. My discussion draws on these various usages, suggesting that the employment of political rhetoric may be either intended or unintended and that the latter may well be consequential.

What if the authors of a speech or report deploy means of persuasion that are so effective that, without intending to do so, an outcome is produced that is utterly remote from what they had in mind? In order to explore a small part of this question, I examine the fate of the ‘*Little children are sacred*’ report, which was commissioned by the Northern Territory Government, but taken up and acted upon, in a manner contrary to the express advice of its authors, by the federal government in Canberra.

Australian governments operate on the principle that one should never commission a report unless one can be sure of what it is going to say — although, like many of us, they have been known to make mistakes. In the case of ‘*Little children are sacred*’ both the NT minister who commissioned the report and its authors wanted the report to say that federal and NT governments should get off their butts and do something about sexual abuse in Indigenous communities.

1 Consulted 19 November 2013.

The report was exemplary in many respects, making clear and unambiguous recommendations. It noted that, although there had been several earlier government inquiries into child sexual abuse in Australian Indigenous communities, these had not led to significant action by the governments concerned. In its first recommendation, the report insisted that both the federal and NT governments should treat the issue of 'Aboriginal child sexual abuse in the Northern Territory ... as [one] of *urgent* national significance' (Anderson and Wild 2007: 22; emphasis added). The word 'urgent' would normally suggest a sense of immediacy, especially when placed alongside the reference to 'little children' in the report's title, but it should be read here in the context of the report's stress on persistent government inaction — it should be read, that is, as asking that *this time* something be done, not necessarily as insisting that it should be done this minute or even sooner. In considering what might be done about the problem it described, the report attempted to frame policy discussion by focusing on the improvement of education, the building of community trust, the provision of family support services and the empowerment of Aboriginal communities, while insisting that action should be organised in consultation with local communities. The report nevertheless offered the federal government an excuse to misread its use of 'urgent' and thus to ignore, as it might have done anyway, the report's point about consultation and to send troops to police Indigenous communities in the Northern Territory.² Neither its friends nor its enemies would accuse members of John Howard's ministry of interest in the careful reading of texts, but in this case, the misinterpretation seems more than simply careless.³

How could the report's authors and the NT Government have got things so wrong? There is no simple answer to this question, but any satisfactory answer should include a rhetorical variation on the idea of the unintended consequence.

Before developing this point, there are two things to consider: unexpected rhetorical effects of speech or writing and the idea of human progress. First, the rhetorical effects of speech or writing may deviate from their authors' intention for several reasons. The most obvious of these is authorial failure and/or incompetence, as when, for example, Republican Presidential Candidate Mitt Romney tried to convince American voters of his commitment to buying American by telling them that one of his cars was a Cadillac; he thereby

2 Popularly known as the Intervention or, less popularly, as described in its enabling legislation, the Northern Territory National Emergency Response. The NT Intervention is not unique. Similar, but less dramatic, attempts by government agencies to intervene in the affairs of indigenous communities, ostensibly to protect children from sexual abuse, have been documented in the United States. See, for example, Williams 2012.

3 Many commentators (e.g. Altman and Hinkson 2007, 2010; Behrendt n.d.) have noted that the procedures implemented by the Intervention bore little relation to the recommendations of the report. Those who have been exposed to Swift's brilliant satirical pamphlet *A modest proposal* (1729), or have learned to distrust the Coalition parties, will suspect that the government's talk of protecting children was a cover for other, more sinister, motives, for example, as suggested in Stringer 2007.

unwittingly displayed his unusual wealth and suggested, moreover, that he had other cars, not all of them American. A second reason is an accident of timing — an Australian leader tries to sell the case for 'finishing the job' in Afghanistan on a day when backbencher Kevin Rudd⁴ makes yet another speech, a tsunami smashes into the east coast of Australia or Secretary of State Hillary Clinton announces America's intention to pull out more of its own troops.

Incompetence and unanticipated events can undermine the best of intentions, but intentions can also be undermined by another kind of accident: the unintended deployment of rhetoric (*Merriam-Webster* 2.b). In the case that concerns us here, the report's authors, perhaps without recognising its continuing potency, made use of a contrast between modern and traditional, whose force derives primarily from a Eurocentric rhetoric of human progress.

The idea of human progress has been employed in European social and political thought, and in Western political thought more generally, for several hundred years, appearing in different forms, many of them derived from a Christian (Augustinian) doctrine of (limited) human perfectibility (Nisbet 1979, 1980).⁵ While apparently universalistic, talk of human progress has always been tied to a ranking of societies: while all of humanity is thought to progress, different portions are seen to have done so at different rates and to different degrees. In practice, most societies are likely to be seen as being more advanced today than at any time in their past.

Europeans and, later, Americans have persuaded themselves, along with far too many others, that they have progressed further than non-Europeans, that some Europeans have progressed more than others, and that human societies/peoples can be ranked according to their capacity for, and their actual achievement of, progress. The Indigenous peoples of Australia, along with some pigmy communities in Africa, have usually been ranked at or near the bottom of this order. Their failure to progress was once deemed so significant that their ability to survive in the face of the progress of others was in doubt (McGregor 1990; Stocking 1968: 110).

While this unsavoury complex of ideas may have lost much of its earlier appeal, it remains influential both in the West and in international affairs; for example, in contemporary discourses of development and modernisation — although earlier

4 Kevin Rudd was leader of the ALP (from 2006) and prime minister of Australia from 2007 until 2010 when he was deposed by his party in favour of Julia Gillard. He was minister for foreign affairs for a period during Gillard's government and returned to the backbench early in 2012. Throughout Gillard's leadership, Rudd was suspected of plotting to regain the leadership. Anything he did created headlines.

5 Students of political theory and of international relations will be familiar with the comparative, developmental aspects of this idea from Immanuel Kant's 'Idea for a universal history' (Reiss 1970: 41–53). For the religious foundations of Kant's argument see his 'Religion within the bounds of reason alone' (Kant 1996: 39–216).

references to 'underdeveloped' or 'premodern' societies have been displaced in favour of less obviously offensive talk of 'developing' or 'modernising' societies. The rhetoric of progress also underlies the idea of modernity, a term that has been used in diverse ways (Appadurai 1996; Chakrabarty 2000; Bhabra 2007). What concerns me here is its usage as a term of periodisation, serving to characterise the most recent period in European (Western) history, a condition that appears to have spread like a plague across much of the world.

Modernity, in this sense, is thought to come after, and therefore to be more advanced than, the 'medieval', 'renaissance' or 'early modern' periods (Toulmin 1990). Whereas the inhabitants of medieval Europe, and most non-Europeans, were thought by Enlightenment Europeans to have been dominated by tradition (Fasolt 2004), we moderns are often said to inhabit a post-traditional society (Giddens 1990, 1991).

The most important residue of the rhetoric of progress for my argument is the contrast between modern and traditional. In *Keywords*, Raymond Williams notes that while the English term 'tradition' was once, and still is sometimes, associated with 'ceremony, duty and respect', a usage I consider below, it is now 'often used dismissively' to indicate hostility 'to virtually any innovation' (1983: 319–20). The latter usage is perhaps the more influential in the social sciences and more generally in public life.

In their treatment of tradition, the social sciences, with the partial exception of anthropology, have not advanced much beyond Max Weber's venerable discussion of the types of social action (1978: 24–26). Weber identifies two rational types of social action, instrumental and value-rational (that is, action concerned with putting values into practice), and two non-rational types: affective and traditional. He adds that action of the traditional type 'is determined by ingrained habituation' (1978: 25). This dismissive treatment of tradition reflects the tendency of the modern social sciences, and of modern social thought more generally, to treat many non-Western peoples as if, unlike us, they are dominated by tradition and can therefore be viewed as irrational.

Despite its service in the rationalisation of colonial rule, the origins of this unpleasant tendency are to be found, not only in European imperialism and Enlightenment Orientalism (Halbfass 1988: 60), but also in conflicts between Protestants and Catholics in early modern Germany. Among the many issues at stake in these conflicts were the claims of the papacy and the Holy Roman Empire to be eternal. Since their claims to legitimacy were based on continuity over a long period, they also maintained that many decisions made in the past should continue to hold in the present. Against these claims, humanist and

Protestant historians argued that they misrepresented the past and that, in any case, whatever had really happened then should not be allowed to dominate conduct in the present.

One outcome of this 'historians' revolt', Constantin Fasolt (2004) argues, is the radical modern distinction between past and present, which suggests that the former is somehow less 'rational' than the latter, and that there was a time in which people were dominated by the past, allowing themselves to be ruled by custom and tradition in a manner best summarised as irrational. While, in its original form, this crude perception was turned mainly against European Catholics, whose communities were contemptuously described as priest-ridden, it has also surfaced recently in no less dismissive Western accounts of the Islamic world.

'Tradition' and 'traditional' are often used dismissively, yet Williams identifies a second, earlier English usage, associated with 'ceremony, duty and respect'. Just as Dalits in India and members of targeted populations in the West (for example, homosexuals, transgender people, transsexuals; see Bhagavan and Feldhaus 2008; Hacking 2006) have sometimes adopted pejorative categories and treated them as positive identities, indigenous peoples, in Australia and elsewhere, have given a positive spin to the 'traditional' categories to which they have been assigned. Thus, inverting the conventional valorisation of the modern, many Indigenous Australians celebrate a culture that, in their view, has continued for 40,000 years or more while some market selected aspects of that tradition to 'mainstream' Australians and foreign tourists.

While in one familiar usage the divide between traditional and modern reflects poorly on the former, there is countervailing usage in which the latter is devalued; in between, we find cases in which the divide serves as little more than a conventional marker of difference. Yet it is difficult to avoid a sense of an opposition between them.

The postcolonial scholar Homi Bhabha (1994) urges us to unsettle conventional oppositions, but this is easier said than done. One of the most interesting twentieth century attempts to tackle the traditional/modern opposition directly is present in Eric Hobsbawm and Terence Ranger's edited collection *The invention of tradition* (1983), which contains fine essays on the traditions fabricated by imperial authorities in Africa, India and various parts of the British Isles. Yet, Hobsbawm's introduction inadvertently reproduces the opposition in another form. Hobsbawm notes that modern societies have their own traditions, a point that might seem to undermine the usual contrast between modern and traditional, and he describes these traditions as 'invented'; that is, as 'responses to novel situations which take the form of reference to old situations' and continues by noting that 'tradition in this [invented] sense must be distinguished from 'custom', which dominates so-called 'traditional' societies' (1983: 2). While this

suggests that there are societies with invented traditions and others that are dominated by 'custom', which does not seem to be invented, Hobsbawm insists that 'there is probably no time or place ... which has not seen the invention of tradition' (1983: 4). Yet, if the invention of tradition is universal, it happens more in some societies than in others: 'Societies since the industrial revolution have naturally been obliged to invent, institute or develop new networks of ... convention or routine more frequently than previous ones' (1983: 3). In place of the opposition between modern and traditional, we now have one between post-industrial revolution societies that are always fabricating new traditions and societies that have yet to experience their own industrial revolution.

We might note that in its appeal to 'the industrial revolution', Hobsbawm's approach, like the older rhetoric of progress, takes Europe as a model for the rest of the world. In contrast, the Argentine–Mexican philosopher Enrique Dussel (1995, 1996) seeks to undermine the traditional/modern opposition indirectly by confronting its second term and, with it, the conventional Eurocentric myth of modernity. Dussel argues that where most accounts of modernity treat it as developing first in Europe and then affecting other regions, it should really be seen as relational, embracing both Europe and regions subjected to European imperialism. Modernity, he maintains, begins with the Spanish invasion of the Americas, starting in 1492, and with Portuguese military/colonial ventures into Africa and Asia at around the same time. Taking modernity in this sense, one would have to say that contemporary Europe and postcolonial societies in other parts of the world were all equally modern.

Dussel's approach offers a powerful alternative to the conventional contrast between modernity and its others, but it has had limited impact on the social sciences in the Americas (but see Mignolo 2003, 2011) and no impact elsewhere. For the moment, and short of substantial intellectual changes in Australian academic and public life, it seems that we are stuck with an opposition between modern and traditional that commonly suggests that people who follow traditional ways are less rational and less morally and intellectually advanced than we moderns, just as Enlightenment Europeans viewed their medieval predecessors as backward and less than fully rational.

I should also note that, while in Australian public life 'modern' and 'traditional' are commonly seen as distinct and opposed, the contrast between them does not always involve a disparaging perception of the latter. At times, traditional ways are regarded as serving to sustain Indigenous communities or, like many endangered species, as things that should be preserved, if only for the sake of tourism, while at others, they are seen as obstacles to be overcome. At still other times, and again like endangered species, they are seen both as something to be preserved and as obstacles to be overcome. Either way, the modern and the traditional are opposed: tradition is thought both to stand in the way of

modernisation and to be undermined by contact with the modern — and is seen accordingly by modern observers, and by many who identify with tradition, as in the process of breaking down. In practice, where the traditional/modern opposition is deployed, we are likely to find reports of the weakening of the social fabric or breakdown of Aboriginal communities. Neither 'breakdown' nor 'social fabric', as used in this context, are clear concepts. Social problems appear in Indigenous communities as they do in most others, but, while they add little new information, the terms 'breakdown' and 'social fabric' convey an additional sense of seriousness.

The '*Little children are sacred*' report does its best to avoid suggesting that Aboriginal society is in some way inferior to Australia's larger, mostly white, settler society. It refers, for example to 'Aboriginal culture' and 'European or mainstream society' as 'two branches of [Australian] society' (Anderson and Wild 2007: 12). While not describing one branch as superior or inferior to the other, it nevertheless acknowledges that there is a 'major difference' between them. The report points out specifically that, as earlier commentators had also noted, there was an ongoing 'breakdown of Aboriginal culture'. And again the word 'mainstream' is used to refer to 'European [i.e. settler] society', but without invoking the invidious distinction between those who are 'modern' and others who are not; without directly asserting, in other words, that 'Aboriginal culture', in contrast to 'mainstream' society, is not yet modern.

Unfortunately, in spite of its authors' intentions, there are too many places in the report where the contrast between 'modern' and 'non-modern' creeps in. For example, the report cites approvingly a 1998 coroner's inquest into four suicides among young Aboriginals in the Tiwi Islands that notes 'a weakening of the *traditional* and cultural values in *modern* Australian society' (Anderson and Wild 2007: 13; my emphasis). Here *traditional*, in contrast to *modern*, is presented as a feature of Aboriginal culture. This opposition between traditional and modern reappears several times in the report, usually in such a way as to suggest that they cannot easily coexist, that when they are found together, each is likely to undermine the other.

Traditional marriage practices as they once existed cannot continue in the *modern* world, especially when they conflict with modern international human rights. Practices such as accepting goods in exchange for a 'wife', for example, are not consistent with *modern* international human rights. (Anderson and Wild 2007: 71; my emphasis)

This passage manages to damn traditional ways both for not being modern and for contravening human rights; it suggests that the latter are associated with the modern and that, conversely, denying them is a feature of the pre-modern world.⁶ Finally,

[t]he Inquiry observed that many Aboriginal people are struggling to understand the 'mainstream' modern world and law. They therefore do not know how to change Aboriginal law so that it works positively within the framework of the modern 'mainstream' world. (Anderson and Wild 2007: 179)

Notice how the modern is presented here as a framework to which whatever is not modern has to adapt.

The report illustrates the difficulty facing 'many Aboriginal people' with statements by two Aboriginal elders who were interviewed in the course of the Inquiry:

1. 'In the old days we were going in a straight line, now we are turning around and going in different directions.'
2. 'Whitefella law is very slippery, like a fish.'

It is not clear how these comments distinguish Indigenous Australians from the rest of the Australian population. The first might be read as expressing a sense of the confusing character of contemporary life that will be familiar to many older 'mainstream' Australians, while the second says something similar about contemporary law. Many non-Indigenous people, including the present author and more than a few practicing lawyers, will admit that they have problems making sense of modern 'mainstream' law.

So, where did the report go wrong? For the most part, it remains neutral, offering neither a negative nor positive assessment of what it sees as traditional. The most notable exceptions are the references, noted above, to 'modern "mainstream" world' and "'mainstream" modern world' (Anderson and Wild 2007: 179) and the counter-position, also noted, of *traditional* marriage and '*modern* international human rights' (Anderson and Wild 2007: 71; my emphasis). Nevertheless, even if the authors intended no denigration of tradition, the report's persistent use of the contrast between traditional and modern suggests that tradition, however valuable, must make it more difficult for Indigenous people than it is for other Australians to cope with the (modern) world in which they live — a suggestion that is reinforced by the report's observation that traditional ways are breaking down.

6 Rejali (1994) disputes another version of this modernist prejudice.

Yet, once tradition is viewed as an obstacle to modern ways, the report's insistence on consultation becomes a recipe for disaster or, at best, a waste of money and time. Most dictionaries offer a minimalist definition of consultation as the act or process of consulting, but some describe it more expansively. The *Oxford English Dictionary* (1989) offers several definitions, including 'A conference in which the parties consult and deliberate; a meeting for deliberation or discussion.' Where the first definition requires the activity of those doing the consulting — the consulted just have to be there — the *OED*'s reference to deliberation suggests that consultation involves the activity of both the consulting and the consulted. In practice, consultation more often conforms to the first than to the second definition.

The conventional mode of consultation by government is the public meeting, a consultation that, in this context, is all too likely to result in an unproductive slanging match between politicians and their officials on the one side and Indigenous representatives on the other, after which each side goes away convinced that it has been misunderstood by the other: the Indigenous team is perceived as revealing its inability (or refusal) to engage in modern discussion; the other side is regarded as a bunch of patronising bastards whose job is to tell the intended victims what government is planning to do to them.

Yet governments, who like to present themselves as service delivery agencies, are increasingly following the standard business model of consultation by administering a questionnaire, designed on the model of a commercial customer satisfaction survey, in which the questions address issues that concern the service provider and leave little space for the consulted to convey their own concerns.

In both the public meeting and the customer survey, consultation runs the risk of being little more than a longwinded way of insulting the consulted by suggesting that, where they depart from the concerns of the consulting side, their concerns are inconsequential. The main drawback is the possibility that the consulted might catch on to the insult too early in the process. The traditional/modern demarcation suggests that the consequences of the consulted catching on will be more serious if those consulted are traditional people. Where it is usually safe to assume that moderns will have learned to tolerate, or resign themselves to, the routine indignities of their lives, there is no reason to expect that traditional types will have acquired any such skill. It is easy to understand why the official side, armed by its misunderstanding of the appeal for urgency, might feel that there was little to be gained by risking consultation. Here, we can see how the rhetoric (*Merriam-Webster* 2.b) of the report undermines one of its central recommendations.

This last point raises two questions: first, what did the report's authors think they were doing when they insisted on consultation?; and second, could

these problems have been avoided? On the first question, we might also wonder whether (a) the report's authors have ever been on the receiving end of consultation by government; (b) had anticipated a more sensitive mode of consultation, perhaps with themselves acting as specialist advisors; or (c) expected this recommendation to be ignored by government, a move that would enable the authors to deny responsibility for whatever mess the actions of government created.

Arguably, there is no way to insulate a report from the efforts of foolish or unscrupulous politicians to exploit it for their own ends. What the Coalition government did with *'Little children are sacred'* involved a poisonous mix of bad faith and foolishness that was barely tempered by any kind of scruple. Yet, the difficulty faced by the report's authors and other critics of the subsequent intervention was not so much that members of the government misread the report, although they clearly did, but that this misreading was supported by elements of the report itself — by the reference to little children in the title, the word 'urgent' in one of its most important recommendations, and the use of the modern/traditional dichotomy throughout. The first of these may have been unavoidable, given that the report's remit was to look into sexual abuse of children. (Although the term 'little' is certainly redundant, the added reference to the 'sacred' strengthens the sense of urgency, suggesting that action is an urgent and sacred duty).

As for the second element, the word 'urgent' is easily misunderstood and there are other ways in which the report could have made the point about the need for government action.

The third element, the report's reliance on the modern/traditional dichotomy has been the main focus of my discussion.⁷ While the conventional usage of this dichotomy leads towards the disparaging of traditional ways, the report's authors may have had something different in mind — perhaps intending it as a simple marker of difference. The report invites trouble, not so much because it disparages one side or the other, but because of the opposition between traditional and modern, and the related suggestion that they cannot easily coexist — each gets in the way of the other.

Undoing this pernicious opposition might be easier said than done, however, pragmatic moves can mitigate the problem. The report's use of 'mainstream' and 'modern', sometimes both together, to identify the, mainly white, settler society

7 Of course, this is not the only way in which the report distinguishes between Aboriginals and others in the Australian population. I noted earlier, for example, that the report refers to 'Aboriginal culture' and 'European or mainstream society' as 'two branches of [Australian] society' (Anderson and Wild 2007: 12). Few readers of the report will focus on its rhetorical moves and thus be tempted to reflect on its contrast between (Aboriginal) *culture* and (European) *society*, or its identification of non-Aboriginal Australia as European.

suggests that its authors may have toyed with the possibility of replacing the word 'modern' with 'mainstream'. While they finally kept it, trying to write without the word 'modern' seems to me an excellent idea (Helliwell and Hindess 2013: 70–83). While the use of 'mainstream' instead of 'modern' risks generating problems of its own, at least it would avoid the worst connotations of 'modern'. In any event, 'modern' can often be abandoned, or replaced, without losing anything more substantial than its unsavoury connotations.

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