

Deaths in custody

Patrick rolled his swag in July 1989 and drove across the Tanami Track to Yawuru country, setting up camp on 'the Block', an area past the caravan park on the road out of town that had been leased as Aboriginal land. While Patrick had been to Broome several times for visits, he had not lived there permanently since he was a Deacon in the Church in the 1970s. The town had changed dramatically. An upsurge in tourism and the development of tourism infrastructure, especially at Cable Beach, escalated pressure on the Broome coastal strip and the land of the Yawuru. The local community was fractured; beset with discord and division. Their increasing economic and social marginalisation added to the pressure.

While he was immersing himself in his country, relearning the kinship and political networks of his hometown, he did not step back from the national stage. As soon as he arrived, he started work as a Commissioner inquiring into the underlying issues causing Aboriginal deaths in custody, while also assisting the establishment of the Rubibi Corporation to bring together those groups in dispute over law, language and custom.³

The Royal Commission would crystallise Patrick's thinking on the need for reconciliation and how it might work in practice. He was asked to investigate the backgrounds and histories of the twenty-nine Aboriginal men and three Aboriginal women who died in custodial settings in Western Australia from 1980 to 1989. Patrick's objectives were explicit from the outset:

Their lives and deaths should not end with this Commission. They offer to us all, the beginning of a new and better chapter in our relationship, and in the history of what is now known as Western Australia.⁴

For Patrick, the key underlying issues he was asked to investigate related to the historical and political dispossession of Aboriginal people. This was the root cause. Here could be found the basis of their impoverishment, their

alienation and their lack of development opportunities. He listened to the stories of the young men and women who lost their lives with disquiet, seeing the custodial rates as a symptom of a much deeper malaise that went to the heart of the relationship between Aboriginal people and the wider community of Australia. Their tragic deaths provoked the inquiry; their tragic lives told a deeper story that touched Patrick's heart.

Patrick put a team together that included Paul Lane, Rob Riley, Daryl Kickett and Peter Yu. With input from other writers such as Howard Pedersen in Perth, Kate Auty in Melbourne, Marcia Langton in Darwin and Kathy Whimp in Adelaide, the team explored the history of racism in the state, analysing the far-reaching disadvantages in health, education, housing, income and employment that seemed to lead inexorably to a higher rate of contact and conflict between police and Aboriginal people.

It was Commissioner Dodson's task to explain why too many Aboriginal people found themselves in custody too often and how this fact could be turned around. To this end, they held over sixty conferences and meetings in town centres, lock-ups and prisons across the State, from Oombulgurri in the north to Esperance in the south, and from Kiwukurra in the east to Carnarvon in the west. There was little time spent in his new home and office in Broome. The garden on 'the Block' remained unruly and untended.

The Commission, and Patrick's appointment, did not receive bipartisan support. Shadow Minister for Aboriginal Affairs Warwick Smith, and Senator Grant Tambling, criticised the costs and questioned the necessity of the appointment. Peter Walsh attacked from the Labor Party. They pointed to the fact that alcohol was the primary issue, and the funds allocated to the Commission would be better spent on rehabilitation programs. Warwick Smith argued:

Money is being soaked up by expanding bureaucracies. It is being hijacked by the mates of the Minister for Aboriginal Affairs, Gerry Hand. It is not getting through to the people in real need.⁵

In his report on the underlying issues for Western Australia, Patrick focused on the quality of relationships, both historic and contemporary, for those who died and on the social structures that made imprisonment inevitable:

I can only conclude that the majority of Aboriginal people in this State remain not only in a destabilised and powerless position compared to the dominant non-Aboriginal population, but also in a position where their powerlessness remains remarkably unrecognised. This lack of recognition

occurs at human, socio-cultural, economic and structural levels. In a sense, it can be argued that the 'scene has been set' for what we are witnessing today. This tragic state of affairs will continue into the future unless there is change on both the part of non-Aboriginal and Aboriginal societies.⁶

The national report

The National Commission of the Royal Commission into Aboriginal Deaths in Custody reported in April 1991. When Elliott Johnston's report was finally completed, it was to the surprise of many that the Commission did not substantiate allegations of murder or foul play. The finding was rejected vociferously by many of those Aboriginal people who had called for the Royal Commission. Aboriginal spokespersons such as Paul Coe and Helen Corbett claimed the report was a betrayal and a denial of justice. The Commission found that Aboriginal people did not die at a greater rate in custody, although the 'duty of care' shown by officials was a serious deficit. What was overwhelmingly different was the rate at which Aboriginal people came into custody compared with the rate of the general community.

The ninety-nine cases examined by the Royal Commission found that the Aboriginality of those who died played a significant role in their ending up in custody and dying there. It explored the history of Aboriginal people being regulated, controlled and monitored by the state and found a clear pattern of state intervention into and control over their lives, particularly through the criminal justice system, usually at an early age.

The Commission pointed to a need to understand the history of government intervention in many aspects of Aboriginal lives, a history not well known or understood by non-Aboriginal Australians. They pointed to the effects of the assimilation policy in the undermining of control by Aboriginal people of their lives, and the fracturing of families through the removal of Aboriginal children to be raised in institutions.

Patrick Dodson and his other commissioners saw the underlying issues as fundamental. They sought to identify and resolve the root cause of over-representation. The final national report tried to probe under the surface and looked to history for patterns:

The history of Aboriginal relations with the broader community has impacted upon Aboriginal people in many ways. Collectively, Aboriginal people have been denied access to the social and economic power, which is essential to effective participation in mainstream society. The dislocation of Aboriginal people from their land and culture, and the intrusion of Western society into Aboriginal life have rendered many Aboriginal forms of social control ineffective. The dependence, which characterised the

confined and controlled way in which most Aboriginal people lived for much of recent history, has left people poorly equipped to deal with the many social problems they experience.⁷

The Dodson experience

Historically, the experience of the Dodson family pointed to the truth of the Commission's bleak findings. The Commission described the collective experience of Aboriginal people. It reflected the experience of Patrick's forebears and his family. He looked at the cases, and saw his shared past.

Patrick's people, the Yawuru people, were rapidly and often brutally dislocated from their land, their sites and their livelihood. Their resistance was overwhelmed. The non-Aboriginal society of the Kimberley frontier devalued their culture, denied their religion and appropriated their land and labour. The pearling and pastoral industries reaped the rewards without recognition or compensation.

Patrick's grandparents, Paddy Djiagween and Elizabeth Fagan, suffered the pinpricks of bureaucratic humiliation, state intervention and official control. Historically, this process had been facilitated and enforced by the Catholic Church, acting as agents in carrying out the well meaning, but fundamentally misguided, policies of the state. Through the intervention of officials, such as A.O. Neville, his grandparents were denied access to the economic opportunities provided by Joe Fagan. Instead of autonomy, they were forced into dependence and subjected to the exercise of bureaucratic power over their everyday lives, moral choices and assets.

Patrick's mother, Patricia Djiagween, received cruel and vindictive treatment of a young mother in need. Some of her treatment was seemingly exacerbated by the personal efforts of individual officers who identified and treated her as a troublemaker requiring discipline, force and control. Patrick's sisters, Fay and Georgina, were transported against their will and institution-alised. Their father was threatened with deportation for continuing his relationship with their mother. Patrick's father was imprisoned for the crime of loving Patricia and the young family was forced into fleeing the state in order to make a fresh start away from harassment and brutality. There was no choice. There was no free will.

Patrick's life, while relatively fortunate on many accounts, was also not free of the structural impact of this history of denial and disrespect. He felt, deeply, the impact of authority figures questioning his identity, his Aboriginality, his cultural validity. He resented the attempts by welfare authorities to control, constrain and monitor his life and the lives of those who cared for him. He detested the fact that his siblings were under threat of removal and relocation. He saw a link between the policies of the times and

his personal life; wondering if things would have been different in his family, in his home life, if the policy settings had been more humane and Aboriginal land, law and culture had been given respect and acknowledgement. He did not 'blame the invaders' for his life, but could see cause and effect.

In his adult life, he fought with passion the denial by the Catholic Church of the validity and legitimacy of the Aboriginal spiritual experience. He could not comprehend the unwillingness of Church and state authorities to accept fundamental rights of community control, self-determination and the maintenance of culture, language and ritual. He reacted personally, often not leashing his anger, when Aboriginal people in the west and the north were denied their rights to land and were not given equal treatment and fair dealing. These were not legalistic, academic battles fought for political gamesmanship—they went to the very heart of his personal, social and cultural identity.

And yet, Patrick Dodson saw the need for reconciliation. If one man whose great-grandmother, grandfather, father, mother and sisters had at one time or another been removed, relocated and institutionalised because of the laws, policies and programs relating to Aboriginal people could believe in reconciliation, how could the nation be persuaded?

Towards reconciliation

The Royal Commission, in its list of 339 recommendations, addressed the need for all political parties to recognise that reconciliation between the Aboriginal and non-Aboriginal communities must be achieved if community division, discord and injustice to Aboriginal people are to be avoided. The Commission pointed to the urgency and necessity of the task before the nation.

It was Elliott Johnston who drafted the final chapter, based on extensive meetings with his fellow commissioners, talking through the issues to reach an agreed view. His final comment in the lengthy report was prophetic:

I would only add this. I think that great patience is required, especially on the non-Aboriginal side. It is the non-Aboriginal society that created the division and sustained it over a long period of time; we cannot expect the Aboriginal people to respond quickly. The non-Aboriginal society and culture is evolving and changing and the Aboriginal people must be allowed to develop their own culture in their own ways; clearly there is scope for the two to interact in a fruitful and mutually fulfilling way. The process may falter at times; appear to get lost; but it can be pulled up again and survive if we are cool and negotiate with open minds and as with

equals. And in the end, perhaps together, Aboriginal and non-Aboriginal, the situation can be reached where this ancient, subtly creative Aboriginal culture exists in friendship alongside the non-Aboriginal culture. Such an achievement would be a matter of pride not only for all Australians but for all humankind.⁸

Patrick respected Elliott greatly, admiring his capacity to achieve consensus through reason and logic. For Patrick, it was the energy and commitment of people like Elliott, people he had met, lived and worked with throughout his life that convinced him of the deep reservoirs of goodwill that lay virtually untapped in the Australian non-Aboriginal community. He agreed with Elliott that the divisions in Australian society had been created and sustained by non-Aboriginal authorities and that his own family history was a demonstration of the legacy of that division; of the harm that had been done generation after generation.

Patrick also knew that there was hope. There were non-Aboriginal people in his family story such as Joe Fagan who acted out of the context of his time and place; who did the right thing. There were the men on the Broome Road Board who respected the Yawuru religion and cultural tradition enough to provide a place where the remaining Yawuru sacred objects could be stored and where the Yawuru could make men to carry those laws and rituals into the future. There were men like his father, and his mate Curly Pascoe, who stood up to laws that were wrong and paid a price. There were people in Katherine, like the Maher family, who recognised the common bonds of survival and need and shared food, drink and the human experience. The Gartlan family, especially Marian, opened their doors to an Aboriginal orphan boy and gave him a home where he had none, and a family when he needed one. There were, across the country, priests, lawyers, policemen and shire officials who saw that things could change, and who worked, with Patrick or with their local communities, to make change happen. This non-Aboriginal domain was not foreign to Patrick; he could see the decency and goodwill that was required to make reconciliation less of an ideal vision and more of a practical reality. As Paddy Djiagween had done, he had worked to gain credibility and authority 'inside' the system, in order to help himself, but also to assist his family and countrymen stranded on the 'outside', looking in. Paddy and Patrick used this hard-won insider status to seek change.

The process of reconciliation, 1991

The Royal Commission into Aboriginal Deaths in Custody National Report was tabled in federal Parliament on 9 May 1991. The last half of that year would be a dramatic time for the issues of Aboriginal land, heritage, and the establishment of the process of reconciliation. The Minister for Aboriginal Affairs, Robert Tickner, was campaigning to formalise the process of reconciliation, stimulated by the strong support given in the Commission report. Two weeks after the Commission report was tabled, the Council for Aboriginal Reconciliation Bill was introduced into the House of Representatives. The approach was bipartisan, after lengthy negotiations in meeting rooms throughout the nation. The Shadow Minister, Dr Michael Wooldridge, campaigned energetically inside the Coalition for support for the Bill while seeking to push the inclusion of benchmarks that would assess the progress made on key indicators such as Aboriginal housing, health and employment.⁹

In the next month, amidst intense Cabinet rivalry between Paul Keating and Bob Hawke, the Commonwealth government decided to prevent mining at Coronation Hill and incorporate the Kakadu Conservation Zone into Kakadu National Park. The dynamic nature of Aboriginal cultural beliefs and heritage issues became national discussion points. The slogan 'Land Rights not mining' appeared on bumper stickers as Aboriginal heritage was portrayed as the antithesis of development. Patrick's brother, Mick, as Director of the Northern Land Council, was actively involved in the Coronation Hill campaign.

Prime Minister Bob Hawke's control over the Cabinet was fatally damaged, however. His last act in December of that year was to speak at the formal hanging of the Barunga statement in Parliament House, surrounded by representatives of the land councils of the Northern Territory.

In mid-August, Michael Wooldridge and Robert Ticker shook hands across the dispatch boxes in the House, sending the Council for Aboriginal Reconciliation Bill to the Senate, which passed it without dissent. The Governor-General proclaimed the Act on 2 September 1991. The federal Parliament, the voice of the people in the modern Australian state, agreed to turn over a new page in the relationship. The process of reconciliation had begun.

In the same week, Paddy Djiagween passed away. The *Broome Bulletin* recorded the passing of Patrick's grandfather:

Sad Loss of Kimberley King

Kimberley character, Paddy Djiagween, thought to be the oldest Aboriginal in Australia passed away in Broome on Sept 5th. Paddy Djiagween, like all Aboriginals in his generation, was born in the bush, and although his birth was unrecorded, medical records in all accounts put Paddy at the ripe old age of 111.

A tribal Aboriginal, and former chief of the Yawuru community of Broome, he was known by its members as the 'King.' It was a title he was worthy of, being well versed in all aspects of Aboriginal knowledge and history, all of which, according to his younger son Francis Djiagween, he passed down through the generations. 'During his younger years, and right through to his golden years, Dad has made a tremendous contribution to our people. We are all very proud of him,' Mr Djiagween said.

Nephew, Paddy Dodson, claimed that Paddy was the most competent and capable person he had ever had the privilege to know. 'Paddy was a custodian—he developed the lore that dominated the life of the tribal people in Broome; he was a spiritual leader, the holder of the Lore (customs) which required the people to live by a code of ethics—you have to respect that' Mr Dodson said.

But as his years caught up on him, his health deteriorated and he eventually had to be cared for. Family members including Cissy and Stanley Djiagween, oldest living son and Fay Wade, granddaughter, nurtured Paddy into his twilight years. Four or five years ago, Paddy was reluctantly admitted to the Broome hospital, as he had become beyond the ability of the family to care for. Here he became the darling of the hospital staff, entertaining them with his clapping sticks, in primitive rhythm and sometimes singing in guttural tones. In his last two years, his music became his communication, as he partially lost his sights and hearing. Having been around for more than half of white settlement in Australia, and having seen Broome transformed from camel carts and donkeys to the tourism hub it is now, Paddy experienced more than most of us would ever hope to.¹⁰

Patrick told me, over the phone, after the funeral:

On my grandfather's tombstone in Broome, we carved the words he said to me once when I was on my way back from Port Keats. He just looked up at me, looked right into me. He saw I was troubled about things and he said, 'The sun rises, wind blows, grass grows, the tide comes and goes. No-one can ever take your land.'

For the man who was to become the father of reconciliation for the nation, this was his touchstone; a connection to the past that shaped the present and future.