

Land and Reconciliation in Australia: A Theological Approach

Submitted by Geoffrey Livingston Burn, to the University of Exeter as a thesis for the degree of Doctor of Philosophy by Research in Theology, June 2010.

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Warning

This thesis may contain the names and images of deceased Aboriginal and Torres Strait Islander persons.

Abstract

This thesis is a work of Christian theology. Its purpose is twofold: firstly to develop an adequate understanding of reconciliation at the level of peoples and nations; and secondly to make a practical contribution to resolving the problems in Australia for the welfare of all the peoples, and of the land itself.

The history of the relationships between the Indigenous and non-Indigenous peoples in Australia has left many problems, and no matter what the non-Indigenous people try to do, the Indigenous peoples of Australia continue to experience themselves as being in a state of siege. Trying to understand what is happening, and what can be done to resolve the problems for the peoples of Australia and the land, have been the implicit drivers for the theological development in this thesis.

This thesis argues that the present generation in any trans-generational dispute is likely to continue to sin in ways that are shaped by the sins of the past, which explains why Indigenous peoples in Australia find themselves in a stage of siege, even when the non-Indigenous peoples are trying to pursue policies which they believe are for the welfare of all. The only way to resolve this is for the peoples of Australia to seek reconciliation. In particular, the non-Indigenous peoples need to repent, both of their own sins, and the sins of their forebears.

Reconciliation processes have become part of the international political landscape. However, there are real concerns about the justice of pursuing reconciliation. An important part of the theological development of this thesis is therefore to show that pursuing reconciliation establishes justice. It is shown that the nature of justice, and of repentance, can only be established by pursuing reconciliation. Reconciliation is possible because God has made it possible, and is working in the world to bring reconciliation.

Because land is an essential part of Indigenous identity in Australia, the history of land in court cases and legislation in Australia over the past half century forms an important case study in this work. It is shown that, although there was significant repentance within the non-Indigenous legal system in Australia, the degree of repentance available through that legal system is inherently limited, and so a more radical approach is needed in order to seek reconciliation in Australia. A final chapter considers what the non-Indigenous people of Australia need to do in order to repent.

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1 Introduction

This thesis is an exercise in applied Christian theology. Its purpose is to explore the nature of reconciliation in the context of the relationships between First and Subsequent peoples in Australia,¹ thereby making contributions both to the theological understanding of reconciliation, and to the practice of reconciliation in Australia.

Reconciliation has come to the fore in recent theological discussions, as a concept that may have practical applications in the political realm.² It has also been part of international political discourse and practice in the last two or three decades, but there are real concerns about the justice of pursuing reconciliation. Susan Dwyer expresses this well when she writes,

[t]he notable lack of any clear account of what reconciliation is, and what it requires, justifiably alerts the cynics among us. Reconciliation is being urged upon people who have been bitter and murderous enemies, upon victims and perpetrators of terrible human rights abuses, upon groups of individuals whose very self-conceptions have been structured in terms of historical and often state-sanctioned relations of dominance and submission. The rhetoric of reconciliation is particularly common in situations where traditional judicial responses to wrongdoing are unavailable because of corruption in the legal system, staggeringly large numbers of offenders, or anxiety about the political consequences of trials and punishments. Hence, a natural worry, exacerbated by the use of explicitly therapeutic language of healing and recovery, is that talk of reconciliation is merely a ruse to disguise the fact that a “purer” form of justice cannot be realized.³

The purpose then of this thesis is twofold: to give a clear account of the nature of reconciliation, which takes proper account of the nature of justice; and to explore what this might mean for the peoples of Australia. Although the theological insights are applied to the situation in Australia in particular, it is believed that they are more generally applicable. Further, this work is properly theological, developing an understanding of reconciliation that is not simply a recasting of insights from other disciplines into a theological language system.

The outline of this chapter is as follows. The first section recalls the arrival of the first Europeans to live in Australia, and it rehearses some of the problems that have followed from this. Section 2 discusses the truth and reconciliation processes that have taken

place in Chile and South Africa, highlighting some of the issues that they raise. Then the situation in Australia is compared and contrasted with those in Chile and South Africa, and some movements towards reconciliation in Australia are examined, in the third section. The third section also explains why this thesis makes a substantial case study of the history of land in Australia over the last half century. Finally, the last section outlines the approach taken in this work, which is followed by a summary of the thesis.

1.1 Introducing the Problem

The first known records of Europeans coming across the land that is now commonly called Australia date from the seventeenth century. They encountered nations that had been established for tens of thousands of years in that land.⁴ It was not an isolated land, nor was it an isolated people, for the oral traditions of these people, supported by archaeological and other anthropological evidence, show that trade and other relationships had been going on for a long time with people from across the seas, and that the results of this had percolated through the trading routes of the various nations that lived with the land of Australia.⁵

In an attempt to alleviate the problems in the prison population in England, and to preempt any other European power from making a claim on this land, a fleet of ships containing prisoners and military personnel landed in Botany Bay on 18th January, 1788, and then moved a bit further up the coast. The new arrivals proclaimed British sovereignty over the Eastern half of Australia. Because the earlier expedition by Cook had found no evidence of the cultivation of the sort of crops that were recognised by Europeans, it had been assumed that any inhabitants of the land had to live near the coast, living off fish, and since there had been few sightings of First peoples as the expedition made its way up the coast, it was concluded that the land must be sparsely populated, and that there would be little resistance to a British settlement in the land.⁶ There seems to have been genuine surprise on the part of the newcomers that there were so many people in the land already, and that they could live so far from the coast.⁷

There are many different ways of narrating the subsequent history of the relationships between the First and Subsequent peoples of Australia. Of course, once the two cultures had encountered each other, it was inevitable that they would shape each other. It never was possible to speak of a monolithic Indigenous culture, and this is the case even more

so now. Nor is the dominant culture that grew out of its European roots identical to related cultures in north America and Aotearoa/New Zealand, because these cultures have been shaped by different founding stories, and encounters with different Indigenous peoples, and encounters with different lands.

It would be easy to narrate the history of the Indigenous peoples of Australia over the past two and a bit centuries from the position of the dominant culture, either writing them out of the history of Australia, or even from a seemingly compassionate position that speaks of the unfortunate demise of some First peoples and cultures through murder and disease. However, this suffers from a triple blindness: to the adaptability of culture;⁸ to the creative response of First peoples in the face of oppression;⁹ and to Aboriginal narrations of history.¹⁰ That is, such narrations ignore the active role that First peoples have taken in shaping their history, of negotiating the points of engagement.

Whilst many people may think of Indigenous people in Australia as living predominantly in remote communities, of the half a million Indigenous people who currently live in Australia, only about one quarter live in remote or very remote areas.¹¹

The difficulties in the relationships between Indigenous and non-Indigenous Australians are not only a thing of the past, but also continue into the present. For example: there is a continuing debate about making a treaty between the Indigenous and non-Indigenous population, which indicates that the Indigenous population is not happy with the basis of their relationship with the rest of the people in Australia;¹² and there has been a long and difficult battle over land rights, which will be examined in detail in Chapter 5. The complex history of the inter-relationship between cultures and people groups has left those who identify themselves as Indigenous in Australia with multiple and different histories of experience. Even so, it is the case today that, on average, Indigenous people live with significantly greater economic and health deprivations than other people in Australia.¹³ These deprivations are symptoms of the problem, rather than the problem themselves.¹⁴

This thesis will argue that these problems can only be solved by pursuing a policy of reconciliation amongst the Indigenous and non-Indigenous peoples of Australia. However, the nature of reconciliation is disputed, and so the next section will look for

lessons that can be learnt about large-scale reconciliation projects, before returning to examine the situation in Australia (in Section 1.3).

1.2 Learning from Experiments in Reconciliation in Chile and South Africa

There is no universal agreement on the nature of reconciliation, nor the desirability of the political pursuit of reconciliation, nor the realistic possibility of achieving reconciliation. By looking at two concrete examples, those of Chile and South Africa, this section will highlight both the good things that have happened in seeking reconciliation, and also the problems that have been encountered. The problems are largely to do with a truncated notion of reconciliation, so leading to a truncated version of justice. It will be seen that this is often because of the huge problems of negotiating a way of breaking the cycle of violence, or of convincing the more powerful and more oppressive party to stop its violence, and then having to work with a socio-economic-judicial system that was set up to service the old regime.

One of the remarkable features of the political landscape over the last couple of decades has been the number of countries who have tried to make a transition towards a more just and stable future by dealing in some formal way with the atrocities in their recent history. Foremost amongst these is the Truth and Reconciliation Commission (hereinafter the TRC) in South Africa, but there have also been investigations or commissions with ‘truth’ or ‘reconciliation’ in their title in other countries, including Argentina,¹⁵ Brazil,¹⁶ Chile,¹⁷ El Salvador,¹⁸ and Guatemala.¹⁹ These real attempts at some sort of reconciliation raise important questions about the nature and possibility of reconciliation. In order to highlight some of the issues, the commissions in Chile and, South Africa will be described briefly and analysed.²⁰ It is not the purpose of this section to provide a detailed analysis, but to highlight some of the problems that they bring to the fore.

The seeking of reconciliation is a way of dealing with what has happened in the past. It is not the only way of approaching the past. History is littered with people seeking vengeance for what has happened in the past, continuing the cycle of violence. Or the law has been used to establish the guilt of people for crimes against humanity and to bring them to punishment, such as the Nuremberg trials. Or, the concept of nationhood has been redefined so that groups of people have been divided into smaller and smaller

groups, based around a common language, religion, culture and land, hoping that peace can be established if a pure enough group can be found.²¹

None of these really leave the past in peace. Moreover, the seeking after justice by bringing people to trial just does not work in many cases where peoples have to live together after a history of deep alienation and violence.²² There are real practical issues arising in, for example, the transfer from a military government to a democracy, for the democratic government may not be powerful enough to ensure justice, and there is always the fear of a military reaction if strong measures are taken.²³ This is not to mention the problems of trying people under new laws; the capacity of the legal system; and the fact that the established legal and bureaucratic system will have been upholding the old regime.²⁴ Criminal justice systems only work when violation of the law is the exception rather than the norm, and where violence is not systemic.²⁵ Moreover, where the conflict has engulfed most of the population, such as in Rwanda, the approach of trying people simply cannot be done.²⁶ This highlights the problems of Western legal systems, which are based on the premise of *individual* guilt or innocence.²⁷ Here other notions of justice and ways of dealing with disputes and concepts of what it means to be human come to the fore.²⁸

1.2.1 Chile

After a military coup in 1973, General Augusto Pinochet took over the rule of Chile until 1990, when Patricio Aylwin was elected president. During the seventeen years of the rule of Pinochet, thousands of people were arrested, tortured,²⁹ and disappeared. The story that the military told the nation was that they were protecting the country from communism. They had responded to a political situation, and it took longer for them to sort it out than they had expected. The armed forces claimed that did not have any policy of extermination, and if there were any excesses, it was due to individuals rather than an institutionalised policy.³⁰ The military government passed an amnesty law covering all acts committed between 1973 and 1978.³¹

When Aylwin was elected president of Chile, he instituted an investigation of violations of human rights during from 11th September, 1973 to 11th March, 1990, the date he took power. It was a national commission on truth and reconciliation (*Comisión Nacional de Verdad y Reconciliación*), sometimes called the Rettig Commission, after its chairman. According to the Rettig Commission, 1886 of the total of 2298 deaths that were

established as having occurred during the dictatorship, occurred during the period 1973 to 1978,³² and so there was no way to proceed with prosecutions for these because of the amnesty law passed by the government.³³ Indeed, no further investigations were allowed. The Rettig Commission strongly criticised this approach, pointing out that according to Article 413 of the Code of Criminal Procedure, a case may only be definitively closed after a full investigation into the alleged crime and the attempt to identify the criminal.³⁴ On receiving the report of the Rettig Commission, Aylwin made a public apology to the nation, saying that human rights abuses are never justified. He asked for forgiveness from the families who had suffered, and called on the military to make a gesture of recognition of the pain it had caused, and to help alleviate it.³⁵

A second report was produced in 1996 by the *Corporación Nacional de Reparación y Reconciliación*, created in 1992 by the Chilean government to continue the work of the Rettig Commission. However, there remained over two thousand people still unaccounted for.³⁶

Although there had been a transition to civilian rule, the military still held a lot of power. In contrast with Argentina, which returned to a constitution from before military rule, Chile inherited a constitution drawn up in 1980 under the military rule, which afforded the military a central role in political institutions.³⁷ Whenever the government tried to cut military expenditure, or asked questions about human rights abuses, Pinochet would recall all troops to barracks and put them on red alert.³⁸

The arrest of Pinochet in October 1998 in London put Chile in a serious predicament with regards to its foreign policy (whilst many Chileans recognised the guilt of Pinochet, they did not want a foreign court to try him³⁹), but it also made space for opening up the discussion of unresolved issues and themes concerning human rights abuses that had happened during the Pinochet regime, partly because of a desire to show the world that Chile had once and for all dealt with the past.⁴⁰ A formal process, called the *Mesa de Diálogo* was established. But by that time, investigations were difficult. For example, the military wanted a process which emphasised their role in combating communism and which enforced the 1978 amnesty law.⁴¹ On the other hand, human rights lawyers wanted to pursue the Rettig report and cases filed by victims' families until guilt could be established, before the amnesty law was applied.⁴² After nine meetings of the people selected to take part in the process (not all the sections of the

community were represented in the dialogue⁴³), it ground to a halt, partly because of the release of Pinochet.⁴⁴

It is worth noting the role of the church during the Pinochet regime. The church in Chile was greatly influenced by the work of Maritain, who was trying to think about the role of the church when it gave up or lost direct political power.⁴⁵ He argued that the church was not 'political' but on a separate plane, influencing the political. At first, the church emphasised unity, and being Chilean, which meant that it could not criticise the State.⁴⁶ Gradually some political practices emerged in the church. Ex-communication was announced for people who tortured or could have stopped it. Note that ex-communication was for sins that denied the politics of the body. This meant a change in understanding of the church, from the church being the hierarchy, and only protecting the hierarchy from attacks, to the church being all the people.⁴⁷ However, Pinochet and other leaders were never ex-communicated. A second political practice that emerged was the 'Vicaria de la Solidaridad' in the Santiago Archdiocese, which pursued human rights abuses through the courts from 1976 to 1992, and the documentation that they produced continues to supply human rights lawyers with evidence.⁴⁸ Besides legal work, it also supported victims' relatives, and dispensed food, education, medical help, and shelter for the poor, the dispossessed, and those persecuted by the military regime.⁴⁹ A third thing that they did was to organise lightning protests at sites of torture, forming quickly with banners and a liturgical type chant, and then dispersing into the crowd, although some were injured and/or arrested in attacks from police.⁵⁰

It is clear that there is incomplete knowledge of what happened during the Pinochet regime, and continued obfuscation on the part of the military. Aguilar argues that there can be no national unity and peace within in the country until the social and historical truths are fully established. But there does not seem to be the political will to make further progress at the moment.⁵¹ Even a leading figure in the church has stated that 'truth and justice are not everything, only through forgiveness there will be reconciliation, that the only road to peace is forgiveness.'⁵²

1.2.2 South Africa

Turning to South Africa, a scene that remains etched on peoples' memories is the queues of people waiting to vote in elections in 1993. How had a nation that had been heading towards a bloodbath ended up with democratic elections instead? An important

part of the transition was the promise of the TRC, which was mandated by the South African Interim Constitution.⁵³ Rather than blanket amnesty provisions, or trials and prosecutions, a third way, that of the TRC, was chosen.⁵⁴ Both the African National Congress and the National Party wanted amnesty provisions in the legislation.⁵⁵ The Act setting up the TRC attracted the most debate of any legislation in the first two years of the fledgling parliament,⁵⁶ and its formation was deeply influenced by participants of the Argentine and Chilean commissions.⁵⁷

Section 3(1) of the Act sets out the objectives of the TRC:

The Objectives of the Commission shall be to promote national unity and reconciliation in a spirit of understanding, which transcends the conflicts and divisions of the past by:

- (a) establishing as complete a picture as possible of the causes, nature and extent of the gross violations of human rights which were committed ..., by conducting investigations and holding hearings;
- (b) facilitating the granting of amnesty to persons who make full disclosure of all the relevant facts relating to acts associated with a political objective and comply with the requirements of this Act;
- (c) establishing and making known the fate or whereabouts of victims, by restoring the human and civil dignity of such victims by granting them an opportunity to relate their own accounts of the violations of which they are the victims, and by recommending reparation measures in respect of them;
- (d) compiling a report providing as comprehensive account as possible of the activities and findings of the Commission ..., and which contains recommendations of measures to prevent the future violations of human rights.⁵⁸

Although amnesty was on offer, it came at the cost of taking part in a process.

In this [amnesty] process the relationship between truth and reconciliation is sensitively balanced: the perpetrators must personally apply in the prescribed form within a certain time limit; appear at a public hearing; make a full, public confession; comply with the (Norgaard) criteria for amnesty; recognise the wrongfulness of the deed, in public; and acknowledge the truth. The crime is condemned legally and publicly, the report is published and the parties named. The full disclosure of a violation by the criminal replaces the need for punishment if it is found that all the requirements have been met. In the context of a system in transition this connection between amnesty and disclosure is innovative. One commentator has observed that it is a solution that is 'both politically intelligent and legally workable.'⁵⁹

The Commission was to deal with the apartheid era from 1960 to 1993. Hugo van der Merwe notes that the only stipulation of the Act concerned the granting of amnesty to people; it was considerably more flexible and vague about the rest of its task.⁶⁰ Maclean

notes that '[t]he South African TRC caught the world's attention ... because it seemed to have found a means to overcome the conflicting demands of victims and perpetrators, between those of justice (and truth and reparations) and amnesty, that had hindered and often marred the hopes of earlier Latin American commissions seeking national reconciliation.'⁶¹

The main, visible, information-gathering work of the Commission was done by holding around eighty community hearings, hearings that were extensively covered in the media. Hearings were arranged by making contact with local community leaders, who had the responsibility of gathering stories together, and the Commission would choose a selection of them, which represented a range of different things which had happened, to be heard in public.⁶² This meant that only a fraction of the twenty-two thousand cases brought to the attention of the Commission could actually be addressed in public hearings.⁶³

Some have suggested that the hearings were sometimes more like 'church' than a court.⁶⁴ Whilst there was strong debate amongst the Commissioners, the dominant ethos was one of restorative justice, the idea of, *ubuntu*, of healing the breaches, redressing the imbalances, restoration of broken relationships, seeking to rehabilitate both the victim and the perpetrator.⁶⁵ Tutu writes, '[t]hus we would claim that justice, restorative justice, is being served when efforts are being made to work for healing, for forgiveness and for reconciliation.'⁶⁶ This does not mean that forgiveness is cheap, for there must be reparation and rehabilitation measures, although the TRC could only recommend, not enforce them, without which there can be no healing or reconciliation; reparation balances the amnesty given to the perpetrators.⁶⁷ Tutu stresses that confession and forgiveness are not enough, but reparation is needed; whilst the whites are still living off the fat of the apartheid system and blacks are in hovels, 'we can kiss goodbye to reconciliation.'⁶⁸

When the report of the TRC was due to be published, it faced opposition both by Vice-President Thabo Mbeki of the African National Congress and F W de Klerk, former Prime Minister and leader of the National Party. It was published on time, partly through the intervention of the Prime Minister, Nelson Mandela.⁶⁹

For Tutu, one of the greatest weaknesses of the TRC process was that it failed to attract the bulk of the white community to participate enthusiastically in the TRC process,⁷⁰ despite vigorous attempts to follow up some key people, and there was almost no presentation from the South African Defence Force, which was a significant gap in the truth-gathering process.⁷¹ However, van der Merwe argues that more significant was the way that the process was ‘top-down’, aiming at national reconciliation, without significantly affecting local communities, where the violence was often between black people themselves. By not working at the level of individual worries, such as whether one’s neighbours were informers or not, good relationships cannot be re-established in local communities.⁷²

1.2.3 Observations from these Case Studies

Several observations arise from these two case studies that help to clarify the questions being addressed in this thesis.

Firstly, the pursuit of reconciliation often comes in situations where there is no amicable agreement to pursue reconciliation to its fullest extent. Both in Chile and South Africa, any investigations were made in the context of people trying to protect themselves and others, either through explicit amnesty laws, or refusing to be part of the investigative process. The establishment of truth and reconciliation can be further hampered by extreme political pressure to destabilise the whole process, such as the presence of the military in Chile, where the government was also working under a constitution prepared by the former military regime.

Secondly, under these circumstances, the possibilities for reconciliation may be limited. Taking a cue from Zalaquett’s study of truth commissions up until 1992,⁷³ Maclean argues that ‘a study of the most prominent such commissions reveals that the process of developing Truth, or Truth and Reconciliation Commissions in fact represents a balance between the claims of the perpetrators and those of the victims, for as much justice, amnesty, and truth as possible. The extent to which this balancing act succeeds in satisfying all parties, represents the extent of possible reconciliation.’⁷⁴

Thirdly, commissions often do not get to hear of significant levels of the conflict. In a disturbing essay, David Tombs explores the omission of reporting on systematic sexual violence, against both men and women, in the truth commissions in El Salvador and

Guatemala. Sometimes the shame and damage to individuals and communities is too deep to be allowed to be named and to be viewed in such a process.⁷⁵

Fourthly, although the hopes for truth and reconciliation commissions may have been high, and some of their results have been extraordinary compared with other ways of dealing with conflicts, they have not delivered deep and long-lasting reconciliation. The two case studies have shown that the reconciliation process is far from complete. This is because any commission must be seen as only part of the process of reconciliation. Only some of the truth is uncovered, and that which is, does not always lead to reconciliation. It was seen that Chile had a second and third go at truth and reconciliation, and van der Merwe stresses the importance of seeing commissions as just part of the process of reconciliation. He noted that, over time, some of the commissioners of the TRC changed their goal to being one of establishing a foundation for building reconciliation. He continues,

[i]f the success of the TRC is judged on this basis, there may be some grounds for optimism. If we recognize reconciliation as a long-term process that requires ongoing efforts of empowerment, confrontation, pain, dialogue, exchange, experimentation, risk-taking, the building of common values, and identity transformation, then the TRC's work might be evaluated more favorably.⁷⁶

Related to this is the relatively short time that all the commissions have been given, and the inadequacy of their resources to complete the task in a comprehensive manner.

Fifthly, when significant issues remain unresolved, the future is at stake. It is not possible to just draw a line under the past and move on. Michael Ignatieff, in his exploration of the conflict in the former Yugoslavia, helpfully writes,

... the past continues to torment because it is not the past. These places are not living in a serial order of time but in a simultaneous one, in which the past and present are a continuous, agglutinated mass of fantasies, distortions, myths, and lies. Reporters in the Balkan wars often observed that when they were told atrocity stories they were occasionally uncertain whether these stories had occurred yesterday or in 1941, 1841, or 1441.

He concludes that this 'is the dreamtime of vengeance. Crimes can never safely be fixed in the historical past; they remain locked in the eternal present, crying out for vengeance.'⁷⁷

Sixthly, the starting point of Tutu's work on the TRC is that human beings are relational, and relational with God.⁷⁸ The importance of this will emerge later in this thesis.⁷⁹

Seventhly, the notion of justice is obviously important, and it is related to reconciliation, but its nature, and its relationship with reconciliation, need further work.⁸⁰ One of the political realities of the commissions and reconciliation processes is that they have pre-established the nature of justice, usually as some form of amnesty, sometimes conditional, for the perpetrators. Moreover, although the TRC had power to recommend reparation, this has often not been delivered.⁸¹ Attention needs to be given to the beneficiaries of apartheid in South Africa, for example, who have a moral obligation 'to contribute to the material restoration of those who have suffered from it.'⁸² Moreover, discussions of the nature of justice often focus on the Western idea of individual responsibility, whereas African notions of justice are more concerned with re-integrating the victim and the offender into society.⁸³

Eighthly, there must be some discrimination between atrocities committed by those in power in the domination system and those who were living under the domination system.⁸⁴ Is there a difference between crimes committed by the domination system and those to committed opposing it?⁸⁵

Ninthly, it is not only justice systems that need to be changed, but the whole culture has been affected by false stories and structures, and needs to be reformed.⁸⁶

Finally, the truth and reconciliation commissions have mainly dealt with the recent past, and usually with particular years in mind. However, problems in societies often have much longer histories, and for countries which have had to negotiate their history with colonising powers, or have even been created by colonising powers drawing lines on maps, the premises of the founding of the nations themselves may need to be addressed because otherwise reconciliation may be being attempted with systems that are inherently evil.⁸⁷ In some countries, Indigenous cultures are still strong enough to reassert themselves. For example, Greider writes,

[t]he indigenous Maya communities of Guatemala and Southern Mexico vividly manifest the 'reconciliation' process as a '*camino*' or road to restoration and reparation of cultures surviving the ravages of colonialism and the forces of

globalization in order to create a sustainable future. ... 'Reconciliation' is the path to repairing these tattered communities, restoring the strength of their connection to the land, and affirming their cultural survival into the new millennium.⁸⁸

Some of these observations will be important in the next section, which considers the situation in Australia. Although this work will not explicitly return to all of the observations that have arisen from these case studies, they have been important in shaping the questions addressed in this thesis, particularly concerning the nature and possible extent of reconciliation, and the relationship between justice and reconciliation.

1.3 Reconciliation in Australia

The disputes in Australia are about more than the ownership of land, and the problems are more than just the welfare problem of First peoples. At stake are alternative constructions of the nature of Australia, and the possibility of life itself.

There is more than one construction of the nature of Australia. These constructions are more than just alternative histories, or the negotiation of uneasy, and sometimes destructive, relationships between peoples. Although they include these things, they are more fundamentally about the relationship of human beings to the land, and so how we understand what it is to be a human being. Because of this, the focus of this thesis is quite different from a study of reconciliation where the dominant issue is more about living together after a period of war. Nevertheless, the observations made in the previous section have highlighted things that need to be looked out for in studying the situation in Australia.

This section will do two things. Firstly, it will further elucidate some of the problems in Australia by drawing on the insights from the case studies of Chile and South Africa from the previous section, and also by comparing it with the more analogous situations in Aotearoa/New Zealand, Canada, and the United States of America. Secondly, noting that there seems to have been some significant shifts in the consciousness and practice of Subsequent peoples, it will explain why this thesis will make an extended study of the history of land in Australia over the last half century.

1.3.1 Comparing the Situations in Australia and Other Countries

The major difference in Australia from Chile and South Africa is that, in Australia, the non-Indigenous population in Australia far outnumbers the Indigenous one, and it

dominates both the culture and the legal framework. Moreover, the approach of the non-Indigenous population to the Indigenous population has, by and large, been one of seeing the Indigenous population as having (or even, being) problems that need to be solved, rather than engaging with them in a way which would allow the dominant culture to be challenged and transformed by the encounter.⁸⁹ In fact, some non-Indigenous peoples style themselves as the victims. For example, Senator Tchen, who thinks of himself as Chinese, and who was the first Chinese member of the Senate, said the following in his valedictory address to the Senate on 22nd June, 2005:

Under the leadership of John Howard ... [w]e are starting to see the Indigenous community becoming reconciled to us. Reconciliation has never been about us becoming reconciled to the Indigenous community. We are here and they must become reconciled to our presence here, and that is what we are working towards. We are lifting their living standards and education standards and giving them hope so that they can become part of the Australian community as equals. That is true reconciliation – and I am glad to see that we are on our way.⁹⁰

Ann Curthoys makes the more general observation that

[m]any non-indigenous Australians have difficulty in seeing themselves as the beneficiaries of the colonisation process because they, like so many others, from the United States to Canada to Israel and elsewhere, see themselves as victims, not oppressors ... [For the victim], the legacy of the colonial past is a continuing fear of illegitimacy.⁹¹

Mark McKenna continues,

[t]he sense of victimhood that Curthoys describes is certainly present in south-eastern new South Wales. Indeed, it is not possible to understand the attitude of some non-Aboriginal people in the community towards reconciliation without first understanding one of the most powerful beliefs within their society.⁹² ... So strong was the cult of the victim in non-Aboriginal society that many people came to believe that they were now victims of unfair and illegitimate land claims by Aboriginal activists.⁹³

The perception of Indigenous people, however, is very different. One Indigenous leader expressed this by saying that Aboriginal people feel continually under siege.⁹⁴

As the situation in Chile showed, there are more ways to pursue a conflict than through open warfare. Although it is true that there has been no systematic attempt at overcoming the First peoples in Australia through large-scale wars,⁹⁵ the incomers have

behaved in many ways that have been very destructive of the Indigenous populations. The organisation of Aboriginal societies – small bands of people with attachments to particular lands and waters – meant that large-scale warfare on their part was never an option. However, there were always skirmishes as the frontier of non-Indigenous settlement expanded, often with reprisal killings by the incomers that far exceeded any perceived original offence.⁹⁶ There are continuing problems between the police and sectors of some Aboriginal communities.⁹⁷ Moreover, taking Aboriginal people away from their land strikes at their very identity as human beings.⁹⁸

Many non-Indigenous Australians behave as if the problems faced by Indigenous people in Australia were caused by others in the past. However, this is clearly not the case. For example, the *Bringing Them Home* report⁹⁹ highlighted the fact that Indigenous children were taken away from their families as late as in the 1970s. No matter how well-meaning government policies of ‘assimilation’ ‘integration’, ‘self-determination’, ‘practical reconciliation’ and so on, seeking to solve the ‘Aboriginal problem’ have been, the continuing welfare problems for Indigenous peoples in Australia show that these have not been effective. That is, it appears that there has been, and there still is, a continual destructiveness of the non-Indigenous population of Australia towards the Indigenous peoples of Australia, whether this has been intentional or not. Debbie Rose reminds us of this when she writes,

Hobbles [a member of the Yarralin people from the Victoria River area in the Northern Territory] and other story tellers are concerned to show that invasion is not a process of the past which is now finished. Rather, they go to considerable effort to explain that the process is on-going and is continuing to destroy people and land. The other integral point, which is rarely stated explicitly, is that conquest is based on desire and on the illusion of winners and losers. One wins by disabling not only the opposition but the very life systems in which the opposition is embedded. This is a fatal error, for there are no other life systems. As Riley Young said, ‘I know government say he can change him rule. But he’ll never get out of this ground.’¹⁰⁰

Warnings such as this should alert the non-Indigenous population to the fact that it is not possible simply to draw a line under the past, and to move into the future. The problems of the past are being reproduced in the present, and they need to be addressed so that they do not continue to damage the future.

The case studies from Chile and South Africa show that the pursuit of reconciliation and justice is difficult either when the law has been set by the outgoing regime, or where the institutions, such as the legal system, remain in place following a change in power. This suggests that it will be important to look at the place of the law in Australia. In Australia, there are two different types of law: that of the Indigenous peoples; and that of the non-Indigenous peoples. Whilst the non-Indigenous law, based on English Common Law, has space to recognise the law and customs of other nations, this has largely not happened in Australia, a process that was begun at the founding of the English settlement in Australia, which did not recognise any system of law or the ownership of the land by its First peoples. It will be seen in Chapter 5 that the non-Indigenous law in Australia has not been powerful enough to resolve the problems in Australia. It will be concluded that, in fact, the law has been part of the problem.

The reconciliation process in South Africa was set up as a way of finding a way into the future that avoided large-scale violence, whilst delivering some form of justice. In Chile, the commission was overshadowed by the continual threat from the military. Both of these limited the extent of justice and reconciliation that was possible at that time. The non-Indigenous people of Australia need to recognise that the Indigenous peoples of Australia are still under a state of siege, but, because this is not necessarily intentional, there is the possibility that a deeper degree of reconciliation can be achieved.

The history of the conflict in Australia is different from many other conflict situations around the world, and that means that the issues surrounding the process of reconciliation could be different. For example, Volf, a Croat, reflects theologically on reconciliation from the situation in the Balkan states.¹⁰¹ The questions that arise when reflecting on the situation in Australia are quite different: the radically different experience of the non-Indigenous and Indigenous peoples of Australia; the meaning of being First peoples and Subsequent peoples; the place of false foundational myths; and the relationship to the land. That is not to say that some of these issues are not present in other disputes, but they come to the fore in particular ways in Australia.

The situation in Australia is most similar to those in Aotearoa/New Zealand, and north America (Canada and the United States of America). However, the history of the non-Indigenous occupancy of Australia has some significant differences from these areas

with which it has the most in common. Firstly, the first non-Indigenous outpost in Australia was a penal colony.¹⁰² Secondly, those first non-Indigenous people had wrongly understood that the land was essentially empty, thinking that there could be no resistance to their taking up occupation.¹⁰³ Thirdly, the Indigenous population was not organised into large-scale units that offered coordinated military resistance to the invaders, because Aboriginal societies were ordered on a much smaller scale, with relationships to particular areas of land.¹⁰⁴ Fourthly, no treaties were made with the Indigenous inhabitants.¹⁰⁵

Although First peoples in Australia compare their experiences with their Indigenous colleagues in Aotearoa /New Zealand, Canada and the USA,¹⁰⁶ the fact that the land of Australia was settled by Europeans as if it was empty¹⁰⁷ is deeply embedded in non-Indigenous Australian law and culture, making it much harder for Australia's First peoples to make progress in the non-Indigenous law system than their colleagues in other countries.¹⁰⁸ Thus, the situation in Australia merits study as a sort of worst-case scenario for countries in similar situations.

From his experience of working on reconciliation in conflict situations, Lederach has two observations that are helpful here in thinking about reconciliation. Firstly, he has a rule of thumb that it takes as long to get out of a conflict as the conflict has been running.¹⁰⁹ This means that reconciliation is a long-term process. Secondly, he has shown that short-term measures only work in a culture where there is trust that they are part of a long-term strategy for reconciliation with which all parties are happy,¹¹⁰ and there is, understandably, little trust of non-Indigenous people in much of the Indigenous community.¹¹¹

1.3.2 In an Uncertain State

Over the last two or three decades, there have been some significant shifts in the place of the First peoples of Australia in non-Indigenous consciousness. For example, at many public meetings that I attended in May and June 2005,¹¹² the speakers acknowledged the Aboriginal elders on whose lands we were meeting, and many road signs marking town and shire boundaries acknowledged the original Aboriginal owners of the land, such as in Figure 1-1¹¹³ (where it is stated that it is Wiradjuri country), something that I had not noticed when I had last visited in January 2000.

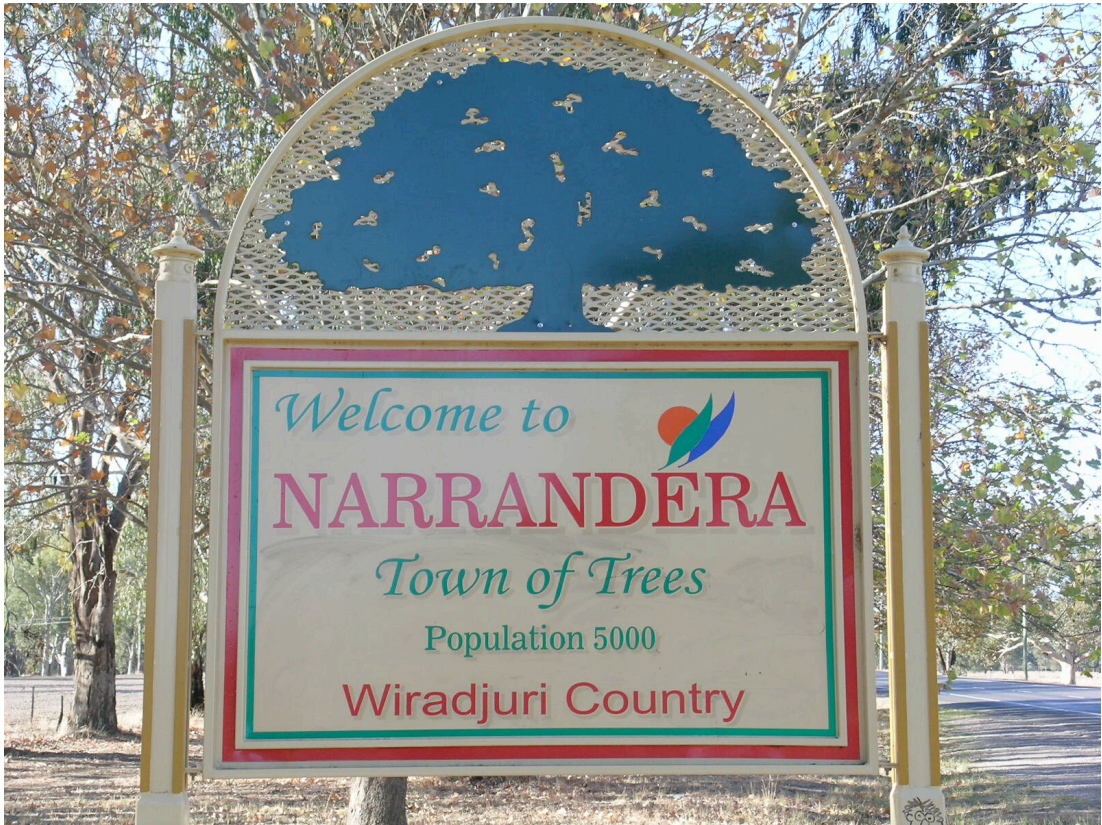


Figure 1-1: A road sign outside Narrandera

Several factors have contributed to this shift in consciousness: a decade for reconciliation, the results of public enquiries, and some significant land judgements and land legislation.¹¹⁴ However, it is unclear if these changes represent a fundamental shift in the way the Subsequent peoples relate to the First peoples in Australia, that is, in the terminology of this thesis, if they are part of a bigger process of repentance by the Subsequent peoples. So, this section will briefly examine two indicators of the state of the relationships between the peoples of Australia: the decade for reconciliation, and public art and signage. It will be argued that the former failed to produce substantive change for the First peoples of Australia, and the second is ambiguous concerning the change of spirit in the Subsequent peoples. Therefore, it will be argued in Section 1.3.3 that a more substantial study, of land over the past half century, is needed in order to see what is really driving the relationships between the peoples of Australia, to see what the dominant spirit of the Subsequent peoples is.

1.3.2.1 A Decade for Reconciliation

A decade for reconciliation in Australia was initiated in 1991. It is widely believed that this was as a result of one of the recommendations of the report of the Royal

Commission into Aboriginal Deaths in Custody, but the Hawke government was already talking about a process of reconciliation as early as 1988. Some suggest that this was a way of diverting attention from the fact that the government had reneged on commitments to national land rights and a treaty.¹¹⁵

When the decade of reconciliation was announced, there was a justified concern that it would simply be another policy directed at the First peoples, which would continue the history of damaging relationships towards them, as aptly captured in the cartoon by Geoff Pryor (Figure 1-2). There was a further concern that it would be aimed at incorporation of the First peoples into a universalising national history.¹¹⁶



Figure 1-2: A Geoff Pryor cartoon concerning the policies pursued by Subsequent peoples towards First peoples¹¹⁷

The Council for Aboriginal Reconciliation, established by the *Council for Aboriginal Reconciliation Act 1991*, suffered from two problems in its name. Firstly, the original title was to have been ‘Council for Aboriginal Reconciliation and Justice’, but the removal of the words ‘and Justice’ was felt to be more politically acceptable.¹¹⁸

Immediately this disconnects the idea of justice from reconciliation, and leaves open the problem of how one can pursue reconciliation without also taking into account justice.

Secondly, the name suggested that it is the First peoples who have to be reconciled.¹¹⁹

The objective of the Act makes it clear that it is reconciliation between all the people in Australia that is sought,

[t]he object of the establishment of the Council is to promote a process of reconciliation between Aborigines and Torres Strait Islanders and the wider Australian community, based on an appreciation by the Australian community as a whole of Aboriginal and Torres Strait Islander cultures and achievements and of the unique position of Aborigines and Torres Strait Islanders as the indigenous peoples of Australia, and by means that include the fostering of an ongoing national commitment to co-operate to address Aboriginal and Torres Strait Islander disadvantage.¹²⁰

But even this wording is problematic, for it tends towards seeing the First peoples as being a subset of the ‘the Australian community’.

One of the Council’s functions was

to promote, by leadership, education and discussion, a deeper understanding by all Australians of the history, cultures, past dispossession and continuing disadvantage of Aborigines and Torres Strait Islanders and of the need to redress that disadvantage.¹²¹

The Council was to recommend on whether formal documents of reconciliation would advance the process of reconciliation.¹²²

One of the measurable outcomes of the reconciliation decade was the creation of learning circles, whose objective was for non-Indigenous and Indigenous people to meet each other and learn from each other, with a focus on non-Indigenous people understanding more about Indigenous cultures.¹²³ In Queensland alone there were over five hundred such groups during 1991-2001, and some public authorities, like Queensland Health, established membership of such a group as part of staff training.¹²⁴

It turned out that the decade of the duration of the Act was a turbulent one in Australian politics, seeing: the landmark *Mabo* and *Wik* judgements about land; the preparation of a *Native Title Act* by a Labour Federal government, which was later radically modified by a Liberal government half way through the decade;¹²⁵ the forcing out of the Aboriginal chairman of the Council, Pat Dodson, part way through the process; and a

huge groundswell of popular support which saw tens of thousands of people march across bridges in major cities and elsewhere.

Significantly, although the final report of the Council was received with much public fanfare, it was quickly shelved by the Howard government, which failed to act on its recommendations, just as it and previous governments had failed to act on other significant reports.

It is still too early to assess the full impact of the decade of reconciliation. However, in his study of the decade, Gunstone argues that it failed the people of Australia for a number of reasons.¹²⁶ Firstly, it was partly established to divert attention from the government's failure to address issues that were more important to Indigenous people, such as land rights and a treaty. Secondly, the emphasis was on symbolic and practical reconciliation rather than the substantive issues of Indigenous rights and the existing power relationships. Thirdly, the focus was a nationalistic agenda, to create one people who would walk together, a sharing of histories, cultures and identities, but this failed to take into account problematic historical events such as invasion, massacres, the taking of land and children, and so on, factors which continue to have repercussions. Fourthly, the notion of justice was too narrow, largely restricted to addressing socio-economic disadvantage. Finally, it focused on building relationships between Indigenous and non-Indigenous people, without addressing historical and contemporary injustices. In other words, Gunstone sees that the reconciliation process failed to address those issues that are important to Indigenous people.

The failure of the decade to deliver significant outcomes must be in part due to the actions of the Howard government, which overtly and systematically sought to undermine the Council, and then shelved the final reports from its decade of work.¹²⁷

1.3.2.2 Public Art and Signage

Public art and signage gives mixed messages concerning the history of Australia since Europeans first came to live in the land. In some places, public works of art have been erected in order to engage with the history since Europeans first came to Australia. Two examples of public signs will be given, and then three examples of such art will be briefly described.

1.3.2.2.1 Public Signage

A plaque was unveiled in 1967, marking the site where the Union flag was planted by Captain Arthur Philip, on 28th January, 1788 (Figure 1-3), and the road sign outside Narrandera (Figure 1-4) probably recalls an inglorious memory. On the other hand, many cities, towns and shires are beginning to acknowledge the Aboriginal owners of the land on which they are established, such as the road sign outside Narrandera (Figure 1-1).



Figure 1-3: The plaque commemorating the planting of the flag by Arthur Philip



Figure 1-4: A road sign outside Narrandera

1.3.2.2.2 *The River Walk in Parramatta*

In Parramatta, the “River Walk”, designed by the Aboriginal artist, Jamie Eastwood, charts the history of the area from an Aboriginal perspective. The walk is about 800m long, and consists of a painted pathway with various explanatory boards¹²⁸ along the way.¹²⁹ Themes explored include the river, bush tucker and indigenous plant life, fishing, early hostilities between Europeans and Aboriginal people, Aboriginal resistance to the invasion, the Native Institution, the Stolen Generations, and reconciliation.¹³⁰ It uses the language of “invasion” (Figure 1-5), and the death of Indigenous and non-Indigenous people is made explicit (Figure 1-6).



Figure 1-5: An explanatory panel and the corresponding segment of the walkway



Figure 1-6: Segments of the walkway showing the death of First and Subsequent peoples

1.3.2.2.3 The Myall Creek Memorial

A second memorial is a pathway through the bush, alongside which are narrative boards with etched pictures,¹³¹ and leading to a memorial stone, which can be found near Myall Creek in the northern tablelands of New South Wales. The Myall Creek massacre is unique in Australian history in that it is the only massacre by non-Indigenous people for which some of the non-Indigenous perpetrators were rounded up and hung.¹³² Each year

a memorial ceremony and other events are held at the site.¹³³ The story-boards are explicit about the history of the local people and the massacre. In January, 2005, Catherine de Lorenzo found all the boards defaced. Most of the boards had large crosses etched onto them, and Figure 1-8, shows that the words “murdered”, “women, children and men”, have been scratched out on one of the boards, besides the big cross which had been inscribed on the others.¹³⁴ As these boards are found along a pathway with completely open access, and in a sparsely populated rural area, it could be that these are simply random acts of vandalism,¹³⁵ like the graffiti spray painted onto some of the storyboards along the River Walk in Parramatta. However, one is left wondering if the defacing of these boards is contesting the interpretation of the history of what happened.



Figure 1-7: The Myall Creek Memorial Stone

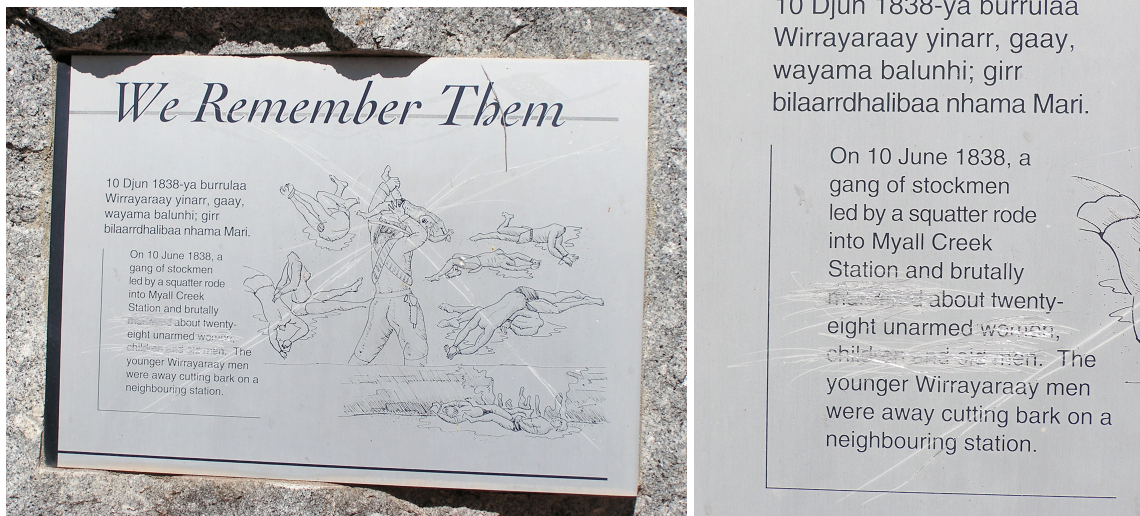


Figure 1-8: The defaced storyboard at the Myall Creek Memorial site

1.3.2.2.4 Reconciliation Place in Canberra

The final piece of public art that will be examined here is in the Parliamentary Zone in Canberra. Called “Reconciliation Place”, it runs from near the High Court of Australia to the National Library. Sited in this significant place, a government pamphlet says that

Reconciliation Place recognises the importance of understanding the shared history of Indigenous and non-Indigenous Australians, and reaffirms our commitment to the cause of reconciliation as an important national priority.

The location of Reconciliation Place in the Parliamentary Zone places the reconciliation process physically and symbolically at the heart of Australia’s democratic life and institutions. It signifies the importance the Australian people place on the ongoing process of reconciliation and is a prominent symbol of the nation’s commitment to healing the wounds of the past.

Hundreds of thousands of Australians have demonstrated their enthusiasm for reconciliation by walking across bridges in their capital cities and country towns, and by supporting a number of reconciliation initiatives.

Continuing this journey, Reconciliation Place provides an opportunity to represent a shared history from the perspective of the original owners and those who came later: artworks about achievements, partnerships, of connection to the land and waters, and of belonging.¹³⁶

On the face of it, this is a bold move, acknowledging the need for reconciliation at the heart of life of the nation. However, a closer examination of the artwork on Reconciliation Place tells a more ambiguous story. The permanent installation consists of a number of constructions called ‘slivers’ which record some of the important aspects

of Indigenous life in Australia. All the slivers, except for one, have the same Architect, Aboriginal Cultural Advisor, Exhibition Designers and Graphic Designer, and were designed without public consultation, including a sliver that remembers the Indigenous children who were taken away from their parents. The slivers are all of a similar design, using silver metal, glass and wood (see Figures 1-9 and 1-10).



Figure 1-9: A 'sliver' in Reconciliation Place



Figure 1-10: A ‘sliver’ in Reconciliation Place

The members of the National Sorry Day committee were able to take responsibility for another sliver to commemorate the children taken away from their parents, so that there are two slivers remembering this. This second sliver was designed with public consultation. The committee had a lot of difficulty in getting it passed by the Federal Government. The sliver (Figure 1-11) is made of red oxide concrete, inspired by the landscape of the centre of Australia. The map of Australia is made with holes drilled into the concrete, so people can post their responses to what happened. On the face of the sculpture there are short quotations of people who were part of the whole process of taking children away, and there is a facsimile copy of a letter written by one Aboriginal couple asking for their children back. On the side of the memorial, there is an extraordinary explanation in raised bronze lettering.¹³⁷ A movement-activated speaker plays the song, “Took the Children Away”, by Archie Roach.¹³⁸



Figure 1-11: One face of the second sliver in Reconciliation Place concerning children who were taken away from their families

1.3.3 The Need for a Case Study on Land

The artworks examined above show that a number of attempts have been made to remember the history of Australia in a way that does not avoid the violence and injustice that occurred, even with the goal of reconciliation in mind. However, they tell an ambiguous story. For example, Reconciliation Place indicates that there is still a tendency to both control the public telling of the story, and to sanitise it in its telling: this has happened in the past, it is firmly situated in the past, and we are now brave and secure enough to admit that it happened, and move on differently into the future.

So what is the state of the relationships between the peoples of Australia? Has there been any substantive shift in these relationships? What is the spirit that is driving the relationships between the peoples? Why do the First peoples of Australia still feel under siege? Why has there been no significant shift in their welfare?

In order to try to understand the state of the relationships between the peoples of Australia, in order to try to answer these questions, a substantial case study of the history of land over the past half century will be made in Chapter 5. The issue of land has been chosen because it is central to Aboriginal identity, and so the approach taken

to it by the Subsequent peoples is a strong indicator of their commitment to reconciliation with the First peoples.

1.4 Outline of this Thesis

The previous sections have indicated that there is some ambiguity in the state of the relationship between Indigenous and non-Indigenous peoples in Australia. This is captured in Figure 1-12, which was taken in Canberra on the National Day of Healing in May 2005.¹³⁹



Figure 1-12: A banner at a gathering in Canberra on the National Day of Healing in 2005

In front of the billboard was the paving of the square, which was the stage on which Aboriginal artists performed, dancing, playing music, and singing.¹⁴⁰ The billboard for the Australian Ballet performance is attached to wooden fencing around a construction site. The title of the ballet is 'White', and its strap line is 'Escape into a brilliant white world of elegance, style and gorgeous music'.¹⁴¹ The ballerina on the poster is deeply sun-tanned (not white, but not Indigenous). On the top of this poster is a smaller one, partially covering the poster about the wonders of whiteness, but not removing it, nor hiding it from view, declaring the 'National Day of Healing'. How can a society, which is very conscious of constructing itself, deal with its past and go into the future in a way

that is more than just placing a sticking plaster over the deep-seated myth of normality of whiteness portrayed by the dominant culture, where the Indigenous people are more than just an interesting spectacle to be watched by a mixed crowd?

By planting a flag in the soil, claiming ownership of the land and sovereignty over it for the English Crown, Captain Arthur Philip committed a foundational sin against the First peoples of Australia. This act did not recognise Indigenous systems of law, and thus it recognised neither the sovereignty of the Indigenous peoples, nor their ownership of the land. The incomers assumed that they had the right to settle in the land, and very quickly defended this assumed right by resorting to destructive violence. Although English Common Law is able to incorporate aspects of the legal systems of countries that were colonised by England, it failed to do this in Australia, because it did not recognise Aboriginal systems of law. Furthermore, the full humanity of the Aboriginal peoples was not recognised: they were seen as curious and primitive, suitable for anthropological study. The first incomers almost starved, as they struggled against the land, rather than learning how to live with the bounty of the land, and so established a narrative of overcoming and conquering the land.

It will be argued, in Chapter 4, that communities have a propensity to continue the sins of their forebears, even if they think that they are doing what is right. This observation has both explanatory power and hortatory power: it explains why government policies are continuing to cause problems for Indigenous people; and it says what needs to be done, namely, as part of a process of reconciliation, repenting of the sins, including the sins of the past, which have been perpetrated against the Indigenous peoples of Australia.

Chapter 5, on the argument over land in Australia since the 1960s, is a case study on the nature of the relationships between the peoples of Australia. For Aboriginal people, land is fundamental to their identity as human beings, and not just any piece of land, but particular areas of land that are their responsibility,¹⁴² so how non-Indigenous Australians have responded to Aboriginal claims over their land indicates the nature of the relationship between the peoples. In particular, it asks the question, given the apparent, but ambiguous, shift in attitudes of non-Indigenous Australians towards their Indigenous neighbours that has been outlined in this chapter, how is this reflected in areas where it really matters, like land, which is foundational for Aboriginal identity? It

will be seen that there were some significant advances in preserving Aboriginal ownership of land, but the overall thrust of legislation and its outworking in the courts has been to secure non-Indigenous claims over land when there were competing claims. This substantiates the argument, made in Chapter 4, concerning the propensity of the present generation to continue the sins of the past. Moreover, even when Aboriginal communities have secured the ownership of their land, on the whole, this has not led to improvements in Aboriginal welfare. This suggests that the problem is not only about the ownership of land, but a complex of issues that have arisen from the foundational sins of failing to attend to the full humanity of Aboriginal people, and the subsequent breakdown of relationships, which cannot be solved simply by giving back land to some Aboriginal people, even when this is linked with programmes to integrate them into an alien economic system. Rather, a process of reconciliation, which addresses all the damage that has been done over the decades, needs to be undertaken, for Aboriginal people to be well; their lack of well-being is a symptom of the illness of all the Australian cultures.

But what is the nature of reconciliation, and how is it to be achieved? It is often assumed that reconciliation is at the heart of the Christian faith, and there is much truth in this. However, the word 'reconciliation' is rare in the New Testament, and interpretations of the key passages where it does occur have focused on the relationship between God and human beings. Of the surviving early Christian literature, Paul was the first Christian theologian to use this term, a term that was common in contemporaneous political literature, and so it is important to see how he uses it. Chapter 2 therefore focuses on Paul's first uses of the idea of reconciliation, in his correspondence with the Corinthian church. From Paul's perspective, there were three major problems in Corinth: factionalism; a wrong structuring of relationships in the church; and a breakdown of relationships with himself. At various points, he urges the Corinthians to overcome their factionalism, to change their social relationships, and to be reconciled, both with each other, and with God. Reconciliation between human beings, and reconciliation between human beings and God are linked: it is God's not holding humanity's sins against them which has made both reconciliation between human beings, and also reconciliation with God, possible. Furthermore, Paul says that God replaces sin by righteousness, that is, God establishes justice by removing sin.

The importance of Paul's perspective must not be underplayed, for it is the foundation in Christian theology for the possibility of reconciliation in human relationships. But what is 'reconciliation' between human beings, from this theological perspective? This question is answered in Chapter 3. Reconciliation is a process that involves both repentance and forgiveness. In many conflicts, both parties will be guilty of sins against the other, and so reconciliation will involve elements of repentance and forgiveness by both parties. Many people are wary of the process of reconciliation in the realm of human relationships, especially when large groupings of people are involved, such as nations, because they believe that reconciliation is inherently unjust. However, this is a misconception, based on reconciliation commonly being used to name a truncated process of reconciliation, where justice has been prescribed, and so circumscribed, before the process began. Chapter 3 will argue that true justice is achieved through the process of reconciliation, the establishment of truly peaceful relations. This is because the nature of repentance itself, what must be done by those who have been the perpetrators of the actions which have caused the alienation, can only be determined by engaging with the wronged parties in seeking reconciliation.

The primary people being addressed by this thesis are the non-Indigenous peoples of Australia. Chapter 6 therefore reflects on what it might mean for non-Indigenous people in Australia to be part of a process of repentance.

The approach of this thesis is theological, drawing on the Christian theological tradition. As has been seen in this chapter, international experiments in reconciliation as a way of doing politics, and the situation in Australia, have raised questions, both about the nature of reconciliation, and also the possibility of reconciliation as a viable political process, and these questions lie in the background of the theological development here. It is beyond the scope of this thesis to make a full survey of the history of the idea of reconciliation in Christian theology. This is, in part, due to the space that needs to be spent recovering some neglected Pauline insights into the nature of reconciliation, which are critical in founding a properly Christian understanding of reconciliation. In the main, the Bible is the primary source of the foundational theological material in this thesis, with a dual focus on the political context in which it was written, and the political context in which it is being read today. This thesis engages particularly with theologians who are either aware of the political context in which the biblical texts were written, or who are attempting to address contemporary political issues, or both, and

where the questions that are being asked of the biblical material are shaped by the contemporary questions which this thesis seeks to address. This way of reading the biblical text does not eschew more complicated reading strategies.¹⁴³ Rather the approach taken provides sufficient insights for the purposes of this thesis. It is hoped that the resulting readings of the biblical text will prove liberative for the peoples of Australia, particularly as they focus on the responsibility of the Subsequent peoples in seeking reconciliation.

¹ It is very difficult to find an adequate terminology for the land of Australia and its peoples. In this thesis, 'Australia' refers to the landmass commonly called 'Australia'. This is to be read without any political overtones; in particular, it does not refer to the nation-state commonly called 'Australia' in international politics. Thus, in this thesis, the 'peoples of Australia' are simply those people who currently live in this landmass. Nevertheless, for ease of reference, places and areas of land in Australia will largely be referred to by the names given to them since 1788.

Before Europeans began to live in Australia, there was no such thing as 'Aboriginal people': 'people identified themselves according to their nation and language group, and within these their clan and kinship groups. People were Wiradjuri, Yanyuwa, Goreng Goring, Jawoyn, Pitjantjatjara, Wongkadjera, Yawaru and all the other 500 nations that existed on this land before the invasion. The idea of "Aboriginal" or "Indigenous" identity is a distinctly postcolonial construct invented to both name and contain the "natives" of *terra australis*' (Maddison, Sarah, *Black Politics: Inside the Complexity of Aboriginal Political Culture* (Crow's Nest: Allen & Unwin, 2009), p. 103). The essays on the construction of Aboriginal identity in Beckett, Jeremy, ed., *Past and Present: The Construction of Aboriginality* (Canberra: Aboriginal Studies Press, 1988), are instructive on this issue.

Once Europeans came to live in Australia, the subsequent interactions between the various peoples of Australia have resulted in a complex history that has affected all the peoples of Australia, meaning that many people have multiple layers of identity (Maddison, *Black*, pp. 111-117; Taylor, Louise, "Who's Your Mob?" – The Politics of Aboriginal Identity and the Implications for a Treaty" in McGlade, Hannah, ed., *Treaty: Let's Get It Right! A Collection of Essays from ATSIC's Treaty Think Tank and Authors Commissioned by AIATSIS on Treaty Issues* (Canberra: Aboriginal Studies Press, 2003), 88-106, 200-216, p. 93).

In this thesis, it will be necessary to be able to write about the people descended from those who were already in the land when Europeans first arrived, as well as those who have come since. There was a time when 'Indigenous', 'Torres Strait Islander' and 'Aboriginal' were commonly used terms, but, because of the overtones of colonially constructed identities implicit in them, the continuing use of these terms is difficult. Some authors have begun to use the terminology 'First' and 'Second' peoples: see, for example, Perkins, Rachel and Langton, Marcia, *First Australians: An Illustrated History* (Carlton: The Miegunyah Press, 2008). Budden, (Budden, Chris, *Following Jesus in Invaded Space: Doing Theology on Aboriginal Land* (Eugene: Pickwick Publications, 2009)), consistently uses this terminology, as he explores 'what it means to be part of that people who are Second peoples, invaders and newcomers, and how faith must be approached differently if we are conscious of our place in this land' (p. 1).

However, the term ‘Second’ is problematic, because people who came after the initial European influx may see their incoming as different, for they were not part of the initial destructive behaviour towards the First peoples, and so try to excuse themselves from the responsibility from the whole history of problems in Australia. Therefore the term ‘Subsequent’ is preferred in this thesis.

However, the term ‘First peoples’ introduces new problems. Firstly, it does not discriminate sufficiently between diverse histories, cultures, nations, languages, and laws, in particular between those people from the Torres Strait Islands and mainland Australia (including Tasmania). In fact, the history of contact of mainland First peoples and those from the Torres Strait Islands with Subsequent peoples has been quite different, although their histories have been tied together by the historic *Mabo (2)* judgement (see Chapter 5). Secondly, it does not easily admit an adjectival form: for example, whilst ‘the laws of the First peoples of mainland Australia’ is correct, it is certainly clumsy when repeated often.

Because of these problems, it is hoped that the reader will excuse the use of the following inadequate terms as shorthand for longer expressions. In this thesis, ‘Aboriginal peoples’ will refer to descendents of people who lived in mainland Australia (including Tasmania) before 1788, and ‘Torres Strait Islanders’ will refer to those who are descended from people who lived in the islands in Torres Strait. Clearly, these are not exclusive categories, and they make no judgments concerning the people groups that a person may identify with. ‘Indigenous peoples’ is used when a point is being made about descendents of people from the islands of Torres Strait and from mainland Australia (including Tasmania). Note that ‘peoples’ is being used in the plural, to highlight the fact that there was and is no monolithic culture of these peoples, although there were considerable cultural overlaps in the cultures of Aboriginal peoples, just as there are in European peoples.

There is one more level of complexity, and that is how people regard themselves. As has been noted, the history of relationships amongst the peoples of Australia has led to people having multiple layers of identity. How these multiple identities are negotiated is a very complex question, but within the multiple cultures of Australia, it is generally agreed that a person may identify herself with one of the Indigenous people groups of Australia if: (1) she chooses to be so designated; (2) that she is descended from someone in that people group; and (3) that others in that people group recognise this designation. Of course, there is a significant problem in establishing the second criterion because of, amongst other reasons, ‘long histories of denial, poor record keeping, the removal of Aboriginal children from their families and the attempted process of assimilation’ (Taylor, “ ‘Who’s”, p. 97).

Non-Indigenous peoples is another term for Subsequent peoples, and primarily names those people who do not regard themselves as being part of the Indigenous peoples of Australia.

With these terminological conventions, ‘Aboriginal law’ means the various systems of law of the Aboriginal peoples, which have evolved from the systems of law in place in Australia before 1788, and similarly for ‘Indigenous law’ and ‘Torres Strait Islander law’. ‘Non-Indigenous’ in ‘non-Indigenous law’ is used in a more restricted sense than when writing of ‘non-Indigenous peoples’, and it refers to the legal system of the nation-state of Australia, that is based in English common law, and which has

developed through contact with various other international legal systems, including Indigenous ones.

² See, e.g., Gloer, W. Hulitt, "2 Corinthians 5.14-21" *Review and Expositor* 86 (1989), pp. 397-405, p. 400, who writes,

[i]n our efforts to communicate the meaning of the cross-event, we must be cognizant of the fact that often the traditional terms and conceptions used to describe the significance of that event may seem quite foreign to the experience of many. "Redemption" comes from the slave market of the first century and implies a release from bondage, yet many in our world have no particular sense of bondage. "Justification" comes from the world of the courtroom, and its juridical emphasis may have little impact where the sense of sin and any sort of accountability before God have vanished. "Sacrifice" evokes images of cultic ritual which have little meaning for moderns who are no longer plagued by a dread of the numinous. "Reconciliation," however, belongs to the sphere of personal relationships, and ours is an age which is acutely aware of the alienation between people which exists at every level. Ours is an age hungry for the healing of broken relationships. Thus, while for Anselm the sacrificial model was most relevant and for Luther the justification model spoke most powerfully, the concept of reconciliation may offer us the most powerful mode for expressing the significance of Christ's death effectively today.

³ Dwyer, Susan, "Reconciliation for Realists", *Ethics and International Affairs* 13 (1999), Carnegie Council on Ethics and International Affairs, 81-98, p. 82.

⁴ Although Aboriginal cultures in Australia showed some family resemblance, there was a diversity of cultures, as broad as the diversity of landscapes. Mudrooroo says that 'We were many, as many as the trees, as the different types of animals' (*Us Mob*, p. vi., quoted in Budden, *Following*, p. 148). Budden continues, 'The idea of a single Indigenous or Aboriginal people is the construct of colonizers.' It is estimated that there were two hundred indigenous languages with approximately six hundred to eight hundred dialects (Rigney, Lester-Irabinna, "Indigenous Education, Languages and Treaty: The Redefinition of a New Relationship with Australia" in McGlade, Hannah, ed., *Treaty: Let's Get It Right! A Collection of Essays from ATSIC's Treaty Think Tank and Authors Commissioned by AIATSIS on Treaty Issues* (Canberra: Aboriginal Studies Press, 2003), 72-87, 200-217, p. 80).

Observant early settlers noticed that the First peoples had a concept of boundaries and rights over particular areas of land. Beginning with Trench in 1791, who witnessed a diplomatic exchange when moving from one country to another, Reynolds records numerous reports on the Aboriginal understanding of land and country, with a veritable flood of reports published in the 1840s by 'explorers' such as George Grey, Edward Eyre and Paul de Strzelecki, who were often escorted through, and passed from one territory to another, and many more later (Reynolds, *Aboriginal*, pp. 25-38). Reynolds concludes that the judgement of 'Justice Burton in *R. v Murrell* in 1836, that the Aborigines had no law, no politics and no sovereignty, was clearly inaccurate but did not diverge from what was generally known and understood about traditional society by the colonists at the time' (Reynolds, *Aboriginal*, p. 36). However, after the flood of publications from the 1840s onwards, '[t]he same cannot be said of Lord Watson's 1889 judgement that in 1788 Australia had neither settled inhabitants, settled law, land tenure or even many people' (Reynolds, Henry, *Aboriginal Sovereignty: Reflections on Race, State and Nation* (Sydney: Allen & Unwin, 1996), p. 36). This understanding was to prevail until Justice Blackburn in the 1971 case *Milerrpum v Nabalco* in the Supreme

Court of the Northern Territory, accepted that the Yirrkala people had both law and politics, although he denied them title to their land.

⁵ McIntosh, Ian S., *Aboriginal Reconciliation and the Dreaming: Warramiri Yolngu and the Quest for Equality* (Needham Heights, Massachusetts: Allyn & Bacon, 2000), p. 35; Trudgen, Richard, *Why Warriors Lie Down and Die: Towards an Understanding of why Aboriginal people of Arnhem Land face the greatest crisis in health and education since European contact* (Aboriginal Resources and Development Services Inc., 2000), pp. 14f; Maddison, *Black*, p. 64.

⁶ Sir Joseph Banks wrote (Banks, J, *Copious Remarks of the Discovery of New South Wales* (London, 1787), p. 51, *The History of New Holland* (London, 1787), pp. 230, 232, quoted in Reynolds, Henry, *The Law of the Land* (Ringwood: Penguin, 1992, 2nd edn.), pp. 31f, that the sea ‘has I believe been universally found to be the chief source of supplies to Indians ignorant of the arts of cultivation: the wild produce of the land alone seems scarce able to support them at all seasons at least I do not remember to have read of any inland nation who did not cultivate the ground more or less, even the North Americans who were so well versed in hunting sowed their Maize. But should a people live inland who supported themselves by cultivation these inhabitants of the sea coast most certainly would have learn’d to imitate them in some degree at least, otherwise their reason must be suppos’d to hold a rank little superior to that of monkeys.’ A House of Commons Committee on Transportation closely questioned Sir Joseph Banks in May 1786 about the capacity to resist a European landing. Here is an extract from the transcript of that interview (cited from King, R.J., “Terra Australis: Terra Nullius aut Terra Aboriginum”, *Journal Royal Australian Historical Society* 72(2), Oct. 1986, 75-91, p. 77):

Committee: Is the coast in General or the particular part you have mentioned much inhabited?

Banks: There are very few Inhabitants.

Committee: Are they of peaceable or hostile Disposition?

Banks: Though they seemed inclined to Hostilities they did not appear at all to be feared. We never saw more than 30 or 40 together.

Committee: Do you apprehend, in Case it was resolved to send Convicts there, any District of the Country might be obtained by Cession or purchase?

Banks: There was no probability while we were there of obtaining anything either by Cession or purchase as there was nothing we could offer that they would take except provisions and those we wanted ourselves.

Committee: Have you any idea of the nature of the Government under which they lived?

Banks: None whatever, nor of their Language.

Committee: Do you think that 500 men being put on the shore there would meet with that Obstruction from the Natives which might prevent them from settling there?

Banks: Certainly not – not from the experience I have had of the Natives of another part of the same coast I am inclined to believe that they would speedily abandon the country to the newcomers.

Committee: Were the Natives armed and in what Manner?

Banks: They were armed with spears headed with fish bones but none of them we saw in Botany Bay appeared at all formidable.

The temptation to read the context of the land in a way that is advantageous to oneself is not new. Robert Carroll (Carroll, Robert P, “The Myth of the Empty Land”, *Semeia* 59

(1992), 79-93), describes how the Jewish returnees from Babylon construed the land as being empty, where it patently was not. The great wealth that they brought with them would have set them apart from the local inhabitants. 'Much of the story which follows the account of the deportees' return to the ancestral homeland in Ezra 1 is an account, imaginary or otherwise, of the establishment of the hegemony of the deportees over the people of the land. Whatever the origins of these people (Ezra 4.2) they are not permitted to identify themselves with the community gathered around the altar and the partially rebuilt sanctuary. Their identity is strictly other than that of those who had lived in Babylonia, and in relation to the cult of YHWH they are non-persons' (p. 81). The paper also investigates other aspects of the foundational myth, such as the land having to be cleansed of the original Canaanite inhabitants, but that this was only every partially done, and the remnant were blamed for polluting Israelite devotion to YHWH. There are echoes of the story of Australia here.

⁷ Early on, the settlers remarked that the number of First peoples was much greater than they had been led to believe. Even before the settlement moved from Botany Bay to Port Jackson, Captain Tench noted that they found the local people 'tolerably numerous' and even at the harbour's mouth they had reason to believe that the country 'was more populous than Mr. Cook had thought it' (Tench, W., *Sydney's First Four Years* (Sydney: Angus and Robertson, 1961), p. 35, quoted in Reynolds, *The Law*, p. 56). A first-fleeter noted in his journal of 5th February, 1788 (*HRNSW*, 2, p. 664, quoted in Reynolds, *The Law*, p. 56),

There is something odd in their never being seen but in small [numbers] but by accident, tho' there is every reason to suppose they are numerous. Since our arrival at Port Jackson, during a survey of the harbour a body of near a hundred were seen drawn up with an unexpected degree of regularity.

Captain Hunter found the locals 'very numerous' which he was 'a little surprised to find after what had been said in the voyage of the *Endeavour*' (Hunter, J, *An Historical Journal* (London, 1793), p. 52, quoted in Reynolds, *The Law*, p. 56). By May, the British had come across a party of three hundred, 'striking proof of the numerosness of the natives' (Tench, *Sydney's*, p. 52, quoted in Reynolds, *The Law*, p. 56). Phillip reported to London his estimate that there were at least one thousand five hundred people within a radius of ten miles from the settlement, many more people than had arrived on the ships from England (*HRNSW*, 1 part 2, pp. 287, 324, quoted in Reynolds, *The Law*, p. 56). From these quotations, it is clear that the first fleet arrived expecting only a small population of Indigenous people, but this assumption was very quickly disabused, within days of their arrival. Moreover, this fact was reported the following year to the British public (Reynolds, *The Law*, p. 56). Phillip remarked in his journal in May 1788, that on an expedition inland, he raked through a fire and found no evidence of either shells or fish bones, again contrary to what he had been led to believe. At first, they thought that the people, smoke from whose fires on the mountains they could see, had been driven away from the coast by the settlers. But contact with more distant clans increased. In April 1791, Tench records a conversation with a man who told him they relied little on fish, eating small animals and yams that they dug out of the ground. Later expeditions increased knowledge, and by 1802 Francis Barrallier was able to provide a list of many varieties of food used by inland peoples (Reynolds, *The Law*, p. 57). Not only did they have a wide variety of food sources, but it was also known early on that they managed the environment using fire. For example, John Hunter wrote about the Aboriginal use of fire in 1790, and by the 1830s the frontier settlers began to realise that the fire helped to create the open grasslands they were occupying. For example, Ludwig

Leichhardt wrote, (*Journal of an Overland Expedition in Australia* (London, 1847), pp. 354f), quoted in Reynolds, *Aboriginal*, p. 23)

the natives seem to have burned the grass systematically along every water-hole in order to have them surrounded with young grass as soon as the rain sets in ... Long strips of lately burnt grass were frequently observed extending for many miles along the creeks. The banks of small isolated water-holes in the forest were equally attended to ... It is no doubt connected with a systematic management of their runs, to attract game to particular spots, in the same way that stockholders burn parts of theirs in proper seasons.

First peoples were also responsible for spreading animal and plant species (Rose, Deborah, "Sacred Site, Ancestral Clearing, and Environmental Ethics", in Rumsey, Alan and Weiner, James (eds.), *Emplaced Myth: Space, Narrative and Knowledge in Aboriginal Australia and Papua New Guinea* (Honolulu: University of Hawaii Press, 2001), pp. 99-119, particularly pp. 101-103). Hobbles Danayarra, from the Victoria River District, said, '[b]efore white people, Aboriginal people were just walking around organizing the country' (Rose, "Sacred Site", p. 106).

⁸ For example, it will be seen, in Chapter 5, that legislation has focused on the concept of 'traditional owner', which has increasingly been interpreted as a group of people who have maintained their traditions unchanged since 1788, and for many years, anthropologists failed to study the multiplicity of Aboriginal cultures (see the essays in Keen, Ian, ed., *Being Black: Aboriginal Cultures in 'Settled' Australia* (Canberra: Aboriginal Studies Press, 1988). Colishaw notes that in Bourke '[d]espite a population characterized by evermore interwoven relationships between evermore varied ancestors, with perhaps the majority of residents having black and white forebears, the binary system of identification is reproduced' (Cowlshaw, Gillian, *blackfellas whitefellas and the hidden injuries of race* (Malden MA: Blackwell Publishing, 2004), p. 55). She notes that people are descended from Afghans, Mauritians, Irish, Scots, English, Chinese, Pacific Islanders, and various Indigenous groups. Also Read, Peter, *Belonging: Australians, Place and Aboriginal Ownership* (Cambridge: Cambridge University Press, 2000), and Hinkson, Melinda, and Harris, Alana, *Aboriginal Sydney: A Guide to Important Places of the Past and Present* (with photographs by Alana Harris) (Canberra: Aboriginal Studies Press, 2001), are interesting on the adaptation of traditions of Aboriginal people from the Sydney area. The papers in Attwood, Bain and Arnold, John, eds, *Power, Knowledge and Aborigines* (Victoria: La Trobe University Press, 1992), and Beckett, *Past*, have helpful discussions of the construction of Aboriginal identity.

⁹ For example: life on cattle stations allowed First peoples to stay in contact with the land; the lay-off in the wet allowed them to continue their ceremonial business; events like race meetings allowed the Aboriginal political systems to continue to function; introduced foods were not covered by taboos; and cattle began to be incorporated into the dreamtime (McGrath, Ann, *Born in the Cattle: Aborigines in Cattle Country* (Sydney: Allen & Unwin, 1987), pp. 148-153, 170).

¹⁰ Budden, *Following*, p. 8, warns of the problem of narrating the history in 'terms of categories privileged by invaders, and in terms of what Europeans have done to the "Other", rather than allowing Aboriginal people to define the experience and outcome from their perspective as subjects rather than objects.' This will be examined in more detail in Chapter 6.

¹¹ Griffiths, Max, *Aboriginal Affairs 1967-2005: Seeking a Solution* (Dural: Rosenberg Publishing, 2006), p. 192, gives the following figures, gleaned from the Australian Bureau of Statistics, *Population Distribution, Indigenous Australians*, 1997:

Major Cities	30.2%
Inner Regional	20.3%
Outer Regional	23.1%
Remote	8.8%
Very Remote	17.7%

Note the city-centric designation of the geographical areas. Australian Bureau of Statistics figures from 30th June, 2006 give the numbers of Indigenous people in Australia at five hundred and seventeen thousand, with 32% living in capital cities, and more than 40% living in regional areas. It notes that these figures are ‘experimental because of the inherent uncertainty in indigenous census counts’ (as at 5.1.10, see <http://tinyurl.com/5vdm4>).

¹² See, e.g., McGlade, Hannah, ed., *Treaty: Let’s Get It Right! A Collection of Essays from ATSIC’s Treaty Think Tank and Authors Commissioned by AIATSIS on Treaty Issues* (Canberra: Aboriginal Studies Press, 2003); Behrendt, Larissa, “The Link Between Rights and a Treaty: ‘Practical Reconciliation’”, *Balay: Culture, Law and Colonialism* 4 (2002), 21-27; Brennan, Sean; Behrendt, Larissa; Strelein, Lisa; and Williams, George, *Treaty* (Sydney: The Federation Press, 2005); Langton, Marica, and Palmer, Lisa, “Treaties, Agreement Making and the Recognition of Indigenous Customary Polities” in Langton, Marcia; Tehan, Maureen; Palmer, Lisa; and Shain, Kathryn, eds., *Honour Among Nations?: Treaties and Agreements with Indigenous People* (Melbourne: Melbourne University Press, 2004), 34-49.

¹³ There are endless reports and statistics that show this. For example, an article in the *Sydney Morning Herald* (10.4.09) discusses the much lower life-expectancy of Indigenous people (available as at 14.5.09: <http://tinyurl.com/cdn9yv>). In a paper entitled, “These are the Killing Times: Closing the Indigenous Life Expectancy Gap within a Generation”, presented by Gary Highland, National Director of Australians for Native Title and Reconciliation, on 5th September, 2006, the following statistics were given:

- An Aboriginal child born today will still live on average for 17 years less than a non-Aboriginal child.
- Aboriginal babies in Western Australia and the Northern Territory are three times more likely to die than non-Aboriginal babies.
- Indigenous people are between two and four times more likely to have diabetes than non-Indigenous Australians. They are also eight times more likely to die from this illness.
- The trachoma being suffered by Aboriginal children in central Australia gives our nation the dubious distinction of being the only developed country in the world that has yet to eradicate this disease.
- Aboriginal babies are two and a half times more likely to die before the age of one than non-Indigenous babies.
- Aboriginal babies are twice as likely to have a low birth weight – a condition that places major hurdles in front of these children for the rest of their lives.
- Deaths from respiratory conditions are four times, circulatory conditions three times and rheumatic heart disease 20 times higher for Indigenous Australians.
- Chronic heart disease rates are three times and chronic kidney disease nine times higher for Indigenous Australians.
- Aboriginal women are four times more likely to be infected by AIDS than non-Indigenous women.

(As at 14.5.09: <https://lists.riseup.net/www/arc/antar-news/2006-09/thrd1.html>).

Furthermore, Indigenous people in Australia, on average, fare worse than Indigenous people in Canada and Aotearoa/New Zealand. (See, for example, as at 14.5.09: <https://lists.riseup.net/www/arc/antar-news/2006-03/msg00027.html>).

The health and economic deprivations are only two of the ways in which Indigenous peoples in Australia are disadvantaged. A more extensive list can be found in Cronin, Darryl, “Indigenous Disadvantage, Indigenous Governance and the Notion of a Treaty in Australia: An Indigenous Perspective” in McGlade, Hannah, ed., *Treaty: Let’s Get It Right! A Collection of Essays from ATSIC’s Treaty Think Tank and Authors Commissioned by AIATSIS on Treaty Issues* (Canberra: Aboriginal Studies Press, 2003), 151-165, 200-216, pp. 151-154.

¹⁴ Cronin, “Indigenous”, p. 154, rightly points out the concern of Indigenous people that ‘Indigenous peoples are categorised [by the Australian governments] as disadvantaged Australians rather than as distinct political communities with rights and responsibilities.’

¹⁵ Maclean, Iain S., “Truth and Reconciliation: Hope for the Nations or Only as Much as is Possible?” in Maclean, Iain S., ed., *Reconciliation, Nations and Churches in Latin America* (Aldershot: Ashgate, 2006), 3-39, pp. 7-11.

¹⁶ Guider, Margaret Eletta “Reinventing Life and Hope: Coming to Terms with Truth and Reconciliation Brazilian Style” in Maclean, Iain S., ed., *Reconciliation, Nations and Churches in Latin America* (Aldershot: Ashgate, 2006), 111-131; Minow, Martha, “Innovating Responses to the Past: Human Rights Institutions”, in Nigel Biggar (ed.), *Burying the Past: Making Peace and Doing Justice after Civil Conflict* (Washington: Georgetown University Press, 2001), pp. 87-100, p. 93;

¹⁷ Aguila, Mario I., “The *Mesa di Diálogo* and the Fate of the Disappeared in Chile 1999-2000: National Forgiveness Without Political Truth?” in Maclean, Iain S., ed., *Reconciliation, Nations and Churches in Latin America* (Aldershot: Ashgate, 2006), 41-55; Battle, “Truth”; and de Brito, Alexandra Barahona, “Passion, Constraint, Law and *Fortuna*: The Human Rights Challenge to Chilean Democracy”, in Nigel Biggar (ed.), *Burying the Past: Making Peace and Doing Justice after Civil Conflict* (Washington: Georgetown University Press, 2001), pp. 150-183. See also Cavanaugh, William T., *Torture and Eucharist* (Oxford: Blackwell, 1998), for a deep analysis of the churches involvement in national life during the Pinochet years.

¹⁸ Tombs, David and Liechty, Joseph, eds., *Explorations in Reconciliation: New Directions in Theology* (Aldershot: Ashgate, 2006)

¹⁹ Greider, Brett, “The Maya ‘Greening Road’ and Reconciliation: The Pan-Maya Movement in Guatemala” in Maclean, Iain S., ed., *Reconciliation, Nations and Churches in Latin America* (Aldershot: Ashgate, 2006), 85-109; Sieder, Rachel. “War, Peace, and the Politics of Memory in Guatemala”, in Nigel Biggar (ed.), *Burying the Past: Making Peace and Doing Justice after Civil Conflict* (Washington: Georgetown University Press, 2001), pp. 184-206; Tombs, David, “Unspeakable Violence: The UN Truth Commissions in El Salvador and Guatemala” in Maclean, Iain S., ed., *Reconciliation, Nations and Churches in Latin America* (Aldershot: Ashgate, 2006), 57-83

²⁰ The descriptions of these commissions is particularly indebted to two excellent collections of essays: Biggar, Nigel, ed., *Burying the Past: Making Peace and Doing Justice after Civil Conflict* (Washington: Georgetown University Press, 2001); and Maclean, Iain S., ed., *Reconciliation, Nations and Churches in Latin America* (Aldershot: Ashgate, 2006).

²¹ Hastings, Adrian, *The Construction of Nationhood: Ethnicity, Religion and Nationalism* (Cambridge: Cambridge University Press, 1997), is interesting on the recent rise of the nation state as a political concept.

²² Tutu, Desmond, *No Future Without Forgiveness* (London: Rider, 1999), p. 26.

²³ E.g. in Brazil, Uruguay, Guatemala, the Philippines, Poland, Hungary, Chile Nicaragua and El Salvador (see Zalaquett, José, “Balancing Ethical Imperatives and Political Constraints: The Dilemma of New Democracies Confronting Past Human Rights Violations”, *Hastings Law Journal* 43/6 (1992), 1425-1438, pp. 1426, 1429).

²⁴ See, e.g., Maclean, “Truth”, pp. 29-31; van Zyl, Paul, “Justice Without Punishment: Guaranteeing Human Rights in Transitional Societies” in Villa-Vicencio, Charles and Verwoerd, Wilhelm, ed., *Looking Back Reaching Forward: Reflections on the Truth and Reconciliation Commission of South Africa* (Cape Town: University of Cape Town Press 2000), pp. 42-57, p. 46. Vandeginste makes interesting observations about the attempt to do this in Rwanda (“Rwanda”, pp. 261-269). The role of the law in perpetuating injustice in Australia will be examined in Chapter 5 of this thesis.

²⁵ van Zyl, “Justice”, p. 46.

²⁶ Even so, a largely judicial approach has been taken Rwanda (Vandeginste, Stef, “Rwanda: Dealing with Genocide and Crimes against Humanity in the Context of Armed Conflict and Failed Political Transition”, in Nigel Biggar (ed.), *Burying the Past: Making Peace and Doing Justice after Civil Conflict* (Washington: Georgetown University Press, 2001), pp. 223-253, p. 251). For the more general point, see Maclean, “Truth”, pp. 30f.

²⁷ Maclean, “Truth”, p. 31.

²⁸ Examples include *ubuntu* in South Africa (Maclean, “Truth”, p. 36.), and *gacaca* in Rwanda (Vandeginste, “Rwanda”, pp. 269-276), although such ideas might not scale up to situations of mass mutual genocide (Vandeginste, “Rwanda”).

²⁹ Cavanaugh argues that torture in Chile destroyed the social body, creating a nation of individuals who related directly with the State. Aldunate, (Aldunate, José, “The Christian Ministry of Reconciliation in Chile” in Baum, Gregory and Wells, Harold, eds., *The Reconciliation of the Peoples: Challenge to the Churches* (Geneva: WCC Publications, 1997), 56-66), p. 64 concurs: ‘Torture created fear and intimidation. One did not talk about it. First it created an atmosphere of silence, then of acquiescence.’ There was a technological approach to torture, which did not harm the surface of the body, so people could not tell that torture had happened. Amongst other things, this meant that there were no martyrs, killing the eschatological imagination of the church (Cavanaugh, *Torture*, pp. 63-68). Torture and murder created the illusion of a dangerous opposition to the military regime and the security of the country (Cavanaugh, *Torture*, p. 93).

³⁰ Aguilar, “The Mesa”, pp. 45, 50.

³¹ Battle, Michael, “Truth and Reconciliation: From Chile to South Africa” in Maclean, Iain S., ed., *Reconciliation, Nations and Churches in Latin America* (Aldershot: Ashgate, 2006), 207-224, p. 211.

³² Stanley, Ruth, “Modes of Transition v. Electoral Dynamics: Democratic Control of the Military in Argentina and Chile”, *Journal of Third World Studies* 18/2 (Fall 2001), 71-91, who got her information from Inforyne de la Comisión Nacional de Verdad y Reconciliación (Santiago: Corporación Nacional de Verdad y Reconciliación, 1996), 2 vols, vol. I Pt. 2, Statistical Annexe, Tables I and 7, p. 945, p. 947.

³³ Battle, “Truth”, p. 211.

³⁴ Stanley, “Modes”.

³⁵ El Mercurio, international edition, 28th February-6th March 1991, from footnote 19 of Stanley, “Modes”.

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- ³⁶ Aguilar, "The *Mesa*", p. 44.
- ³⁷ Stanley, "Modes".
- ³⁸ Aguilar, "The *Mesa*", p. 45.
- ³⁹ Aguilar, "The *Mesa*", pp. 41f.
- ⁴⁰ Aguilar, "The *Mesa*", pp. 44f.
- ⁴¹ Aguilar, "The *Mesa*", pp. 44f, 50.
- ⁴² Aguilar, "The *Mesa*", pp. 45, 50f.
- ⁴³ Aguilar, "The *Mesa*", pp. 45-50.
- ⁴⁴ Aguilar, "The *Mesa*", p. 51.
- ⁴⁵ The following observations relate to the Roman Catholic Church in Chile.
- ⁴⁶ Cavanaugh, *Torture*, e.g. pp. 16, 77f.
- ⁴⁷ Cavanaugh, *Torture*, p. 106.
- ⁴⁸ Aguilar, "The *Mesa*", p. 44.
- ⁴⁹ Aguilar, "The *Mesa*", p. 44; Cavanaugh, *Torture*, pp. 103, 17, 68, 110, 115, 264-273; Aldunate, "The Christian", pp. 62f.
- ⁵⁰ Cavanaugh, *Torture*, pp. 273-277; Aldunate, "The Christian", pp. 64f. This became known as the 'Sebastián Acevedo Movement Against Torture', and acted one hundred and eighty times over seven years.
- ⁵¹ Aguilar, "The *Mesa*", pp. 42, 55. Cf. Maclean, "Truth", p. 22f, who argues that this was a more general problem in Latin America.
- ⁵² 'Cardenal Errázuriz llegó a Chile llamando a la unidad', *La Tercera*, 3 March, 2001; 'Cardenal Errázuriz: "la verdad y la justicia no son tod"', *La Tercera*, 5 March, 2001, quoted in Aguilar, "The *Mesa*", p. 55.
- ⁵³ Maclean, "Truth", p. 21.
- ⁵⁴ Villa-Vicencio, Charles, "Restorative Justice in Social Context: The South African Truth and Reconciliation Commission", in Nigel Biggar (ed.), *Burying the Past: Making Peace and Doing Justice after Civil Conflict* (Washington: Georgetown University Press, 2001), pp. 207-222, p. 236.
- ⁵⁵ Maclean, "Truth", p. 22.
- ⁵⁶ van der Merwe, Hugo, "National and Community Reconciliation: Competing Agendas in South African Truth and Reconciliation Commission", in Nigel Biggar (ed.), *Burying the Past: Making Peace and Doing Justice after Civil Conflict* (Washington: Georgetown University Press, 2001), pp. 85-106, p. 103.
- ⁵⁷ Maclean, "Truth", p. 21.
- ⁵⁸ The Promotion of National Unity and Reconciliation Act No. 34 (1995), Section 3(1), quoted in van der Merwe, "National", p. 104.
- ⁵⁹ de Lange, Johnny, "The Historical Context, Legal Origins and Philosophical Foundation of the South African Truth and Reconciliation Commission" in Villa-Vicencio, Charles and Verwoerd, Wilhelm, ed., *Looking Back Reaching Forward: Reflections on the Truth and Reconciliation Commission of South Africa* (Cape Town: University of Cape Town Press 2000), pp. 14-31, pp. 26f.
- ⁶⁰ van der Merwe, "National", p. 105.
- ⁶¹ Maclean, "Truth", p. 3.
- ⁶² van der Merwe, "National", pp. 105f.
- ⁶³ van der Merwe, "National", p. 106.
- ⁶⁴ Cf. Hayner, Priscilla, "Same Species, Different Animal: How South Africa Compares to Truth Commissions Worldwide" in Villa-Vicencio, Charles and Verwoerd, Wilhelm, ed., *Looking Back Reaching Forward: Reflections on the Truth and Reconciliation Commission of South Africa* (Cape Town: University of Cape Town Press 2000), pp. 32-41, p. 41, 'Part of the reconciliation focus that was so prominent in South Africa resulted from the religious overtone to its work. Archbishop Desmond Tutu's personal

perspective, priorities, personality and moral authority created an emphasis on reconciliation heavily influenced by Christian values, an impression perhaps strengthened by the religious background of the Deputy Chair, Alex Boraine, and made explicit in the various church services that welcomed the Commission around the country. Perhaps the ramifications of this approach, and the positive, as well as limiting influence of this religious tone, have not yet been fully appreciated. However, it is a striking difference when the TRC is compared to other commissions that have generally been regarded more as legal, technical or historical investigations, with very little suggestion of a process rooted in religious convictions.’ Tutu had asked the Anglican Consultative Council to ask religious orders around the world to pray for the Commission. He writes, ‘Without all this [the ‘fervent intercessions of so many in South Africa and around the world’] I know I would have collapsed and the powers of evil, ever on the lookout to sabotage the efforts to attain good, would have undermined this extraordinary attempt to heal a wounded people. We could have been overwhelmed by the forces that make for disintegration and failure. We were fortunately kept in touch with the source of Good not just by our own efforts, but even more by the loving concern of so many others’ (Tutu, *No*, p. 159). See also Meiring, “The *baruti*”.

⁶⁵ Maclean, “Truth”, p. 36.

⁶⁶ Tutu, *No*, p. 52.

⁶⁷ Tutu, *No*, p. 55.

⁶⁸ Tutu, *No*, p. 221.

⁶⁹ Maclean, “Truth”, p. 20.

⁷⁰ Tutu, *No*, pp. 184f.

⁷¹ Tutu, *No*, p.189.

⁷² van der Merwe, “National”.

⁷³ Zalaquett, “Balancing”. Aguilar gives the following biographical information about Zalaquett (*Mesa*, p. 47): Zalaquett is a member of the Chilean *Partida por la Democracia*. He was part of the *Comité Pro Paz*, and ecumenical organisation that defended human rights in Chile from 1973-75. From 1978-1982, he was the world president of Amnesty International. He was a member of the Rettig Commission, and part of the *Mesa de Diálogo*.

⁷⁴ Maclean, “Truth”, p. 5.

⁷⁵ Tombs, “Unspeakable”. See Howley, Pat, *Breaking Spears and Mending Hearts: Peacemakers and Restorative Justice in Bougainville* (London: Zed Books, 2002), pp. 71f for a discussion of the difficulty in facing sexual violence in Bougainville. There is an interesting connection here with the situation in Australia, where the sexual practices of First peoples had different symbolic value to those of Europeans. Where it happened, the giving of Aboriginal women to non-Indigenous men was a political act of drawing the non-Indigenous people into the kinship system and thus the world of the Aboriginals. With a huge imbalance of male to female immigrants, and the dominant non-Indigenous views of Aboriginals, many women were stolen or raped as well, and the receiving of an Aboriginal woman as a wife did not necessarily ensure her good treatment.

⁷⁶ van der Merwe, “National”, p. 117. See also pp. 117-121. Cf. Verwoed, Wilhelm, “Towards Inclusive Remembrance after the ‘Troubles’: A Philosophical Perspective from within the South African Truth and Reconciliation Commission” in Tombs, David and Liechty, Joseph, eds., *Explorations in Reconciliation: New Directions in Theology* (Aldershot: Ashgate, 2006), 103-122, pp. 156f; Vicencio-Villa, Charles, “Getting on With Life: A Move Towards Reconciliation” in Villa-Vicencio, Charles and Verwoerd, Wilhelm, ed., *Looking Back Reaching Forward: Reflections on the Truth and Reconciliation Commission of South Africa* (Cape Town: University of Cape Town

Press 2000), pp. 199-209, p. 199; and Villa-Vicencio, “Restorative” (2001), p. 235, ‘[The TRC] has provided a somewhat fragile foundation that needs to be reinforced by a range of other nation-building initiatives, on which a strong and enduring structure can one day emerge.’

⁷⁷ Michael Ignatieff, “Wounded Nations, Broken Lives: Truth Commissions and War Tribunals,” *Index on Censorship* 5 (1996), 110-22, quoted in Minow, “Innovating”, p. 98.

⁷⁸ Maclean, “Truth”, p. 37.

⁷⁹ See Chapters 2 and 3.

⁸⁰ This is explored at length in Section 3.3.

⁸¹ See, e.g., Villa-Vicencio, “Restorative” (2001), pp. 244-246. He also notes that the legislation allowed the granting of amnesty, but it could only recommend reparation (p. 245).

⁸² Villa-Vicencio, “Restorative” (2001), p. 244. He notes that the standard of living of whites in South Africa is twenty-fourth in the world, behind Spain, whereas blacks are one hundred and twenty-fourth, behind the Congo (p. 245). Cf. Terreblanche, Sampie, “Dealing with Systemic Economic Justice” in Villa-Vicencio, Charles and Verwoerd, Wilhelm, ed., *Looking Back Reaching Forward: Reflections on the Truth and Reconciliation Commission of South Africa* (Cape Town: University of Cape Town Press 2000), pp. 265-276.

⁸³ Villa-Vicencio, “Restorative” (2001), p. 239.

⁸⁴ Bhargava, Rajeev, “The Moral Justification of Truth Commissions” in Villa-Vicencio, Charles and Verwoerd, Wilhelm, ed., *Looking Back Reaching Forward: Reflections on the Truth and Reconciliation Commission of South Africa* (Cape Town: University of Cape Town Press 2000), pp. 60-67, p. 65.

⁸⁵ Asmal, Kader, Asmal, Louise, and Roberts, Ronald Suresh, “When the Assassin Cries Foul: The Modern Just War Doctrine” in Villa-Vicencio, Charles and Verwoerd, Wilhelm, ed., *Looking Back Reaching Forward: Reflections on the Truth and Reconciliation Commission of South Africa* (Cape Town: University of Cape Town Press 2000), 86-98.

⁸⁶ E.g. Estherhuyse, Willie, “Truth as a Trigger for Transformation: From Apartheid Injustice to Transformational Justice” in Villa-Vicencio, Charles and Verwoerd, Wilhelm, ed., *Looking Back Reaching Forward: Reflections on the Truth and Reconciliation Commission of South Africa* (Cape Town: University of Cape Town Press 2000), pp. 144-154, p. 148. He argues that the TRC had a tendency to focus on individuals rather than systemic issues (e.g. p. 146).

⁸⁷ Cf. Maldonado-Torres, Nelson, “Reconciliation as a Contested Future: Decolonization as Project or Beyond the Paradigm of War” in Maclean, Iain S., ed., *Reconciliation, Nations and Churches in Latin America* (Aldershot: Ashgate, 2006), 225-245, p. 240: ‘But what we have learnt is that oftentimes these nations themselves are premised on colonial premises that reproduce anti-black and anti-indigenous racism, along [with] other forms of evil ... Thus, true reconciliation can hardly be achieved by nationalization alone. Decolonization, not nationalization, imposes itself as the ultimate horizon for reconciliation.’ And Aldunate, “The Christian”, p. 57: ‘Clearly the causes of the hostility and violence unleashed during the recent years [during the Pinochet regime in Chile] are very old. They have their roots in the Conquest and the domination of the continent by Spain and Portugal: the usurpation of sovereignty, of the lands and liberty of the indigenous peoples; exploitation and genocide; a legacy of misery and poverty. Over the years the distance separating the rich and the poor has grow, producing tension and violence.’ Cf. Villa-Vicencio, “Getting”, p. 199.

⁸⁸ Greider, “The Maya”, p. 85.

⁸⁹ This was the general impression that I got when I visited many people during 2005, and is also confirmed by the research reported in 2000 in Newspoll, Saulwick & Muller and Hugh Mackay, "Public Opinion on Reconciliation" in Grattan, Michelle, *Essays on Australian Reconciliation* (Melbourne: Black Inc, 2000), 33-52. For example, Saulwick and Muller conducted fourteen focus group discussions throughout Australia from 7.12.99 to 13.1.00, and twenty-three in-depth interviews with leading citizens in high contact areas on behalf of the Council for Reconciliation. A summary of the main findings of focus groups is that there was little overt prejudice against Aboriginal or other minority groups on basis of race alone. There was a lack of understanding of the lives, beliefs and attitudes of the minority groups, but there was an egalitarian ideal that there should be one nation. There was an inability of many to see that other people might have a fundamentally different view of life, or that they might want different things from the dominant culture. Many see what has happened to the First peoples as a tragedy: 'There is widespread agreement that Aborigines were badly treated by early white settlers. Many people find it hard to face up to this. Some, particularly those who are defensive on this point, argue that there was bad behaviour on both sides – that both settlers and Aborigines behaved badly towards each other. There are few who are inclined to see one side as the invaders and the others as the invaded. Nor are there many who wish to accept any responsibility for what happened in what most see as far-off days' (p. 37). People look at things that happened in the past and say things were sometimes done in ignorance, or with the best intentions, or that they sometimes did some good. There was strong feeling that what was done in the past cannot be judged by today's standards (p.37). People felt that they were not personally involved, and so could not take responsibility (p. 37f). There was a disinclination to look at it from the point of view of the disinherit, and little understanding of the psychological effects of undermining a culture by the dominant culture. There was little tolerance of aberrant behaviour that might have arisen from their experience (p. 38). People argued that there are few real First people left, which they define as more than 50% Aboriginal, living in a tribal and usually remote environment (p. 38f). There was resentment towards those who have lived on welfare: they don't help themselves; they get special privileges, and people are choosing to call themselves Aboriginal and are thus abusing the system (p. 39). It was perceived that First people were getting better treatment, and this offended the egalitarian ethic (p. 39). Demands by First peoples for land caused concern: they were worried that their tenure might be disturbed; and that Indigenous peoples will negotiate land rights in order to get royalties from mining (p. 39). Many said that there should be no apology, and no continuation of special help to First peoples. Three reasons were given as to why there should be no apology: (1) we did not do it; (2) the past was past and reconciliation is about now and future; and (3) an apology may lead to further substantial claims for compensation in the future (p. 40). This was the majority view, but not universally held (p. 40). The responses to the draft reconciliation document were wide-ranging: some liked sentiments, others feared that it is divisive or biased towards Aboriginals and Torres Strait Islanders; and some worried about further land claims (p. 40). People had given little thought about reconciliation, and only a few knew anything about the process or the Council (p. 40).

Despite this, Henry Reynolds found a positive response from people throughout Australia for his lecture tours. He writes ("A Crossroads of Conscience" in Grattan, Michelle, *Essays on Australian Reconciliation* (Melbourne: Black Inc, 2000), 53-59, p. 54):

In the last 18 months I have spoken to many audiences all over Australia. From as far south as Hobart to as far north as Darwin, and in South Australia and all the other states except Western Australia. Almost everywhere I have been, no matter how large or small the community, whether the meeting was at lunchtime or at night, on almost every occasion I was impressed by the size of the audience. But there was something else about the audiences and that was their deep concern, their intensity, their obvious concentration on the subject, their clear sense that this was an important thing they were involved in. The significant thing is that the reconciliation process has spread widely right across Australia. It is no longer just a movement of educated middle-class people. It is no longer just an urban movement. There are reconciliation groups all over the country.

⁹⁰ Hansard of the Senate for 22.6.06, p. 92.

⁹¹ Curthoys, Ann, "Mythologies" in Nile, Richard, ed., *The Australian Legend and Its Discontents* (Brisbane: University of Queensland Press, 2000), pp. 13, 37, quoted in McKenna, Mark, *Looking for Blackfellas' Point: An Australian History of Place* (Sydney: University of New South Wales Press, 2002), p. 135.

⁹² McKenna, *Looking*, p. 135.

⁹³ McKenna, *Looking*, p. 144.

⁹⁴ Private communication.

⁹⁵ The obvious exception to this is the infamous 'Black War' (1824-1931) and the 'Black Line' (1830) in Tasmania (see, e.g., Boyce, James, " 'What Business Have You Here?'" in Perkins, Rachel and Langton, Marcia, *First Australians: An Illustrated History* (Carlton: The Miegunyah Press, 2008), 62-113; Reynolds, Henry, *Fate of a Free People* (Ringwood: Penguin, 2004, 2nd edn.)). This interpretation of the events in Tasmania is fiercely contested by Windschuttle, Keith, *The Fabrication of Aboriginal History. Volume 1. Van Diemen's Land 1803-1847* (Sydney: Macleay Press, 2002).

⁹⁶ Reynolds, Henry, *Why Weren't We Told?: A Personal Search for the Truth About Our History* (Ringwood: Viking, 1999). In only one case, the massacre at Myall Creek, were the non-Indigenous offenders charged and punished (see further below).

⁹⁷ See, e.g., the study of the death of a man on Palm Island (Hooper, Chloe, *Tall Man: Death and Life on Palm Island* (Jonathan Cape Ltd, 2009)).

⁹⁸ See Section 5.2 for a discussion of the relationships between Aboriginal people and the land.

⁹⁹ The full title of the report is: *Bringing Them Home: National Inquiry into the Separation of Aboriginal and Torres Strait Islander Children from Their Families*. A significant part of the report is the record of the experiences of many Aboriginal people. As at 2.12.09, the full text of the report can be found on

http://www.hreoc.gov.au/social_justice/bth_report/index.html. See also Doris Pilkington, *Rabbit-Proof Fence: The True Story of One of the Greatest Escapes of All Time* (Miramax Books, 2002), and the film *Rabbit-Proof Fence*. This report, and subsequent political developments, will be discussed further in Section 3.2.

¹⁰⁰ Rose, Deborah, *Dingo Makes Us Human: Live and Land in an Aboriginal Australian Culture* (Cambridge: Cambridge University Press, 1992), p. 191.

¹⁰¹ This is a foundational question for Miroslav Volf's work, *Exclusion and Embrace: A Theological Exploration of Identity, Otherness, and Reconciliation* (Nashville: Abingdon Press, 1996). He writes of how, having given a lecture on the theology of reconciliation, using the metaphor of embrace, he was asked by Jürgen Moltmann if he, as a Croat, could embrace a Serb, when the Serbs had been 'herding people into concentration camps, raping women, burning down churches, and destroying cities' (p.

9). The book, he writes, 'is the product of the struggle between the truth of my argument and the force of Moltmann's objection' (p. 9).

¹⁰² The detrimental legacy of this runs deep in Australian culture and the non-Indigenous Australian corporate psyche. For example, many of the people who were transported to Australia were imprisoned because of petty offences such as stealing bread. The prison regime in Australia was harsh, with severe punishment of prisoners. This sowed the seeds of distrust of police and other authority figures in Australia, which has been fed by police often being responsible for the hunting down and murder of groups of First people and individuals, sometimes using other First people as trackers, so that today there is a deep distrust of the police by First peoples. It would also be interesting to investigate the relationship between this history and the strong emphasis on penal substitution in Sydney Anglican theology, and, more generally, of the approach to law in non-Indigenous Australian society.

¹⁰³ See the earlier footnote at the beginning of the chapter.

¹⁰⁴ Broome, Richard, *Aboriginal Australians: Black Responses to White Dominance, 1788-2001* (Sydney: Allen & Unwin, 2002, 3rd edition), pp. 30f.

¹⁰⁵ Brennan et al, *Treaty*, pp. 4f. Belgrave, Michael and Kawharu, Merata and Williams, David, eds., *Waitangi Revisited: Perspectives on the Treaty of Waitangi* (Melbourne: Oxford University Press, 2005); Bennion, Tom, "New Zealand: Indigenous Land Claims and Settlements" in Keon-Cohen, Bryan, ed., *Native Title in the New Millennium* (Canberra: Aboriginal Studies Press, 2001), 367-376; and Kawharu, Waitangi show how the Waitangi treaty has been important for Maoris in New Zealand.

¹⁰⁶ See, e.g., Bartlett, Richard, "Canada: Indigenous Land Claims and Settlements" in Keon-Cohen, Bryan, ed., *Native Title in the New Millennium* (Canberra: Aboriginal Studies Press, 2001), 355-366; Bartlett, Richard, *Native Title in Australia* (Sydney: LexisNexis Butterworths, 2004, 2nd edition), pp. 3-9; Bennion, "New Zealand: Indigenous Land Claims and Settlements"; Chartrand, Paul, (An Interview with), "Aboriginal Peoples in Canada: Aspirations for Distributive Justice as Distinct Peoples" in Havemann, Paul, ed., *Indigenous Peoples' Rights in Australia, Canada and New Zealand* (Melbourne: Oxford University Press, 1999), 88-107; de Costa, Ravi, "Treaties in British Columbia: Comprehensive Agreement Making in a Democratic Context" in Langton, Marcia; Tehan, Maureen; Palmer, Lisa; and Shain, Kathryn, eds., *Honour Among Nations?: Treaties and Agreements with Indigenous People* (Melbourne: Melbourne University Press, 2004), 133-146; Dorsett et. al., *A Guide*; Havemann, *Indigenous Peoples' Rights*; Morse, "Indigenous"; Tehan Maureen, "The Shadow of the Law and the British Columbia Treaty Process: '[Can] the unthinkable become common place?'" in Langton, Marcia; Tehan, Maureen; Palmer, Lisa; and Shain, Kathryn, eds., *Honour Among Nations?: Treaties and Agreements with Indigenous People* (Melbourne: Melbourne University Press, 2004), 147-162; and Williams, Joe, "Treaty Making in New Zealand/Te Hanga Tiriti ki Aotearoa" in Langton, Marcia; Tehan, Maureen; Palmer, Lisa; and Shain, Kathryn, eds., *Honour Among Nations?: Treaties and Agreements with Indigenous People* (Melbourne: Melbourne University Press, 2004), 163-170. Legal precedents from non-Indigenous law have also been important in shaping non-Indigenous legal judgements in Australia (see e.g. Pearson, Noel, "Land is Susceptible of Ownership" in Langton, Marcia; Tehan, Maureen; Palmer, Lisa; and Shain, Kathryn, eds., *Honour Among Nations?: Treaties and Agreements with Indigenous People* (Melbourne: Melbourne University Press, 2004), 83-100, pp. 89ff).

¹⁰⁷ When the English first came to live in Australia, they just came and stayed. It was only in a later legal case, *Cooper vs Stuart*, in 1889, that the Privy Council had to explicitly state the basis of the establishment of the legal system in Australia. *Cooper vs Stuart* was nothing to do with Indigenous land rights, but it had lasting consequences on

the legal system in Australia, and land tenure in particular. In order to make their judgement, the Privy Council had to establish the legal foundation of the colony. European ‘international law’ allowed colonisation under three circumstances, with differing legal consequences: conquest; the land being ceding to the incomers; and taking over an empty land. The court decision in *Cooper vs Stuart* (made in 1889) described New South Wales in 1788 as ‘practically unoccupied without settled inhabitants’, and so the occupation was regarded as the settlement of an empty land. Of course, by the time that the question was considered under English law, it was obvious that this was patently false (unless one considered the First peoples as not being human enough to be considered), even though it may have been thought to have been true before the First Fleet set sail (due to erroneous evidence from Banks, amongst others, as discussed in the endnote above). This (false and fictional) legal assertion allowed them to assert that common law was applicable in Australia, and that the feudal system of land tenure, where all tenure was derived from the Crown, so that no-one could hold title to land unless it could be traced back to a grant from the Crown, held sway. (This information was gleaned from the website (15.3.10):

<http://www.mabonativetitle.com/info/cooperVsStuart.htm> and discussions with Pat McIntyre. I remain responsible for any errors in interpretation.)

In the past two or three decades, the term *terra nullius* has entered the legal discourse and debate about land in Australia, as a shorthand name for the legal basis of the founding of the colonies in Australia. This term has been avoided in this thesis because acrimonious debates about the use of this term (e.g. Connor, Michael, *The Invention of Terra Nullius: Historical and Legal Fictions on the Foundation of Australia* (Sydney: Macleay Press, 2005)) have obfuscated the real point at issue, namely the basis, nature and content of non-Indigenous law in Australia, and its relationship to Indigenous systems of law. Instead, this thesis will speak of the foundational sin of failing to recognise Indigenous systems of law, along with their notions of sovereignty and land ownership.

¹⁰⁸ Broome, *Aboriginal*, p. 31, writes,

[s]o it was that while the Indians of North America or the Maoris of New Zealand, who built villages, tilled the soil and had chiefs were offered treaties and some recognition of rights by the British, the Aborigines were not given any of these rights. This fact of dispossession was the crux of the future race relations problems in Australia, for it meant that injustice was sanctioned by the state and there could be little possibility of any fruitful human relations being formed with the Aborigines.

Legally, the First peoples of Australia found themselves in a related, but importantly different position from these other nations. For example, in the United States of America, the Indigeneous peoples were regarded as ‘domestic dependent nations’ (*Milirrpum and Others v. Nabalco Pty Ltd and the Commonwealth of Australia* (1971) 17 Federal Law Reports, 141, 215; *Mabo v Queensland (No 2)* (1992) 175 CLR 1, 135, 164 (Dawson J)), and the legal history of land in New Zealand has been governed by the Waitangi treaty (*Mabo v Queensland (No 2)* (1992) 175 CLR 1, 137 (Dawson J)).

¹⁰⁹ Lederach, John Paul, *Building Peace: Sustainable Reconciliation in Divided Societies* (Washington: United States Institute of Peace Press, 1997), p. 78.

¹¹⁰ Writing of establishing peace in an armed conflict, Lederach, *Building*, p. 75, says, ‘[c]risis response tends to involve specific projects with short-term, measurable outcomes. In the interests of transforming the conflict, however, short-term efforts must be measured primarily by their long-term implications. For example, while achieving a cease-fire is an immediate necessity, this goal must not be mistaken for, or replace, the

broader framework of peacebuilding activity. Rather, a sustainable transformative approach suggests that the key lies in the *relationship* of the involved parties, with all that term encompasses at the psychological, spiritual, social, economic, political, and military levels.’

¹¹¹ For example, Pat McIntyre alerted me to this being expressed in interviews with people on Elcho Island about the Federal Government Intervention in the Northern Territory (ABC 7.30 Report, 18th July, 2007, available on 15.3.10 at: <http://www.abc.net.au/7.30/content/2007/s1981967.htm>). Horner, *Seeking*, p. 155, in the context of his work with Aboriginal and non-Aboriginal people over the decades, reflected that there ‘had been many decades, indeed generations, of oppression by whites on and off the Aboriginal reserves. Out of loyalty to their families and for self-respect, some Aboriginal and Islander people could never feel comfortable working with white people, however considerate they might be. It was a truth not to be dismissed, a legacy of past and present violence.’

¹¹² I spent six weeks in May and June 2005 travelling around Australia (mainly Sydney, Canberra, Brisbane and Darwin, and some travelling through rural areas, from Canberra to Narrandera, and driving from Sydney to Brisbane), talking with people about the reconciliation process in Australia. The main people that I visited are listed in the Acknowledgements.

¹¹³ Unless otherwise stated, the photographs in this thesis were taken by myself, in 2005.

¹¹⁴ For example, McKenna, *Looking*, pp. 206f, describes how this has affected the visibility of First peoples in the Bega and Eden area, and the effect that this has had on the Subsequent peoples:

Mabo [a legal judgement which recognised Indigenous ownership of land in Common Law for the first time, which is first discussed in this thesis in Section 5.3.5] had vindicated the long-held belief of Aboriginal people that they had a right to their land. Legally, morally, and historically, it provided institutional recognition of native title and supported the integrity and validity of Aboriginal culture. Land councils in Bega and Eden gave the Aboriginal community an official status, and served as a source of positive information. After *Mabo*, Aboriginal people were seen more often in the local media. They were photographed at local schools, or seen helping out in various community projects. *Mabo* also helped to give them a platform from which they could explain their political campaign. By the end of the Hawke-Keating Labor government in 1996, a series of events had combined to create the perception that reconciliation was a pressing political and social issue – the political controversy surround the Bicentenary in 1988, the High Court’s *Mabo* decision in 1992, and its *Wik* [see Section 5.3.7] decision, handed down nine months after the election of the Howard Government in 1996, and a succession of inquiries and reports such as the Royal Commission into Aboriginal Deaths in Custody in 1991. Together, these events demonstrated that there was a history to reconcile, and helped to create a sense of moral crisis surrounding relations between Aboriginal and non-Aboriginal Australians.

¹¹⁵ Clark, Geoff, “Not Much Progress” in Grattan, Michelle, *Essays on Australian Reconciliation* (Melbourne: Black Inc, 2000), 228-234, p. 230; “The Formal Australian Reconciliation Process: 1991-2000”, Paper prepared for the National Reconciliation Planning Workshop, Old Parliament House, Canberra, 30-31 May, 2005, available on web page (as at June 2005): www.reconciliationaustralia.org/docs/planning_workshop/background/andrew_gunston

e_paper.pdf., p. 4 and n. 40; Wells, Pera, “Does Australia Have a Human Rights Diplomacy?” in Grattan, Michelle, *Essays on Australian Reconciliation* (Melbourne: Black Inc, 2000), 210-216, p. 212.

¹¹⁶ Lattas, (Lattas, Andrew, “Aborigines and Contemporary Australian Nationalism: Primordality and the Cultural Politics of Otherness”, *Social Analysis* 27 (1990), 50-69), p. 60, writes that the ‘Bicentenary has been ideologically construed as a time of reconciliation, for incorporating the otherness of Aborigines. Through this incorporated otherness, White institutions and ideologies discover their universality. The Other offers a space of unity and identity to the nation as a whole.’

¹¹⁷ Published in the Canberra Times. Used with Geoff Pryor’s permission.

¹¹⁸ Tickner, Robert, *Taking a Stand: Land Rights to Reconciliation* (Sydney: Allen & Unwin, 2001), “Taking”, p. 34.

¹¹⁹ Recall the comments of Senator Tchen and the subsequent discussion above.

¹²⁰ “Object”, Paragraph 5 of the *Council for Aboriginal Reconciliation Act 1991*.

¹²¹ Paragraph 6 (1) (b) of the *Council for Aboriginal Reconciliation Act 1991*.

¹²² Paragraphs 6 (1) (g), (h), of the *Council for Aboriginal Reconciliation Act 1991*.

¹²³ One of the outputs from the Council was some very good ‘Learning Circle’ material, where groups of people would come together to work on the material with at least one Indigenous person in the group. This was a transforming experience for those who took part.

¹²⁴ Foley, Charmaine, and Watson, Ian, *A People’s Movement: Reconciliation in Queensland* (Southport: Keeaira Press, 2001), p. 41. Foley’s account of how the decade was on the ground makes good reading.

¹²⁵ See Chapter 5.

¹²⁶ Gunstone, “The Formal”, pp. 4ff.

¹²⁷ Pat McIntyre, personal communication.

¹²⁸ Some of the explanatory boards had been defaced with spray paint, but this seemed more like random vandalism rather than an attack on the art work itself.

¹²⁹ Further information about this walk can be found in Hinkson et al, *Aboriginal*, pp. 126-8.

¹³⁰ The list comes from Hinkson et al, *Aboriginal*, p. 128.

¹³¹ Each of the plates included the words “We remember them”, linking into the debate about why Gallipoli is remembered, but not the Aboriginal wars.

¹³² Johnson, Dianne, *Lighting the Way: Reconciliation Stories* (Sydney: The Federation Press, 2002), chapter 9, “Remembering Myall Creek” for an account of the development of the memorial, and Myall Creek Memorial Committee, *The Myall Creek Massacre: Its History, Its Memorial and the Opening Ceremony*, Pamphlet produced by the Myall Creek Memorial Committee, Bingara, New South Wales, 2001.

¹³³ I attended the one held in June, 2005.

¹³⁴ These two photographs are © 2005 Catherine de Lorenzo, who has kindly given her permission for them to be reproduced here.

¹³⁵ This was suggested to me by John Brown, in a private communication.

¹³⁶ The leaflet is called “Reconciliation Place: A Lasting Symbol of our Shared Journey – An Australian Government Project”, and I found it in the offices of Reconciliation Australia in Old Parliament House. Unfortunately, I have not been able to find any more publication details.

¹³⁷ The inscription reads:

“THEY TOOK OUR CHILDREN AWAY”

For 150 years until the 1970s, many thousands of Aboriginal and Torres Strait Islander children were removed from their families, with the authorisation of

Australian governments, to be raised in institutions, or fostered or adopted by non-indigenous families. Some were given up by parents seeking a better life for their children. Many were forcibly removed and see themselves as “the stolen generations”.

Many of these children experienced overwhelming grief, and the loss of childhood and innocence, family and family relationships, identity, language and culture, country and spirituality.

Their elders, parents and communities have experienced fear and trauma, emptiness, disempowerment, endless grieving, shame and failure.

Most who looked after the removed children believed they were offering them a better future, and did all they could to provide loving care. Some abused and exploited the children.

This place honours the people who have suffered under these policies and practices. It also honours those indigenous and non-indigenous people whose genuine care softened the tragic impact of what we now recognise as cruel and misguided policies.

In 1937 the first Commonwealth-State Native Welfare Conference, affirming the policies of previous decades, resolved that “the destiny of the natives of Aboriginal origin, but not of full blood, lies in their ultimate absorption by the people of the Commonwealth, and it therefore recommends that all effort be directed toward that end.”

“Are we going to have a population of one million blacks or are we going to merge them with our white community and eventually forget that there were Aborigines?” *A O Neville, Chief Protector of Aborigines, speaking at the conference in 1937.*

“I would not hesitate for one moment to separate any half-caste child from the Aboriginal mother no matter how frantic her momentary grief might be at the time. They soon forget their offspring.” *James Isdell, Travelling Protector, Western Australia, 1909.*

The National Enquiry into the Separation of Aboriginal and Torres Strait Islander Children From Their Families (known as the *Bringing Them Home report*) recommended in 1997 that reparation, including acknowledgement and apology, be made to all who suffered because of forcible removal policies. Its recommendations are directed to all Australian governments, the churches, and others involved in those policies.

On 26 August 1999, both Houses of Parliament endorsed the Australian Government’s Motion of Reconciliation. Through the motion, the national parliament,

– expressed its deep and sincere regret that Indigenous Australians suffered injustice under the practices of past generations, and for the hurt and trauma that

many indigenous people continue to feel as a consequence of these practices, and

– reaffirmed a whole-hearted commitment to the cause of reconciliation between indigenous and non-indigenous Australians as an important national priority for all Australians.

“The impacts of the removal policies continue to resound through the generations of indigenous families. The overwhelming evidence is that the impact does not stop with the children removed. It is inherited by their own children in complex and sometimes heightened ways.” *Bringing Them Home report, 1997.*

¹³⁸ See de Lorenzo, Catherine, “Remembering: Aboriginality, Public Art and Urban Design”, *Australian and New Zealand Journal of Art* 2 (2000), 130-145; and de Lorenzo, Catherine, “Confronting Amnesia: Aboriginality and Public Space”, *Visual Studies* 20/2 (October 2005), 107-123 for a further discussion of public art in Australia.

¹³⁹ For a further discussion of the National Day of Healing, see Section 3.2.

¹⁴⁰ Due to Aboriginal cultural sensitivity concerning the photographing and naming of people who have died, I have refrained from including the performers in the photograph.

¹⁴¹ The 2006 season of the Australian Ballet included a production of “Gathering”, a collaboration between the Australian Ballet and the Bangarra Dance Theatre, an Indigenous dance company. The erasure of First peoples seems to unconsciously assert itself, as displayed in the poster, even when other events seemingly engage with them.

¹⁴² The relationship of First peoples to the land is discussed further in Section 5.1.

¹⁴³ Tom Wright argues that interpreting the Bible is like completing the fifth Act of a Shakespearean play that was left incomplete, with only four Acts having been written. Quoting Tom Wright, Rowland and Roberts argue that the hermeneutical task ‘is to discover, through the Spirit and prayer, the appropriate ways of improvising the script between the foundation events and charter on the one hand and the complete coming of the kingdom on the other’ (Wright, N.T., *Scripture and the Authority of God* (London: SPCK, 2005), pp. 91f, quoted in Rowland, Christopher and Roberts, Jonathan, *The Bible for Sinners: Interpretation in the Present Time* (London: SPCK, 2008), p. 7). Rowland and Roberts emphasise that interpreting the Bible in this way is a collaborative process, which pays attention to the readings of people who are marginalised. There are some who argue that Paul was inherently hegemonic in his writing (e.g. Shaw, Graham, *The Cost of Authority: Manipulation and Freedom in the New Testament* (London: SCM, 1983); and Castelli, Elizabeth A., *Imitating Paul: A Discourse of Power* (Louisville: Westminster/John Knox Press, 1991), or that he has suppressed the freedom of the Spirit, and so his writings must be read against the grain (e.g. Wire, Antoinette Clark, *The Corinthian Women Prophets: A Reconstruction Through Paul’s Rhetoric* (Minneapolis: Fortress Press, 1990). Wire is right in arguing that Paul was just one competing voice in the early years of ‘followers of the Way’, but it must not be forgotten, as will be seen in Chapter 2, that his interpretation of the way of the cross was marginalised within a church politics founded on the politics of the Roman Empire. Recognising that it is impossible to ever determine the authorial intention, one can nevertheless try to distinguish between the effects of the canonisation of what Paul wrote and its subsequent reception history, and how Paul might have been read in the much more fluid and uncertain early years of the followers of Jesus (such as the insightful readings of Kathy Ehrensperger in her *Paul and the Dynamics of Power: Communication and Interaction in the Early Christ-Movement* (London: T&T Clark, 2009)). Although the genre of a thesis has certain limits on the type of collaboration

allowed, and so it may not be able to properly fulfil the requirements posed by Rowland and Roberts for a truly collaborative reading, it is hoped that, through extensive engagement with the literature, and in discussions with people, this thesis has been sufficiently attentive to the biblical text and to the contemporary context to provide a sufficiently nuanced reading of the text to enable a truly liberative ‘fifth Act’ to be performed, a reading that is in accordance with the good news in Jesus.

2 Reconciliation in the Corinthian Correspondence

This chapter and the next lay some theological foundations of the concept of reconciliation. The theological investigations begin with the writings of Paul in the New Testament, and this chapter will focus on the use of reconciliation in Paul, particularly his first uses of the term in his correspondence with the Corinthian Christians.¹

The word ‘reconciliation’ in English is derived from Latin,² but Paul wrote in Greek. The focus in this chapter will be on Paul’s use of the words *καταλλαγή* (‘reconciliation’ – Rom. 5.11; 11.15; 2 Cor. 5.18, 19) and its related verb *καταλλάσσω* (‘to reconcile’ – twice in Rom. 5.10; 1 Cor. 7.11; 2 Cor. 5.18, 19, 20), which were used in contemporaneous political discourse. Paul is the only New Testament author to use these words.³

Although focusing on Paul’s use of these words, this chapter is not a word study, but instead investigates how these words arise from, and are used within the context of Paul’s whole argument in the Corinthian correspondence. The task of this chapter is different from those who want to argue that ‘reconciliation’, or indeed any other idea, is the overarching concept in Paul’s teaching.⁴ Rather, the task is to see what can be gained by focusing on this one metaphor from Paul’s rich network of metaphors.⁵

Standard dictionaries note that the words *καταλλαγή* and *καταλλάσσω* are compounds of *ἀλλάσσω*, which means to alter, or to exchange. In turn, *ἀλλάσσω* is based on *ἄλλος* meaning ‘other’. From the time of Herodotus, the usage of *ἀλλάσσω* moved from meaning ‘to change’ or ‘to exchange’, to meaning ‘to reconcile’. The prefix *κατα* in *καταλλάσσω* is understood as having no effect on the meaning,⁶ and so the compound *καταλλάσσω* ‘generally denotes in classical Greek the restoration of the original understanding between people after hostility or displeasure (Xen., *Anab.* 1, 6; Eur., *Helena* 1235; Aristotle, *Oeconomica* 1348b, 9).’⁷ ‘It was used figuratively for the “exchange” of hostility, anger, or war for friendship, love, or peace; it thus designates reconciliation in the human or political realm.’⁸ The religious use of *καταλλάσσω* was rare in classical Greek literature, and it is not used of the relationship between God and his people in Jewish literature until 2 Macc. 1.4; 5.20; 7.33; 8.29. In fact, it appears that it was Paul’s use of the term which was the motivating factor for a radically increased

use of *καταλλάσσω* and its cognates in Greek literature, with these words appearing an ‘inordinately larger’ number of times in the Church Fathers, especially John Chrysostom.⁹ Interestingly, Plutarch described Alexander the Great as ‘reconciler of everything,’ sent by God to unite humanity into a world state (*Alex. Fort.* i.329c).¹⁰

There are a number of reasons why it is important to begin a theological investigation of reconciliation with Paul. Of the early Christian writers known today, not only was he the first Christian writer who used the word reconciliation, but he also introduced a number of important innovations from its use in Greek culture. Moreover, following Paul, there was a large increase in the usage of these words in the Greek literature that has survived until today.¹¹ It will be seen that some of the Pauline insights into reconciliation are crucial for giving meaning to the disputed concept of reconciliation.

Paul first introduced the word ‘reconciliation’ in his letters to the church in Corinth, when he was arguing for unity in a church riven with factions, where significant issues of church polity, and the wider polity of the Roman Empire, were at stake. Paul’s disagreement with the people in Corinth was, in part, about the centrality of unity and of reconciliation in church politics. That is, part of the argument that was dividing the people was about the importance of unity and reconciliation itself. There are obvious echoes here for contemporary debates about the nature and importance of reconciliation.

Although the words *καταλλαγή* and *καταλλάσσω* come from political discourse, most contemporary readings consider that Paul has used them in an apolitical way, referring only to the relationship between an individual and God. However, it would seem odd for Paul to draw on a metaphor from political discourse, when he is addressing what he sees as significant problems in human relationships in the Corinthian church, only to drop all the political connotations of the term. On the contrary, this chapter will argue that Paul chooses this metaphor precisely because he wants to say some very important things about the nature of human conflicts, about how to resolve them, and God’s role in all of this; in short, God has made it possible for human beings to be reconciled to one another, and justice is established through the seeking of reconciliation.¹²

The plan of the chapter is as follows. In the next section, the dominant, apolitical reading of reconciliation in Paul will be considered, and found inadequate. Paul’s concern in the Corinthian correspondence is not simply about the relationship between

individuals and God; there is much about human relationships in Corinth (inside and outside the church), and their inter-relationship with God. So the following section (Section 2.2) will consider three problems that Paul sees in Corinth: factionalism; the place of the patronage system in relationships in Corinth; and the deterioration of the relationship between the Corinthians and Paul himself. These do not exhaust the problems that Paul saw in Corinth, but they are sufficient for the argument of this chapter. Then the question of Paul's source for both the terminology, and also for the idea of, reconciliation is addressed. It will be argued that it was possible that Paul drew on a number of different sources, but that a primary source was from contemporaneous political discourse (Section 2.3). The reason why this is important is that the way that Paul uses the terminology can then be compared with the standard paradigms of its use elsewhere, so demonstrating some of the innovative ways that Paul has used this terminology (Section 2.4), which then leads to some theological insights into the nature of reconciliation between human beings that will be foundational in this thesis (Section 2.5).

By focusing on the Corinthian correspondence, where Paul first introduces the idea of reconciliation into his writing, some key concepts concerning the nature of reconciliation can be established, before the metaphor is brought into relationship with some of Paul's other metaphors. These other uses of reconciliation will find their place in later chapters of this thesis.¹³

2.1 Apolitical Readings of Reconciliation in 2 Corinthians

Exegetes from the time of Athanasius, Ambrose and Augustine have linked atonement and reconciliation, and seen 2 Cor. 5.18-21 as being about reconciliation with God being achieved through atonement,¹⁴ and it is common in biblical exegesis and systematic theology to treat *καταλλαγή* as an hyponym¹⁵ of atonement.

A high-point of this type of exegesis comes from the pen of Ridderbos:

The oldest Christian confession of reconciliation known to us is "Christ died for our sins in accordance with the scriptures" (1 Cor. 15.3). "In accordance with the scriptures" here refers to the Suffering Servant of the Lord in Isaiah 53. In other words, reconciliation (*Versöhnung*, *katallagē*) is effected only in the mode of expiation (*Sühnung*, *hilasmos*). These words originated in a cultic context and refer to the expiatory offering, the blood of which was to cover the sins of the people. This offering was to be performed by a priest before God on behalf of the people. All of the New Testament pictures Christ's death as a sacrificial

offering to God performed in our place, an offering that covers and takes away the sin of the world, reconciling us with God and calling us to be reconciled with him.¹⁶

For people who take this approach, 2 Cor. 5.18-21 is a piece of high theological doctrine, and it seems peculiar that it is inserted in the middle of what seems to be a more mundane defense of Paul's ministry. Mead summarises the problems of this sort of exegesis well when he writes,

[i]n earlier comments we have mentioned two of the most stubborn questions about our passage. (1) Why does a notable passage about God's reconciling work in Christ appear suddenly in the midst of Paul's long, highly personal vindication of his apostolic conduct? (2) Why does Paul say, "Be reconciled to God" to a congregation who are already Christians? A third troublesome question for interpreters has been (3) why would Paul shift, 6.3ff, from his exalted description of God's gracious work back into a detailed defense of his conduct as an apostle?¹⁷

This chapter will argue that this passage is not at all out of place. The Corinthians need to be reconciled to God because of the failures in their human relationships. Insight into the nature of reconciliation between human beings will be gained by looking carefully at Paul's argument in the Corinthian correspondence, and how he uses the metaphor of reconciliation.

2.2 Three Problems in Corinth

Three relational problems – factionalism, the patronage system, and relationships with Paul – will be examined in this section. The importance of these examples will become clearer in Section 2.5, where they are used to help explicate Paul's theology of reconciliation.

2.2.1 Problem 1: Factionalism

The problem of factionalism in the Corinthian church appears right at the beginning of Paul's correspondence with them, straight after the opening greeting (1 Cor. 1.10). Factionalism was not just a problem in the church, but in Corinthian society, and so it should be no surprise that factionalism was present in the church too.¹⁸

Both Welborn¹⁹ and Mitchell²⁰ have established the similarity of 1 Corinthians to the political discourse of contemporaries of Paul concerning reconciliation.²¹ Mitchell is the more thoroughgoing of the two, arguing that the whole of 1 Corinthians is an example

of deliberative rhetoric,²² persuading the Christian community at Corinth to be reunified, whereas Welborn focuses on Chapters 1-4. Whilst she may overstate her case, the evidence that she gathers for her conclusion is valuable for the argument of this thesis, so a brief résumé of her argument will be given here, followed by a critique of her conclusions.

The purpose of deliberative rhetoric is to convince people to take a particular action in the future. Aristotle said that deliberative letters try to dissuade people from doing something harmful, or to persuade them that something is advantageous or of interest (συμφέρον), or the good (τό ἀγαθόν). The appeal to τό συμφέρον occurs in deliberative speeches right into the Graeco-Roman period.²³ There is general agreement in the rhetorical handbooks that examples (παραδείγματα) are the most suitable form of proof for deliberative speakers, for it is as the past is examined that the future can be divined and judged, a point which is born out by the speeches and letters themselves. Examples may be copying something advantageous or avoiding something perilous, historical or invented (e.g. body, household, ship, building, chariot, chorus, heavenly bodies, various species in animal kingdom such as birds, ants, bees, myths), and some are commonly used and expected in certain sorts of appeals. Finally, rhetorical handbooks say deliberative rhetoric is for such topics as religious ritual, legislation, the form of the constitution of alliances or treaties with other states, war, peace, and finance. Political questions, particularly war and peace, are in every such list down into the Graeco-Roman period. Alongside war and peace emerges the important related political topic of ὁμόνοια (‘concord’), or unity within the political body, and this is overwhelmingly confirmed by extant deliberative texts and those referred to but no longer available.²⁴ In 1 Corinthians, Paul makes extensive arguments about what is good for the Corinthians,²⁵ and he also uses many examples in making his argument about the importance of concord in the church.²⁶

In 1 Cor. 1.2, the singular ἐκκλησία, with the plurals ‘those sanctified’ and ‘saints’, already indicates the theme of unity. The dual form of identification – the church named as a singular body and then two references to a composite of individuals – is unparalleled in Paul’s extant letters.²⁷ It is quite possible that the Corinthian church did not start out as a united entity, but as a number of disparate groups meeting in people’s houses. However, Mitchell is correct when she writes that, ‘Paul’s rhetorical stance throughout 1 Corinthians is to argue that Christian unity is the theological and

sociological expectation from which the Corinthians have fallen short, and to which they must return.²⁸

After careful rhetorical analysis, Mitchell concludes that 1 Corinthians is ‘a single letter of unitary composition which contains a deliberative argument persuading the Christian community at Corinth to become reunified.’²⁹ The *prothesis* (πρόθεσις) of the deliberative argument is 1 Cor. 1.10, which Mitchell translates as

I urge you, brothers and sisters, through the name of our Lord Jesus Christ, to all say the same thing, and to let there not be factions (σχίσματα) among you, but to be reconciled (κατητισμένοι) in the same mind and in the same opinion.³⁰

There is a strong case for translating κατητισμένοι as ‘to be reconciled’, as Mitchell has done.³¹ The ἐπίλογος is 1 Cor. 15.58:

Therefore, my beloved brothers, be steadfast, immovable, always abounding in the work of the Lord, knowing that in the Lord your labour is not in vain.

The bulk of Mitchell’s book is spent in proving that, as an example of deliberative rhetoric, 1 Corinthians is concerned throughout with the subjects of factionalism and concord. Her argument is in two parts: Chapter III shows that there is a thematic unity in 1 Corinthians in that the entire letter is permeated with the vocabulary and *topoi* used in political rhetoric to discuss and combat factionalism;³² and Chapter IV makes a compositional analysis to show that 1 Corinthians is a unified letter urging concord.

Others have seen chapters 1-4 of 1 Corinthians as being concerned with encouraging unity in a factionalised community, and some have even noticed the political nature of the language. For example, Welborn writes that ‘Paul does not seek to refute a “different gospel” (as in 2 Cor. 11.4), but exhorts the quarrelling Corinthians “to agree completely, ... to be united in the same mind and the same judgment” (1 Cor. 1.10). It is a power struggle, not a theological controversy, that motivates the writing of 1 Corinthians 1-4.’³³ However, this is a bit simplistic, because, for Paul, bad politics is bad theology. Welborn notes that Calvin argued that the problem Paul saw in Corinth was partisanship, and that Paul exhorts the Corinthians to be united in the same mind and judgement (1 Cor. 1.10).³⁴ Thiselton notes that in ‘the subapostolic age and in earlier patristic times it was often broadly assumed that the problem of discord and splits to which 1.10-12 alludes featured as the major issue which Paul felt called to

address.³⁵ However, Mitchell was the first person to make such a thoroughgoing analysis of Greek texts, and to argue that the whole letter was encouraging unity in a factionalised community.

Mitchell's rhetoric overstates the case: 1 Corinthians is more than simply a 'coherent appeal for unity and cessation of factionalism.'³⁶ Rather, it is an argument for the unity that arises from a proper comprehension (intellectual and life-style) of the gospel. That is, the problems in Corinth will not be solved simply by a reorganization of its ecclesiastical structures, even achieving unity, 'but by placing the community as a whole under the *criterion and identity of the cross of Christ*. Here a *reversal of value systems occurs* (cf. 1 Cor. 1.26-31), and as recipients of the sheer gift of divine *grace* through the cross, all stand on the same footing (cf. 1 Cor. 4.7). ... not ecclesiology but *a reproclamation of grace and the cross to Christian believers takes center stage*.'³⁷

When writing 2 Corinthians, the problem of factionalism still seems to be present, for Paul returns to this at the end of 2 Corinthians (see 12.20-13.14). There is therefore a literary *inclusio* in the canonical form of the Corinthian correspondence in that the key verb in the *prothesis* of 1 Corinthians (1.10) – *κατηρτισμένοι* – is found again in 2 Cor. 13.9, 11, in noun and verbal form, which indicates that the problems of factions which caused Paul to write 1 Corinthians were still present when he wrote 2 Corinthians.³⁸ Georgi argues that, in Paul's eyes, the vices listed in 2 Cor. 12.20f arise from the 'unrestrained competition' in Corinth³⁹: 'In Paul's opinion, the competition exposed the essentially faithless attitude of the Corinthians (and naturally also of the opponents).'⁴⁰ Georgi goes as far as suggesting that Paul could 'be stating very bluntly that the Corinthians in reality never had become Jesus-believers.'⁴¹

Furthermore, factionalism continued to be a problem in Corinth, even after the writing of 2 Corinthians. For example, in his letter to the Corinthian church about factionalism in Corinth his day, Clement refers explicitly to what Paul wrote in 1 Corinthians about factions (1 Clement 47.1-3), and he uses the terms and *topoi* from 1 Corinthians in his own appeal for the cessation of factionalism in Corinth.⁴²

2.2.2 Problem 2: The In-Comers⁴³ to Corinth and the Patronage System

The second problem that Paul saw with the church in Corinth, that will be highlighted here, was its being enthralled to the patronage system. Whilst the focus of 1 Corinthians

is on relationships between the members of the church in Corinth, in 2 Corinthians the focus has shifted to the triangular relationship between the Corinthian Christians, Paul, and some people who have come to the church in Corinth from elsewhere, and have exerted significant influence on it.⁴⁴ This does not mean that the in-comers were a new phenomenon, for, from 1 Corinthians 1-4, it is clear that some in-comers were already present when Paul wrote 1 Corinthians, and were possibly a catalyst of, or even a cause of some of the factionalism, as people grouped themselves around particular leaders.⁴⁵

As the present-day reader only has access to what Paul has written, there is no certainty about who the in-comers were, and what they taught and did. However, it will be argued here that one aspect of their teaching and lifestyle was a continuation of the patronage system, which Paul roundly rejects as being antithetical to his understanding of the gospel. Again, this problem was already present in 1 Corinthians 1-4, 9 and 11.⁴⁶

Thrall gives a helpful summary of the main scholarly views about who the in-comers were, and what they taught.⁴⁷ She divides theories into three main classes: those who argue that the in-comers were some type of Judaizing party;⁴⁸ those who think that they taught some sort of elevated 'spiritual' status;⁴⁹ and some combinations of the two viewpoints.⁵⁰ Thrall, herself, argues that the in-comers might have had Palestinian connections, with links to Jesus' original disciples. They are miracle-workers, they are probably visionaries, who boast of their visions, and they claim apostolic status. As missionaries, they claim their right of material support from the Corinthians. Paul queries their right to work in 'his area', both because he has done all the groundwork, and perhaps because of an agreement made with the Jerusalem apostles about areas of missionary responsibility.⁵¹ The different Jesus that they preach focuses on the post-resurrection glorious figure, rather than the crucified Christ, and the different gospel stresses obedience to the teaching of the earthly Jesus, perhaps with some measure of Torah-observance.⁵² However, these hypotheses do not take sufficient account of the social dynamics in the Greek East of the Roman Empire.

It is significant that, unlike other churches established by Paul, there seems to have been little friction between the church in Corinth and the wider society. For example, Corinthian Christians take disputes to the civil courts (1 Cor. 6.1-6); Christians are invited to meals at the homes of unbelievers (1 Cor. 10.27); and non-Christians might come to a home where Christian worship is taking place (1 Cor. 14. 24f).⁵³ Paul,

however, is uneasy about both the degree of integration of the Corinthian Christians with the surrounding society, and their corresponding failure to see the church as the place of their primary and dominant relationships.⁵⁴ ‘In the Corinthians’ easy dealings with the world Paul detects a failure to comprehend the counter-cultural impact of the message of the cross.’⁵⁵ ‘Their perception of their church and of the significance of their faith could correlate well with the life-style which remained fully integrated in Corinthian society.’⁵⁶

In particular, it will be argued here that the Corinthians fitted happily within the patronage system, and that one of their problems with Paul was that he could not be captured into their patronage system, whereas the in-comers sat easily with the patronage system, and so the Corinthians were more at ease with them than with Paul.

Graeco-Roman society was shaped and held together by the patronage system.⁵⁷ The patronage system was an asymmetrical system of exchange, where one party had more control over resources, and would bind other parties to itself by the giving of benefaction in return for something beneficial to higher-status party. The receiving of benefaction tied the client to the patron. One of the roles of a patron was the writing of letters of recommendation. One of the obligations of clients was to attend meals given by their patron, which were an opportunity for the host to show off wealth and status. Roman satirists protested about the way that the good food and wine and seating was saved for the guests of honour, whilst the poorer clients had poorer food and places to sit.⁵⁸ The fact that these are exactly the issues raised by Paul in 1 Cor. 11 shows that some of the church in Corinth was heavily influenced by patronage system.⁵⁹ Recall that the church in Corinth met in people’s homes, where the host/ess had an automatic patronage role, so it was not easy to break away from the patronage system.⁶⁰

The giving and receiving of money is a key part of the patronage system, and it is an important issue in the relationship between the Corinthian church and Paul. Marshall has argued that Paul’s refusal to accept money from the Corinthians was the root cause of the breakdown in his relationship with them.⁶¹ Paul’s refusal to receive money from the Corinthians for his own support was a problem already when he wrote 1 Corinthians (1 Cor. 9), and this continued to be a problem in 2 Corinthians,⁶² a problem heightened by the fact that, although he did not accept money for himself, he did want to collect money for the saints in Jerusalem (2 Cor. 8 and 9).⁶³ If Marshall is right, that the issue

of money was at the root of the cooling off of the relationship between the Corinthian church and Paul from the Corinthian end, then the fact that Paul refers to the monetary issue so many times in 2 Corinthians would strengthen the case that restoring his relationship with the Corinthians was at the forefront of Paul's mind in 2 Corinthians. It would also suggest that the use of reconciliation as a metaphor is particularly appropriate, because he had become their enemy, and he wanted to establish peace. Paul's relationship with the Jerusalem church had also been difficult, and it is conceivable that the collection was also a reconciliatory gesture on his part towards them.⁶⁴

Why did Paul not accept money from the Corinthians when he had accepted money from the Philippian church when he was in Corinth (2 Cor. 11.8f; Phil. 4.14-16)?⁶⁵ It may have been the case that the factions in the Corinthian church centred around the homes in which members of the church congregated, perhaps with the householder acting as the patron of the particular congregation,⁶⁶ and so, perhaps, Paul refused financial aid because he did not want to become aligned with a particular faction. However, it is more likely that Paul was concerned about the patronage system itself.⁶⁷ For Paul, part of the sociality of the gospel was to follow Christ in his becoming poor that others might become rich (2 Cor. 8.9), a sort of inverse of the patron-client relationship. Many times Paul expresses how he has become 'poor' so that the Corinthians might become 'rich' (e.g. 1 Cor. 4.6-13; 9.19ff; 2 Cor. 1.6; 4.5, 12; 12.15; 13.6f, 9). Perhaps Paul was confident to receive money from the Philippians, because he saw them suffering as he did,⁶⁸ whereas the Corinthians have failed to fully carry through the socio-economic distinctions that follow from their faith (2 Cor. 6.14-7.1; cf. 1 Cor. 10.23-11.34). Further, it seems that Paul made it a policy not to receive money from people whilst evangelising in their city (1 Thess. 2.9; cf. 2 Thess. 3.7-9),⁶⁹ but once he was confident of their understanding of the gospel and their relationship with him, then he expected them to send him on to new places (2 Cor. 10.15f), presumably with financial support for the work in the new situation.

In his discussion of financial support for himself, Paul shifts the metaphor to say that he is acting as a parent to the Corinthians as children (2 Cor. 12.14). Some see in this a claim that Paul is acting like a patron to them, albeit that what is on offer is the gospel, and that he is offering the Corinthians the opportunity to become patrons of the Jerusalem church by taking part in the collection.⁷⁰ Whilst Paul does use some of the

language of benefaction, it is unlikely that he would have been encouraging people to think in this way. Rather, other dynamics seem to be in play: becoming poor that others might become rich (2 Cor. 8.9); giving as an act of grace, flowing from the grace of God (2 Cor. 8.6f; 2 Cor. 9.13f); generosity (2 Cor. 8.2, 15; 9.6); a response of thanksgiving to God (2 Cor. 9.12); and the requirement that abundance should be shared with those who are poor (2 Cor. 8.13-15); not to mention the benefits that will flow to the Corinthians (2 Cor. 9.10f, 14).⁷¹

In summary, Paul believed that the patronage system is antithetical to the life-style that flows from the cross of Christ. He is worried by the way that the Corinthians fit too easily into their cultural environment, and he accuses the in-comers of being supporters of the patronage system, as they pride themselves on three key aspects of the system: they accept money for their work (2 Cor. 2.17; 11.7-11; 12.13-18); they came recommended and require recommendation (2 Cor. 3.1-3; 4.2; 5.12; 10.12, 18);⁷² and they fitted easily into hierarchy of the patronage system (2 Cor. 11.20f).⁷³ In fact, it could have been the refusal of Paul to fit into the Corinthian construal of the patronage system that led to his perceiving that the relationship between him and the Corinthians had broken down, which means that the desire to restore the relationship with the Corinthians is more than just an issue of the relationship between him and the Corinthians. This does not exhaust Paul's critique of the message and life-style of the in-comers, but it is sufficient to show that Paul believes that the Corinthians must at least repent of their taking part in the patronage system.⁷⁴

The reason why this is significant is that the allegiance to the patronage system is part of the reason why Paul is concerned that the Corinthians have strayed from Christ (2 Cor. 11.3), and he urges them to examine themselves to see if they are still in the faith (2 Cor. 13.5). Paul seems to think that they have strayed outside the Christian faith, and he seeks their restoration (2 Cor. 13.9, 11). This is a similar statement to his plea that they be reconciled to God (2 Cor. 5.20), especially as it uses the word – καταρτίζω – in its noun and verbal forms, that he used in his the *prothesis* in 1 Cor. 1.10, where Paul urges the Corinthians to be reconciled to one another.

2.2.3 Problem 3: Relationships Between the Corinthians and Paul

The final problem that Paul saw in Corinth that will be highlighted here is the relationship between the Corinthians and Paul. There is widespread scholarly

agreement that Paul was already facing opposition in Corinth when he wrote 1 Corinthians.⁷⁵ Dahl argued that slogans 'I belong to' (1 Cor. 1.12) should be understood as declarations of independence from Paul. If there are already problems in his relationship with the Corinthian Christians, then there are many features of 1 Corinthians that could have made things worse. In this letter, Paul criticises almost every aspect of the lives of the Corinthian Christians: what they wear; how they worship; what, when, where and with whom they eat; what they do with their bodies; how they settle disputes; and so on. Not only does Paul criticise a wide range of aspects of their lives, but sometimes he also addresses them in a diminutive fashion.⁷⁶ Mitchell writes that 'Paul interprets [the Corinthian's] factional activity as indicative, not of political sophistication, but of childishness and renunciation of their precious freedom, through their alignment behind various missionaries. Paul's response is his replacement slogan which stresses their common allegiance to Christ (1 Cor. 3.23).'⁷⁷ Paul refers repeatedly to the Corinthians as children, even babies, which could imply that their behaviour is like children (1 Cor. 3.1; 4.14; 13.11; 14.20).⁷⁸ Paul may see some of these references as being a positive development of his metaphor of his being in a father-child relationship with the Corinthians, but in others they are definitely derogatory, and Paul sees them ultimately as signs that people are enslaved to some other power (e.g. 1 Cor. 6.19f; 7.23).

A striking feature of 2 Corinthians as a whole is 'how much attention Paul gives to his relationship with the community at Corinth.'⁷⁹ For example; he hopes that they will fully acknowledge 'us',⁸⁰ as they have partially acknowledged 'us', and that they will boast of 'us' on the day of the Lord Jesus (1.13f); he refrained from visiting Corinth so that there would not be further pain in the relationship (1.23; 2.1-4); we are working together with the Corinthians (1.24);⁸¹ he leaves an opportunity to preach the gospel in Troas because his heart was troubled because he wanted to hear from Titus about how Titus' visit to Corinth on his behalf had gone (2.12f); he is enabling the Corinthians to boast about 'us', so that they might answer those who boast about outward appearance and not what is in the heart (5.12); 'our' heart is wide open, but the Corinthians have restricted their affections, and he calls them to widen their hearts (6.11-13), and to make room in their hearts for 'us' (7.2-4); the report from Titus showed that Paul had received some of the restoration of relationship that he had hoped for (7.6-13); and he calls the Corinthians 'brothers' (1.8; and also 8.1; 13.11).⁸² Bieringer also argues that naming them specifically in 6.11 ('We have spoken freely to you, Corinthians; our heart is wide

open'), being one of the only three places that he does so in his undisputed letters (see also Gal. 3.1; Phil. 4.15), makes the statement highly personal, making sure that the readers realise he is talking to them and no-one else.⁸³ The Macedonians are held up as an example of giving themselves to Paul (8.5), and the collection is seen by Paul as a test of their love (e.g. 8.8, 24); he does not want to have to act in boldness when he gets to Corinth (10.2), waging war (10.3-6; cf. 13.1-4); he hopes that as the faith of the Corinthians increases, so will our area of influence increase amongst them (10.15); he fears he might not find them as he wishes when he visits them again (12.19-21); and he prays for their restoration (13.9, 11). Paul is eager for the relationship between himself and the Corinthians to be restored. He stresses that his love for them has been constant, and that he has always acted out of love for them (e.g. 2.4; 6.11; 7.3; and also 11.11; 12.15, 19), and he wants the Corinthians to respond with love towards him (e.g. 6.12f; 7.2); he wishes to be reconciled with the Corinthians. Paul has to say these things because he feels that some people in the Corinthian church have rejected him, and he has been humbled (2 Cor. 11.7; 12.21), even humiliated (2 Cor. 9.4) before them.⁸⁴

It is clear from the structure of the argument in 2 Cor. 5.16-7.2 that Paul interprets the Corinthian response to him as a rejection of himself and his gospel. In Paul's mind, this is a serious offence, because they are rejecting God's ambassador, and so are rejecting God. But, unlike the Romans when the Corinthians mistreated their ambassadors, God does not come to sack the city, but through Paul, urges the Corinthians to be reconciled to God. Part of that reconciliation to God is to open their hearts to Paul again (6.1, 11-13; 7.2), that is, they must be reconciled with Paul as part of their being reconciled to God. In the words of Fitzgerald,

[t]he first and foremost of these additional appeals in 2 Corinthians 6-7 is the call for a full reconciliation between himself and the Corinthians (6.11-13 + 7.2-4). Indeed, since there can be no reconciliation with God apart from a reconciliation with Paul as God's ambassador, this appeal constitutes the real point of the apostle's earlier exhortation to be reconciled to God (5.20). Like the heart of the God who entrusted him with the message of reconciliation, Paul's own heart stands wide open to the Corinthians (6.11); he has done nothing to harm them (7.2) or to present an obstacle (6.3) to their opening wide their hearts (6.13) and making room for him (7.2). There is thus no impediment to their reconciliation; there are no reparations to be made. And just as God had taken the initiative in reconciling Paul to himself, Paul now takes the initiative in trying fully to reconcile the Corinthians to himself.⁸⁵

It is important to note that Paul makes a plea as an ambassador; he does not command the Corinthians. If ambassadors went from the defeated party to the dominant party in order to plead for reconciliation,⁸⁶ then we have here an admission from Paul of his weakness before the Corinthians, and he must plead with them to be reconciled to him.⁸⁷

2.2.4 Three Problems in Corinth: Summary

This section has examined three of the problems that Paul saw in Corinth, namely factionalism, participation in the patronage system, and the breakdown of the relationship with Paul. It is significant that these are problems in human relationships and the ordering of the community. In each of these, Paul says, the Corinthians have been alienating themselves from God. Generalising Fitzgerald's comment above, it will be argued in Section 2.5 that reconciliation with God requires the resolution of these issues in human relationships.

2.3 The Source of the Metaphor καταλλάσσω and the Idea of Reconciliation in Paul's Theology

The previous section has shown that Paul perceived that there were significant problems in the corporate life of the Corinthian church, and in its relationships with Paul and others. Whilst the source of the idea of reconciliation in Paul's theology, and of the terminology he uses, can never be proved for certain, this suggests that Paul used the term reconciliation because it came from a realm of discourse about the ordering of human relationships. This section will show that there is significant evidence to suggest that the main place from which Paul drew the metaphor was contemporaneous political discourse. This is important because Paul's use of the term can then be compared with the standard paradigm in the political literature, from which Paul's important insights and innovations concerning the nature of reconciliation can be derived. It will also be argued that Paul's experience of encountering the risen Christ, where his persecution of the church is interpreted as persecution of the risen Christ, is important in forming Paul's theology, and the place of reconciliation in particular. There have been other suggestions of the source of the idea of reconciliation in Paul, but these seem rather fanciful and obscure when compared with the weight of the evidence for the view that Paul drew the metaphor from contemporaneous political discourse.⁸⁸

2.3.1 Evidence that Paul Drew the Metaphor *καταλλάσσω* from Political Discourse

The place to start is a negative piece of evidence, namely that ‘reconciliation’ comes from a different semantic network to ‘atonement’. This means that there is no linguistic foundation for interpretations that shift easily from atonement to reconciliation and back again, such as those outlined in Section 2.1 above.⁸⁹ On the positive side, recall that 1 Corinthians draws extensively from the language, *topoi*, and argument style of contemporaneous political works urging reconciliation. Furthermore, Paul makes extensive use of other political terms in the same place that he uses the term ‘reconciliation’ in 2 Cor. 5, and perhaps, he uses ambassadorial language in order to contrast God’s actions towards the Corinthians with the way that the Romans responded to the mistreatment of their ambassadors by the Corinthians, a couple of centuries beforehand. These pieces of evidence will briefly be examined, except for the second point on 1 Corinthians, which is treated at length in Section 2.2.1 above, and so will not be repeated here, but it must be born in mind as a key piece of evidence.

2.3.1.1 Atonement and Reconciliation are From Two Distinct Semantic Fields

Cilliers Breytenbach has shown that semantic networks of reconciliation and atonement are distinct: neither did the translators of the LXX use reconciliation language in translating atonement language, nor is reconciliation language hyponymous to the language chosen to translate the atonement language.⁹⁰ In the words of Breytenbach,

[a]lthough “atonement” and “reconciliation” may be used as related concepts by the English speaking theologian, this is not the case with the Greek equivalents. The Greek translations of the Old Testament do not translate *kpr* with *di-* or *katallassō ktl*. Where the Hebrew *kpr* (*pi ʿel*) is used in the sense of “to atone”, it is translated by *exilaskesthai ktl*. In Greek, in fact, *di-* or *katallassō ktl*. are not hyponymous to (*ex*)*hilaskesthai ktl*. There are no semantic grounds to merge the Hebrew notion of atonement (*kipper*) with the Pauline reconciliation. Neither *kipper* nor its translation in the LXX (*[ex]hilaskesthai*) are sense-related to *katallassō*. ... There is no semantic or traditio-historical reason to link the origins of the Pauline notion of “reconciliation” (or the scant use in the Greek translations of the Hebrew scriptures make of *katallassō*) with the Old Testament theology of the atonement.⁹¹

It is not only a problem for the English-speaking theologian, for the German words for expiation (*Sühnung*) and reconciliation (*Versöhnung*) suggest that the latter is derived from the former.⁹²

Breytenbach made a key contribution in the study of reconciliation in Paul when he showed that *καταλλάσσω* belongs in a different semantic network from that of cultic terminology, and that it belongs in the world of political discourse.

2.3.1.2 Paul Uses a Cluster of Political Terms in 2 Cor. 5.18-21

Paul brings together a number of political metaphors in the few verses where he uses *καταλλαγή* and *καταλλάσσω* in 2 Corinthians:

- *καταλλαγή* : 2 Cor. 5.18, 19
- *καταλλάσσω*: 2 Cor. 5.18, 19, 20
- *προσβεύω*: 2 Cor. 5.20 (cf. Eph. 6.20)
- *παρακαλέω*: 2 Cor. 5.20; 6.1 (also 1.4, 6; 2.7, 8; 7.6, 7, 13; 8.6; 9.5; 10.1; 12.8, 18; 13.11)
- *δέομαι*: 2 Cor. 5.20 (also 8.4; 10.2)
- *διακονία*⁹³: 2 Cor. 5.18 (also 3.7, 8, 9; 6.3; 8.4; 9.1. 12, 13; 11.8)

These words are inter-related. Ambassadors⁹⁴ make supplication (*δέομαι*) and plead (*παρακαλέω*) on behalf of the ones who sent them.⁹⁵ Similarly, people beseeched (*παρακαλέω*) others to be reconciled to them.⁹⁶ There is some debate about the degree to which ambassadorial and reconciliatory language were used together in political discourse. In his study of epigraphic material concerning embassies from the Eastern Roman Empire, Bash concluded that the language of reconciliation is rarely found.⁹⁷ However, this is not the case in the literary evidence, where embassies were often sent (*προσβεύω*) in order to seek reconciliation (*καταλλαγή*).⁹⁸ Ambassadors also sought peace (*ειρήνη*), which is linked with reconciliation in Rom. 5.1, 10⁹⁹ and Col. 1.20.¹⁰⁰

Paul also makes extensive use of other political terms in 2 Corinthians. For example: he writes of the gospel (*εὐαγγέλιον*: 2.12; 4.3, 4; 8.18; 9.13; 10.14; 11.4, 7);¹⁰¹ he is a conquered enemy in the triumphal procession of Christ (*θριαμβεύεσθαι*; 2 Cor. 2.14); he calls the Christians the *ἐκκλησία* of God; and in 2 Cor. 12.32f, Paul is not the victorious soldier who is awarded for being the first soldier to scale the wall of a city being attacked, but is instead lowered over the wall to escape.¹⁰² There is a debate as to whether Paul uses such political terminology in order to subvert the claims of the Roman Empire, or whether he just re-inscribes the power structures of Empire in the

church.¹⁰³ What is certainly the case, is that Paul makes changes in how the reconciliation terminology is used, which will be discussed in Section 2.4 below.

2.3.1.3 The Sacking of Corinth by the Romans

Strabo records that Corinth was sacked by the Romans after some Roman ambassadors were badly treated by some of the populace:

The Corinthians, when they were subject to Philip, not only sided with him in his quarrel with the Romans, but individually behaved so contemptuously towards the Romans that certain persons ventured to pour down filth upon the Roman ambassadors when passing by their house. For this and other offences, however, they soon paid the penalty, for a considerable army was sent thither, and the city itself was razed to the ground by Leucius Mummius.¹⁰⁴

Now whilst it cannot be assumed that Paul was familiar with Strabo, the story that the sacking of Corinth in 146 BCE was a result of offences against Roman ambassadors must have been well-known in the city, re-founded by Rome following a decree of Julius Caesar in 44 BCE. It was re-founded largely by war veterans and the urban poor from Rome, many of them freedmen.¹⁰⁵ Paul's use of ambassadorial language in 2 Corinthians could have been prompted by this incident, where Paul has chosen to speak of his role in this way precisely because it makes a contrast between how the Romans treated the Corinthians in the past, and how God has chosen to treat them when they have behaved in the same way, rejecting Paul, God's ambassador. If so, it would strengthen the premise that Paul drew his images and language from political discourse.

2.3.1.4 The Use of *καταλλάσσω* in Jewish Literature

Before moving on to consider Paul's experience on the road to Damascus, it must be noted that the use of reconciliation terminology for the relationship between humans and God is rare in Greek literature, but not unheard of.¹⁰⁶ It does appear in Jewish literature in 2 Macc. 1.5; 5.20; 7.33; 8.29 and 4 Macc. 7.28-29; 17.22. Marshall writes of these passages that

[t]he view of the writer of 2 Maccabees is that when people fall into sin and apostasy they arouse the wrath of Yahweh. He proceeds to punish them, and on the completion of the punishment his anger is satisfied and he is reconciled to the people. But the experience of punishment may lead the people to pray to Yahweh to be reconciled to them and to give up his anger, and Yahweh may respond to such prayers. Even more powerful is the action of the martyrs who, while recognising that their sufferings and death are primarily for their own sins, beseech God to accept their suffering as being on behalf of the nation and to be reconciled to the nation as a whole. In short, God is reconciled, i.e., abandons

his anger, as a result of the prayers of the people and their endurance (in themselves or their representatives) of the punishment which he inflicts upon them. These ideas are expressed with even greater clarity in 4 Maccabees 7.28-29; 17.22.¹⁰⁷

It is possible that Paul is drawing on the ideas of these passages when writing 2 Corinthians, but he makes significant changes, notably that in Maccabees it is God who has to be changed from being hostile to being friendly, whereas in Paul, it is human beings who have alienated themselves from God and need to be changed.¹⁰⁸ A second difference is that in Paul's understanding, it is God who takes the initiative and provides the means for this reconciliation to happen. These two differences are commonly noted in the literature.¹⁰⁹

Whether or not Paul was influenced by the Maccabean material, it must be remembered that the use of *καταλλαγή* and *καταλλάσσω* concerning relationships between God and human beings is 'so rare that it can safely be regarded as a metaphorical mapping of non-religious terminology onto a religious domain.'¹¹⁰ That is, even if Paul was influenced by, and correcting the theology of the Maccabean material, the original source of the language is the political sphere.

2.3.2 The Importance of Paul's Encounter with the Risen Christ on the Road to Damascus

Whilst the source of Paul's reconciliation terminology may have been the political sphere, it would seem that it was Paul's experience of meeting the risen Christ that was foundational in his understanding of the nature of enmity and reconciliation. Amongst recent authors, Kim is the one who presents the most thoroughgoing argument that Paul's use of the metaphor of reconciliation originated from his personal experience of God's reconciliation of Paul to himself on the road to Damascus.¹¹¹ Whilst he goes too far in arguing that Paul's experience is the source of his terminology, it must be true that Paul's experience on the road to Damascus was a decisive catalyst for his theological development of the idea.¹¹²

What does not seem to have been noticed by other commentators is the parallel between Paul's experience on the road to Damascus and his fears concerning what the Corinthian church is doing. Paul was persecuting the church, but the question posed to him by the risen Christ was, "Saul, Saul, why are you persecuting me?" (Acts 9.4).¹¹³ That is, whilst Paul's action is against the church, it is received by the risen Christ as being

persecution of himself. From this, Paul understood that his behaviour towards the followers of Jesus was sinful, and had also alienated him from God, but Christ was calling him back into relationship with God, which became the pattern of his ministry as an ambassador of reconciliation. Regarding his relationship with the Corinthians, Paul fears that in rejecting him, the Corinthians are making exactly the same mistake that he did in persecuting the church, so that they risk alienating themselves from God. In the letter Paul has already sent to the Corinthians, he refers to the fact that he persecuted the church (1 Cor. 15.8-9).¹¹⁴ But Paul says that God's 'grace towards me was not in vain' (1 Cor. 15.10).¹¹⁵ The Corinthians, however, are in danger of having received the grace of God in vain (2 Cor. 6.1) because they have restricted their relationship with Paul (2 Cor. 6.11-13; 7.2), and so they must be reconciled with God (2 Cor. 5.20). Paul fears that the Corinthians have not only moved away from him, but are also moving away from his gospel, and so they will be 'led astray from a sincere and pure devotion to Christ' (2 Cor. 11.2-6).

2.3.3 Conclusion

Fitzgerald is surely right when he writes that 'there is not a single source for Paul's concept of reconciliation, but that his thinking on this topic is shaped by several different settings in which the term is used.'¹¹⁶ However, the overwhelming evidence is that Paul has drawn the metaphor *καταλλάσσω* from the political sphere. Breytenbach broke the connection between atonement and reconciliation. Mitchell showed that, in 1 Corinthians, Paul makes extensive use of the language, the *topoi* and the style of argument of contemporaneous writings urging reconciliation. Paul uses *καταλλάσσω* both in discussing relationships both between human beings (1 Cor. 7.11) and human beings and God (2 Cor. 5.18-20), and he uses a cluster of political terms, which are especially appropriate considering the political history of Corinth, in the same passage, as well as using other political terminology throughout the letter. Even those who want to argue that he drew his ideas from Isaiah, look back to Maccabees for the actual terminology, and, even here, the terminology is drawn from the political sphere and used in the religious.¹¹⁷ Thus, the overwhelming evidence is that Paul drew his terminology from the political sphere. Moreover, it appears that Paul came to understand his persecution of the church as putting himself in a state of enmity with God, and so reconciliation is an appropriate term to use to explain what happened to him, and appropriate in resolving the problems that he sees in Corinth.

2.4 Continuities and Discontinuities in Paul's Use of καταλλάσσω

It has been argued that a major source for Paul's use of reconciliation terminology was political discourse. But how did Paul use this terminology? To understand more of what he meant, it is important to see the continuities and discontinuities with how Paul used it when compared with the standard paradigm of reconciliation as used by writers up to and including the time of Paul.

Before doing this, it is worth noting that reconciliation was not always expected in disputes. For example, '[i]n early Greek literature, friendship and enmity are strongly contrasted in the traditional maxim, that one ought to do everything "to help a friend and harm an enemy"'.¹¹⁸ In Aristotle, revenge upon an enemy, rather than reconciliation, is a noble act: 'for to retaliate is just (δίκαιον) and that which is just is noble (καλόν)'.¹¹⁹ 'A man's virtue consists in outdoing his friends in kindness and his enemies in mischief.'¹²⁰ Although later writers reacted against this, it remained in popular ethics.¹²¹ It was possible to make friends with those who were formerly enemies. Reconciliation was not only the province of noble conduct, but could be pursued for reasons of patriotism, expediency and self-preservation.¹²²

Paul has taken the standard paradigm of reconciliation, and has made a number of significant changes to it. Fitzgerald lists five features of the standard paradigm of reconciliation from the use of διαλλάσσω¹²³ and καταλλάσσω in Greek literature:¹²⁴

1. the rule of thumb was that those responsible for the strife were to take the initiative in ending it, and that the offended party should show goodwill by accepting the offer of reconciliation;
2. the guilty party's initiative in reconciliation usually took the form of an appeal, typically introduced by a some work of entreaty, such as παρακαλῶ or δέομαι;
3. appeals for reconciliation are often accompanied by some philopronetic indication of the guilty party's affection and concern for the estranged person;
4. in many cases, pleas for forgiveness were not sufficient, and some reparation had to be made. This was a standard precondition in the reconciliation of warring nations, and the severity of the demands by the more powerful nation often prolonged the conflict; and

5. although the desire for reconciliation often began with the guilty party, reconciliation brought benefits for both parties, and the reconciled were expected to live in renewed concord with one another.

What is striking in looking at this list is that, although many of the features of the standard paradigm of reconciliation are present in 2 Corinthians, many of them appear back-to-front. This observation will now be examined more carefully, as it gives insight as to how Paul understood reconciliation.

In 2 Corinthians, Paul argues that the Corinthians have become estranged from God by their behaviour. The key shift change that Paul has made in the reconciliation paradigm is that it is God, from whom the Corinthians have alienated themselves, who takes the initiative in reconciliation. That is, it is God, the offended party, who takes the initiative in reconciliation, making reconciliation possible between himself and the offending party.¹²⁵ Marshall conjectured that this was the first time that *καταλλάσσω* had been used this way in Greek literature,¹²⁶ and Porter has demonstrated it.¹²⁷ The result of this shift is the radical and new understanding of God as the one who has taken responsibility for reconciliation because human beings were either unwilling or unable to take the steps necessary for reaching reconciliation.¹²⁸ God is not an angry god who has to be appeased by humanity, but the one who desires that humanity be reconciled to him, and who removes all barriers that stop this from being a possibility.

A second shift is that Paul has taken terminology from the domain of relationships between human beings, and he has applied it to God. Reconciliation was the exchange of enmity for friendship, and so 'Paul's use of this term in conjunction with the divine-human relationship means that he is depicting God as the One who makes friends of his adversaries.'¹²⁹ This is expressed winsomely in the Good News Bible translation of 2 Cor. 5.18-20:

All this is done by God, who through Christ changed us from enemies into his friends and gave us the task of making others his friends also. Our message is that God was making the whole human race his friends through Christ. God did not keep an account of their sins, and he has given us the message which tells how he makes them his friends. Here we are, then, speaking for Christ, as though God himself were making his appeal through us. We plead on Christ's behalf: let God change you from enemies into his friends!

A third shift is that it is not the guilty party, the Corinthians, which is making expressions of affection and concern for the estranged party, but Paul (recall how he often expresses his love for the Corinthians, e.g., 2.4; 6.11; 7.3; 11.11; 12.15, 19).

Related to this reversal and the key change discussed above, is that, according to the standard reconciliation paradigm, Paul should have been an ambassador for humanity, making supplication to God, but instead he is an ambassador for Christ, calling the Corinthians to be reconciled to God.¹³⁰ This same shift has been made in the way that the term ‘ambassador’ has been used. Usually, it was the Sender’s embassy which sought and brought about peace, but in 2 Cor. 5.20, the embassy is addressed to humanity, not from humanity.¹³¹

Fourthly, unlike the Romans, who sacked Corinth following the mistreatment of its ambassadors, God does not act in immediate judgment because of the mistreatment of his ambassador by the Corinthians. There is a delay, perhaps to the day of judgement, of the consequences of the failure to receive the message of reconciliation (2 Cor. 5.10; 6.1; seen more clearly in Rom. 5.9).¹³²

A final shift that Paul makes is in the need for the guilty party to make reparation. As has been noted earlier several times, until the work of Breytenbach, the majority of commentators have made some sort of equivalence between atonement and reconciliation, and have therefore read 2 Cor. 5 as expressing a shift from the guilty party having to provide the reparation required by God, the means of atonement, to God providing Jesus as the means of atonement. However, there is no atonement language in 2 Cor. 5, and there is not even any language of sacrifice. Paul does not even get near the idea of sacrifice and atonement in this passage: Christ’s death in 2 Cor. 5.14 is not sacrificial, but participatory (all have died in Christ); and the exchange of righteousness and sin in verse 21 focuses on the fact of the exchange, not on how it works.¹³³ Reconciliation, and the exchange of righteousness for sin, is a free gift, a new creation.

Before turning to draw this chapter together by highlighting what can be learnt about the political theology of reconciliation from 2 Corinthians, it is worth making one more observation about the standard paradigm of reconciliation. Bash notes that embassies were often sent from a weaker group to a group which had power over them,¹³⁴ and Fitzgerald notes that the large reparations that were required of the vanquished party

often extended the conflict.¹³⁵ This completely side-steps the issue of moral responsibility in the conflict: it may sometimes be the case that one party is seeking reconciliation with another party not because they have done anything ethically wrong, but simply because they have not done what the more powerful party required.¹³⁶ In the situation in Corinth, Paul argues that the Corinthians are definitely guilty of sin, and it is the party who has been affected by this sin who calls for the guilty party to be reconciled to them.

2.5 Some Elements of Paul's Theology of Reconciliation

The previous section noted some changes that Paul made to the standard paradigm of reconciliation. There are two changes in particular that need further attention: firstly, that he used the political language of reconciliation to write of the relationship between human beings and God; and secondly, that he was the first to write of the injured party, God, seeking to be reconciled to the offending party. But these observations beg two important questions: how have the Corinthians alienated themselves from God; and what do they have to do in order to take up God's offer of reconciliation? The short answer to these questions, to be argued further below, is that it is problems in human relationships that have caused the Corinthians to be alienated from God, and that they must sort out these problems in order to take up God's offer of reconciliation. Thus, a more nuanced understanding of both the relationships between human beings and each other and God, and also God's role in the process of reconciliation, needs to be established, which then leads to some insights concerning reconciliation that are fundamental to this thesis. This is the purpose of this section.

Three problems that Paul saw in the life of the church in Corinth – factionalism, the patronage system, and relationships with Paul – were discussed in Section 2.2. The reason why these were chosen out of all the problems that Paul addresses in his correspondence with the Corinthian church is that Paul saw each of them as being a source, or potential source, of alienation of the Corinthians from God, and that resolving these issues was part of the process which would enable the Corinthians to be reconciled to God. It is also the case, as was shown in Section 2.2, that these problems were present throughout the entire Corinthian correspondence (factionalism), or were specifically highlighted (patronage system and relationship with Paul) in 2 Cor. 2.14-6.13 + 7.2-4, so, even if this formed a separate letter, written earlier than the rest of the

canonical 2 Corinthians,¹³⁷ they will have been in Paul's mind when he used the reconciliation terminology in 2 Cor. 5.18-20.

That each of these three problems would result in alienation from God, if they were not addressed, was discussed in Section 2.2.¹³⁸ However, it is worth recalling this here.¹³⁹ Factionalism undermined the understanding of what it meant to be church, and suggested that the Corinthians had never really become Jesus-believers.¹⁴⁰ Allegiance to the patronage system is part of the reason why Paul is concerned that the Corinthians have strayed from Christ (2 Cor. 11.3), and he urges them to examine themselves to see if they are still in the faith (2 Cor. 13.5). Paul seems to think that they have strayed outside the Christian faith, and he seeks their restoration (2 Cor. 13.9, 11). This is a similar statement to his plea that they be reconciled to God (2 Cor. 5.20), especially as it uses the word – καταρτίζω – in its noun and verbal forms, that he used in his the *prothesis* in 1 Cor. 1.10, where Paul urges the Corinthians to be reconciled to one another. Finally, it is clear from the structure of the argument in 2 Cor. 5.16-7.2 that Paul interprets the Corinthian response to him as a rejection of himself and his gospel. In Paul's mind, this is a serious offence, because they are rejecting God's ambassador and his message, and so are rejecting God, and they can only be reconciled to God by being reconciled to him (2 Cor. 6.1, 11-13; 7.2).

These three problems, and their resulting alienation from God, imply that the Corinthians can only be reconciled to God (2 Cor. 5.20) if they turn away from those practices which are causing the alienation, that is: if they cease their factionalism, and so be reconciled to one another; if they no longer order their relationships along the lines of the patronage system; and if there is a reconciliation between themselves and Paul.

However, this is still not sufficiently nuanced, for there is a uniqueness and unrepeatability of what Christ has done, and when human beings are seeking reconciliation, there is a fundamental difference between what they are doing and what God has done in Christ. In Christ, God has made it possible for human beings to be reconciled to God, and to one another (2 Cor. 5.18f); in Christ, reconciliation is possible because sins are not counted against people (2 Cor. 5.19), and sin has been replaced by righteousness (2 Cor. 5.21). This must never be forgotten. Reconciliation between human beings is of a different order, but yet is possible because of what God has done

in Christ (2 Cor. 5.20). The world is to be told about the possibility of reconciliation (2 Cor. 5. 19).¹⁴¹ Webster helpfully reminds us that,

[m]ore than anything else, a Christian depiction of the field in which human acts of reconciliation take place will want to insist on the wholly unique and perfect action of God in Christ. ... It is not just an incitement to human moral activity, still less a kind of cipher for what is properly a mode of human engagement; it is that without which reconciliation is groundless, lacking in any purchase on reality. ... Human acts of reconciliation are in accordance with the structure of reality which God in Christ creates and to the existence of which the gospel testifies; and therefore they are acts which tend towards the true end of creation that God's reconciling act establishes once and for all in Christ's reconciling person and work.¹⁴²

In seeking reconciliation in the human realm, it must be remembered that it is simply making real what has already been achieved; it was achieved proleptically. Again, Webster is helpful here when he writes,

[b]ut again, the question comes: ... what room is left for the activity of reconciliation? What kind of peace-making is left to us? Pannenberg asks: 'Do we not have to regard not merely God's reconciling act but also its human acceptance as constitutive of the event?'¹⁴³ A response might go along these lines: Human action is not constitutive of the event of reconciliation in the sense that the christological 'once-for-all' is dependent for its completion upon those human acts through which reconciliation is accepted and lived out; in this sense, the event of reconciliation is closed. But that event is not closed in the sense that it eliminates all subsequent reconciling activity. It is an event charged with force to expand itself and establish conformity with itself, for it is an event of which one of the agents is the Holy Spirit. And this expansion takes place as the risen Christ in the Spirit's power generates those human acts which seek to demonstrate conformity between achieved divine reconciliation and patterns of human life, and which refuse to act as if reconciliation had not, in fact, taken place. Truthful human action is action that is in conformity with the reality which is established in the resurrection of Jesus from the dead. It is 'truthful' because it presupposes that its *ratio essendi* (and therefore its *ratio cognoscendi*) lies outside itself in a reality to which it is conformed, but which it does not establish or actualize. The Church, therefore, lives in that sphere of reality in which it is proper to acknowledge and testify to reconciliation because we have been reconciled; in which it is fitting to make peace because peace has already been made; in which it is truthful to speak to and welcome strangers because we ourselves have been spoken to and welcomed by God, and so have become no longer strangers but fellow-citizens. What is all-important is that an ethics, politics and spirituality of reconciliation is not burdened with the task of doing God's work. Action is hopeful and unanxious if it knows itself to be action which is in conformity with how the world is *coram deo*.¹⁴⁴

One important and final observation remains to be made, which hints at the relationship between reconciliation and justice. In Greek, justice and righteousness are the same word, and so 2 Cor. 5.21 suggests that righteousness and justice are established as a gift of God in the process of reconciliation; God takes our sin and replaces it with righteousness and justice. The idea of exchange, that is foundational in the word *καταλλάσσω* itself, is carried over from vv. 18-20 to v. 21.¹⁴⁵ God has made possible two exchanges: that of enmity for friendship; and that of sin for ‘righteousness’.¹⁴⁶ The point is that justice is not achieved by pursuing it, rather it is a gift of God that comes from the process of seeking to make enemies friends through the process of reconciliation.¹⁴⁷ Further, righteousness is relational in Hebrew thought, and so the meaning of the phrase, ‘the righteousness of God’ would be understood as ‘God’s activity in drawing individuals into and sustaining them within the relationship, as “the power of God for salvation”’ (cf. Rom. 1.16f), thus continuing the idea of reconciliation that is present in the immediately preceding verses (2 Cor. 5.18-20).¹⁴⁸ The relationship between justice and reconciliation requires some further work, and will be returned to in Chapter 3 (Section 3.3).

2.6 Conclusion

This chapter has focused on Paul’s use of reconciliation in the Corinthian correspondence, where he first uses the terminology and the idea. Once Paul has introduced the idea, he then makes further use of it in other letters, bringing it into contact with some of his other key metaphors and theological ideas. These other uses of reconciliation will be considered in later chapters in this thesis, where they assist the argument of the thesis.¹⁴⁹

This chapter has established that Paul understood that relationship with God depends on relationships with other human beings. Estrangement from God can arise when there is actual enmity between human beings, such as the rift between the Corinthians and Paul, or the factionalism in Corinth, and also when inadequate social orderings and practices, such as the patronage system, are in place. In order to seek reconciliation with God, it is necessary to (re-)establish right relationships between human beings. Volf, working from the Acts 9 account of Paul’s encounter with the risen Christ, writes ‘though reconciliation of human beings to God has primacy, reconciliation between human beings is intrinsic to their reconciliation to God ... Reconciliation involves a turning

away from enmity toward people, not just enmity toward God, and it entails a movement toward a human community, precisely that community which was the object of the enmity.¹⁵⁰ This resonates with the conclusions of our study of Paul's use of reconciliation in the Corinthian correspondence.¹⁵¹

However, there is an important asymmetry in this situation: God acts independently of any human response, and creates the space for human beings to be reconciled to God, by not counting their sins against them (2 Cor. 5.19). This has the effect in the world of human relationships of making the pursuit of reconciliation viable, and this is part of Paul's message for the world (2 Cor. 5.18f).¹⁵² As enmity towards other human beings is also enmity towards God, it is not possible to be reconciled to God without seeking reconciliation with those with whom one is in a state of enmity.¹⁵³ However, Paul does not make the opposite claim, that human beings can only be reconciled with one another if they are reconciled to God. His discussion of reconciliation takes place within the Christian community. He is concerned that the Corinthians have alienated themselves from God because of their factions, their hostility towards him, and their socio-economic practices, and he urges them to re-establish their relationship with God, to be reconciled to God, which can only be achieved through working out their human relationships, within the gracious space that is the gift of God in Christ. His argument does not flow in the opposite direction, that to be reconciled to each other needs people to be reconciled to God. In fact, that God was in Christ reconciling the world to himself, suggests that God is at work in the world to bring reconciliation even between groups that do not acknowledge what God has done in Christ; reconciliation between human beings comes as a gift to those who seek it.

The next chapter will explore the nature of reconciliation in more depth, considering what it means to repent and to forgive, and it will argue that justice is established as a result of the reconciliation process. Then Chapter 4 will argue that reconciliation is needed in trans-generational disputes, or else the present generation is liable to continue to sin in ways that are formed by the sins of the previous generations.

¹ The other uses of the word 'reconciliation' will come to the fore in Chapters 3 and 5, and will be discussed most naturally in those contexts.

² The Latin noun 'concilium' means a council, and the related verb 'conciliare' means to bring together, and the prefix 're' means again, so the Latin derivation of 'reconcile' would seem to indicate a meaning like 'to bring together again' *contra* Tawa, Michael, "Reconciliation in Action: Design Projects at Warburton Ranges, WA: A Collaboration

between the Ngaanyatjarra Community and the University of NSW” in Phillips, Scott K., *Everyday Diversity: Australian Multiculturalism and Reconciliation in Practice* (Altona: Common Ground Publishing Ltd, 2001), 37-51, p. 50, who argues that to reconcile is also to conceal, based on his derivation from the Latin, ‘con’ = together, and ‘celare’ to hide. This is far from the meaning that Paul gives to the Greek words.

³ Three other related words are found in the New Testament: ἀποκαταλλάσσω (Col. 1.20, 22; Eph. 2.16), διαλλάσσω (Mt. 5.24), and συνλλάσσω (Acts 7.26). There are, of course, other words that can be translated as ‘reconcile’, such as καταρτίζειν, which will be discussed below.

⁴ For example, Martin, Ralph P, *Reconciliation: A Study of Paul’s Theology* (Eugene, Oregon: Wipf and Stock, 1989, 2nd edition), argues that the ‘omnibus’ term reconciliation (p. 54) is ‘a suitable umbrella under which the main features of Paul’s *kerygma* and its practical outworking may be set’ (p. 239), and Stuhlmacher, Peter, “The Gospel of Reconciliation in Christ – Basic Features and Issues of a Biblical Theology of the New Testament” *Horizons in Biblical Theology* 1 (1979), pp. 161-190, is even bolder in arguing that the thrust of the whole of the New Testament can be placed ‘under the heading: *The Gospel of Reconciliation in Christ*’ (p. 164, his italics).

⁵ David Williams’ study, *Paul’s Metaphors: Their Context and Character* (Peabody: Hendrickson, 1999), demonstrates the diverse contexts from which Paul draws his metaphors, as well as the extraordinary range of metaphors that he uses.

⁶ Porter, Stanley E, *Καταλλάσσω in Ancient Greek Literature, with Reference to the Pauline Writings* (Cordoba: Ediciones El Almendro de Cordoba, 1994), p. 13.

⁷ Vorländer, H and Brown, C, “Reconciliation” in Brown, C, ed., *The New International Dictionary of New Testament Theology*, vol. 3 (Exeter: The Paternoster Press, 1978), 145-176, p. 166.

⁸ Merkel, H., “καταλλάσσω, ἀποκαταλλάσσω, καταλλαγή” in Balz, Horst, and Schneider, Gerhard, *Exegetical Dictionary of the New Testament* volume 2, pp. 261-263, p. 261.

⁹ Porter, *Καταλλάσσω*, p. 16.

¹⁰ Merkel, “καταλλάσσω”, p. 261.

¹¹ Porter, *Καταλλάσσω*, p. 16.

¹² This last point, that justice is established through the seeking of reconciliation, will be introduced in this chapter, and then explored more fully in the next chapter (Section 3.3).

¹³ The uses in Romans 5 will be important in the development of the relationship between justice and reconciliation in Section 3.3. Of the other words, ἀποκαταλλάσσω in Eph. 2.16, will be explored in Section 6.1, ἀποκαταλλάσσω, in Col. 1.20, will be useful in thinking about the relationships between human beings and the land in Section 6.5, and διαλλάσσω in Mt. 5.24 will be used in Section 3.1.

¹⁴ Mead, Richard, “Epochs in the History of Interpretation of 2 Corinthians 5.14-21” in Lewis, Jack P. ed., *Interpreting 2 Corinthians 5.14-21: An Exercise in Hermeneutics* (Lewiston, New York: The Edwin Mellen Press 1989), 65-86, pp. 72-78; Mead, Richard, “Exegesis” in Lewis, Jack P. ed., *Interpreting 2 Corinthians 5.14-21: An Exercise in Hermeneutics* (Lewiston, New York: The Edwin Mellen Press 1989), pp. 143-162.

¹⁵ Cilliers Breytenbach (“On Reconciliation: An Exegetical Response” *Journal of Theology for Southern Africa* 70 (1990), pp. 64-68), p. 65, uses the term ‘hyponym’. In linguistics it describes the relationship of a specific term to a more general one. Thus, ‘eucalypt’ is a hyponym of ‘tree’. John Fitzgerald (“Paul and Paradigm Shifts: Reconciliation and Its Linkage Group” in Engberg-Pederson, Troels, ed., *Paul Beyond the Judaism/Hellenism Divide* (Louisville: Westminster John Knox Press, 2001), 241-262, 316-325), p. 317, n. 8, suggests John Lyons, *Introduction to Theoretical*

Linguistics (Cambridge: Cambridge University Press, 1968), pp. 453-5 for a discussion of hyponymy.

¹⁶ Ridderbos, H, “The Biblical Message of Reconciliation” chapter 5 of his *Studies in Scripture and Its Authority* (Grand Rapids: Eerdmans, 1978), 72-90, p. 82.

¹⁷ Mead, “Exegesis”, p. 160. To be fair, this is by way of introducing his conclusion, which follows immediately after the questions:

If the assessment we have made of our passage is sound, the three questions are to be answered in this way. (1) The apostolic office is properly understood by the Corinthians only when it is recognized as an inseparable part of God’s reconciling working in Christ. (2) Paul says “Be reconciled to God” to Christians not as a sample of his mission message to unbelievers (which would strain the syntax of indirect discourse to admit an imperative), and not quite because “since we sin every day, so by a daily forgiveness God receives us into His favour” (Calvin; cf. Bultmann). Rather, because in Paul’s opinion the Corinthians are *not* reconciled as long as they stand uncertain about Paul and company or bicker among themselves. Perhaps they acknowledge the message that God has reconciled men to himself through Christ; but they are like some commentators, they neglect the rest of what needs to be said about reconciliation – specifically, God’s intention that his people should work harmoniously in the ministry of reconciliation. Consequently, (3) there is an integral connection between 2 Cor. 6.3-10 and 5.14-21 + 6.1-2. As Paul has tried over and over to explain, an apostle who understands his commission spends everything he is and has in order to protect (6.3) and recommend (6.4ff) the ministry with which God has entrusted him.

There are some similarities between his answers to the questions and the conclusions that will be drawn in this chapter.

¹⁸ Cf. Welborn, L L, *Politics and Rhetoric in the Corinthian Epistles* (Macon, Georgia: Mercia University Press, 1997), p. 41: ‘Corinth had a history of faction: from the bloody revolution of Cypselus (Herodotus 5.92) to their role in initiating the Peloponnesian War, to the contemptuous act that sparked the revolt of the Achaean League (Strabo *Geogr* 8.5.23). Politics remained a concern of the Corinthians under the empire, though the game was played for lesser stakes. The names of her ambitious citizens, their rivalries, and election promises are known to us from inscriptions recording their donations. We deceive ourselves if we imagine that the Corinthian Christians were innocent of all of this.’

¹⁹ Welborn, L L, “On the Discord in Corinth: 1 Corinthians 1-4 and Ancient Politics” *Journal of Biblical Literature* 106/1 (1987), pp. 85-111 (Also reprinted in a revised form in his book *Politics and Rhetoric in the Corinthian Epistles*, pp. 1-42.); Welborn, L L, *Politics*; and Welborn, L L, “A Conciliatory Principle in 1 Corinthians 4.6” in Welborn, L. L., *Politics and Rhetoric in the Corinthian Epistles* (Macon, Georgia: Mercia University Press, 1997), 43-75.

²⁰ Mitchell, Margaret, *Paul and the Rhetoric of Reconciliation: An Exegetical Investigation of the Language and Composition of 1 Corinthians* (Louisville: Westminster/John Knox Press, 1991).

²¹ cf. also Williams, Demetrius, K., “Paul’s Anti-Imperial “Discourse on the Cross”: The Cross and Power in 1 Corinthians 1-4,” *Society of Biblical Literature Seminar Series* 39 (November 2000), 796-823, for a discussion of 1 Corinthians 1-4 as an anti-imperial discourse, that is, an engagement with politics.

²² There were three types of classical rhetoric. Deliberative rhetoric was used to persuade people about some future action. Mitchell has shown that deliberative argumentation had four characteristics: (1) a focus on future time as the subject for deliberation; (2) employment of a determined set of appeals or ends, the most distinctive of which is the advantageous; (3) proof by example (παραδείγματα); and (4) appropriate subjects for deliberation, of which factionalism and concord are especially common. (Mitchell, *Paul*, pp. 20-23.) Cf. Witherington III, Ben, *Conflict and Community in Corinth: A Socio-Rhetorical Commentary on 1 and 2 Corinthians* (Grand Rapids: Eerdmans, 1995), pp. 40-44. The purpose of deliberative rhetoric is not to prove that something is true, but rather to provide a reason for hearers to take up some action that is being advised (Mitchell, *Paul*, p. 202; Witherington, *Conflict*, p. 106).

²³ Mitchell, *Paul*, pp. 25-32.

²⁴ Mitchell, *Paul*, pp. 60-64.

²⁵ Summarising Mitchell, *Paul*, pp. 33-39, Paul uses συμφέρον five times in 1 Corinthians: the impersonal verb συμφέρει in 6.12; 10.23; the neuter participle συμφέρον in 12.7; and the adjective σύμφορος (in the neuter σύμφορον) in 7.35; 10.33 (although some manuscripts read the neuter participle συμφέρον in the latter two cases, but their meaning is the same). He also uses other words for advantage or gain: μισθός in 9.18; κερδαίνειν in 9.20; ὠφελεῖν in 13.3; 14.6; ὄφελος in 15.32 and the litotes οὐκ ἔστιν κενός in 15.18. Paul changes what he presents as advantageous through his letter, starting with individual advantage in 6.12, and then in 6.13-20 he begins to argue that it is not what is advantageous to a single person that is to be considered, but what is advantageous to the ἐκκλησία, they are members of Christ (6.15, c.f. temple of God in ch. 3; 6.19), leading to the blunt statement, ‘you do not belong to yourselves’ (6.19). Paul is redefining advantage as that which is of advantage for the Corinthian community, so 10.24 ‘let no one seek his or her own advantage, but that of the other’ and 10.33 ‘not seeking my own advantage, but that of the many.’ By the parallelism in 10.23a and 10.23b, one is led to deduce that the advantageous act is one which builds up the community. Building language, especially the term (ἐπ)οικοδομεῖν, and its cognates, are very important in the letter (e.g. οἰκοδομεῖν 8.1; 10.2; 14.4(twice); 14.7; οἰκοδομή 3.9; 14.3,5,12, 26; ἐποικοδομεῖν 3.10 (twice), 12, 14, and the metaphor goes beyond even the use of these terms, as she shows in Chapter III). Rhetorically, the οἰκοδομή is Paul’s redefinition of the *telos* in relation to which he urges the Corinthians to choose their actions. Their true interests, he counsels them, are only served when those of the entire community are served (see especially. 14.3-5). This is sustained by his insistence on their communal identity: as the temple of God (3.9-17; 6.19); as members of Christ (6.15-17); and as the body of Christ (especially chapter 12). The redefinition of advantage to mean ‘the common advantage’ is complete in 12.7: ‘to each the manifestation of the spirit is given for the common advantage’. The final appeal to advantage is in 15.58: ‘your work is not in vain in the Lord.’

²⁶ Mitchell, *Paul*, pp. 39-42. On pp. 47-60, she summarises Paul’s uses of examples as follows. Paul appeals to his ancestors in 10.1-13 as negative examples from whom to learn how not to act. Other appeals to incidents, people, or practices in the Hebrew Bible are found interspersed in Paul’s argument: 5.6-8; 6.16-17; 9.8-10, 13; 10.18; 11.2-16; 14.21; 15.32. There are also images from Hellenistic culture, such as: scapegoat; soldier, planter, and shepherd (9.7); athletic competition; the body (one of the most common paradeigmata for concord and cessation of factionalism); the personification of agape; the exempla in ch. 14 of the nature of the voice, speech and communication; and the seed and varying illumination of heavenly bodies in ch. 15. Paul also uses himself as an example for imitation. The use of himself as an example is not restricted to the two verses where he explicitly urges the Corinthians to imitate him, but as part of the whole

argument of the letter. Sometimes he uses himself as an example of the non-divisive course of action (e.g. ‘all things to all people,’ ‘pleasing to all people in all things,’ and ‘not seeking my own advantage’). Mitchell comments, ‘[t]he frequency of the references Paul makes to himself in 1 Corinthians is ... outstanding. These self-references are spread consistently throughout the letter; they are not merely clustered in a particular part of it. I take this to be another contributing argument for the unity of the letter, a unity in the rhetorical strategy of (deliberative) argumentation by the example of Paul himself, and the implicit or explicit call to imitation’ (pp. 59f).

²⁷ Mitchell, *Paul*, pp. 192-194.

²⁸ Mitchell, *Paul*, p. 1, n. 1, p. 303.

²⁹ Mitchell, *Paul*, p. 1.

³⁰ Mitchell, *Paul*, p. 1. See also Witherington, *Conflict*, pp. 94f, which is largely derivative of Mitchell.

³¹ Mitchell makes a sound case for translating *κατηρτισμένοι* as ‘to be reconciled’ on pp. 74f of her *Paul*. Part of her argument is to show that *καταρτίζειν* is often used to mean bringing warring factions back together, and it is used as an antidote for factions well into the Graeco-Roman period. See also Lightfoot, J B, *Notes on the Epistles of St Paul from Unpublished Commentaries* (London: MacMillan and Co., 1904), pp. 152, 47. Mitchell does not notice that, significantly, both *καταρτίζειν* and *καταλλάσσω* are brought together in Herodotus:

(5.28.1) ... but for two generations before this she had been very greatly troubled by faction [*στάσις*], till the Parians made peace [*καταρτίζειν*] among them, being chosen out of all Greeks by the Milesians to be peace-makers [*καταρτιστήρες*]. (5.29.1) The Parians reconciled [*κατήλλαξαν*] them in the following manner ...

(The translation of 5.28.1 is from Mitchell, *Paul*, p. 75, and of 5.29.1 from the Perseus database, web page <http://www.perseus.tufts.edu/cgi-bin/ptext?lookup=Hdt.+5.29.1>, last checked on 20.2.06.)

³² In *Paul*, p. 180f, Mitchell notes that the following terms and phrases in 1 Corinthians have been demonstrated to be particularly appropriate to an ancient discussion of factionalism and concord: *τὸ αὐτὸ λέγειν* (1.10), *σχίσμα* (1.10; 11.18; 12.25), *καταρτίζειν* (1.10), *ὁ αὐτὸς νοῦς* (1.10), *ἕρις* (1.11; 3.3), *μερίζειν* (1.13; 7.17, 34), *συνζητητής* (1.20), *καυχᾶσθαι* (1.29, 31; 3.21; 4.7; 13.3), *φυσιοῦσθαι* (4.6, 18, 19; 5.2; 8.1; 13.4), *ζήλος/ζηλοῦν* (3.3; 12.31; 14.1, 12, 39; 13.4), *διχοστασία* (3.3, variant reading), *συνεργός* (3.9), *συναναμίγνυσθαι* (5.9, 11, 14), *συγκεραννύναι* (12.24), *κολλᾶσθαι* (6.16, 17), *πρόσκομμα / ἀπρόσκοπος / ἐγκοπή* (8.9; 10.32; 9.12), *συγκοινωνός / κοινωνός / κοινωνία* (9.23 / 10.18, 20 / 1.9; 10.16 (twice)), *ζητεῖν τὸ συμφέρον* (combined: 10.33; *συμφέρος*: 7.35; 10.33; *συμφέρω*: 6.12; 10.23; 12.7), *ἀρέσκειν πᾶσιν* (10.33; *ἀρεσκο*: 7.32, 33, 34), *φιλόνεικος* (11.16), *αἵρεσις* (11.19), *συνέρχεσθαι ἐπὶ τὸ αὐτὸ συνέρχεσθαι ἐπὶ τὸ αὐτὸ* (*συνέρχομαι*: 11.17, 18, 20, 33, 34; 14.23, 26), *σῶμα* (numerous, from chapters 5, 6, 7, 9, 10, 11, 12, 13, 15), *συγχαίρειν / συμπάσχειν* (12.26 / 12.26), *κυβέροντις* (12.28), *ἀγάπη* (4.21; 8.1; numerous in chapter 13; 14.1; 16.14, 24), *παροξύνεσθαι* (13.13), *ἀκαταστασία* (14.33), *κατὰ τάξιν* (14.40), and *εἰρήνη* (1.3; 7.15; 14.33; 16.11). As can be seen, these terms and phrases are found well-distributed throughout the sixteen chapters of the letter.

The following *topoi* or common appeals for concord are used by Paul as also by other ancient writers urging unity on divided groups:

1. appealing to “ones,” things which the group has in common (in this argument one *κλήσις*, one God, one Lord Jesus Christ, one Spirit, one

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- confession of faith, one baptism, one common language, one set of common traditions). The term εἶς is used a remarkable thirty-one times in the letter;
2. appealing to the need to seek “the common advantage,” which is the direct response to factionalism, in which one seeks the advantage of one’s own group, and appealing for voluntary compromise of one’s right to do things, instead doing things for the sake of the common good and thus true freedom;
 3. appealing to the building as an example of concord, here particularized as “God’s building” which is also “the temple of the Holy Spirit.” The consequences of this metaphor are that the members of the building must be strong, unwavering and unchanging, in order to build up the building instead of allowing it to totter and fall, and ultimately to be destroyed by inner division;
 4. appealing to the political or social unit as a body, here specified theologically as “the body of Christ.” The body metaphor for concord entails customary political consequences (distribution of gifts and functions, sharing of a common “advantage,” a proper “mix” of elements for unity, co-suffering and co-rejoicing of the members, exclusive allegiance of the members);
 5. appealing to the commonplace that factionalism is “human,” whilst concord and peace are divine, calling factionalism a childish failing, and concomitantly arguing that the things over which the factionalists strive are trivial and silly, urging the audience to divert their fractious energies into positive strivings for the important things that deserve such energy and attention;
 6. appealing to the unity of the leaders to whom the factionalists claim varied allegiance;
 7. appealing to the commonplace that factionalism destroys any political body infected with it;
 8. appealing to past examples of people and nations who suffered because of their factionalism;
 9. stressing the distinction between the political body itself and the “outsiders” to emphasize and consolidate group loyalty; and
 10. urging people to maintain the *status quo* in order to preserve group stability.

³³ Welborn, L L, “Discord in Corinth: First Corinthians 1-4 and Ancient Politics” in Welborn, L L, *Politics and Rhetoric in the Corinthian Epistles* (Macon, Georgia: Mercia University Press, 1997), 1-42, p. 7.

³⁴ Welborn, “Discord”, pp. 6f.

³⁵ Thiselton, Anthony, C., *The First Epistle to the Corinthians* (Grand Rapids: Eerdmans, NIGTC Series, 2000) p. 33; cf. Mitchell, *Paul*, pp. 17-19.

³⁶ Mitchell, *Paul*, p. 19.

³⁷ Thiselton, *The First*, pp. 33f, his italics.

³⁸ Many scholars believe that the canonical 2 Corinthians was formed from a number of different letters (see Thrall, Margaret E, *II Corinthians Volume I (I-VII)* (Edinburgh: T&T Clark, International Critical Commentary, Revised Edition, 2004), pp. 48f for a summary of some of the major theories). However, the argument of this thesis does not depend on the unity or otherwise of the canonical 2 Corinthians.

³⁹ Cf. Thiselton, *The First*, p. 33, ‘[t]o the degree to which Corinthian Christians imbibed secular Corinthian culture with an emphasis on peer groups and *local* value systems, the church had indeed become embroiled in what we have termed a *postmodern pragmatism of the market* with its related *devaluation of truth, tradition, rationality, and universals*’ (his italics).

⁴⁰ Georgi, Dieter, *The Opponents of Paul in Second Corinthians* (Philadelphia: Fortress Press, 1986), p. 237.

⁴¹ Georgi, *The Opponents*, p. 237.

⁴² Mitchell, *Paul*, p. 17.

⁴³ The only thing that can be known with relative certainty is that these people have come to Corinth from elsewhere (Thrall, *II Corinthians* (vol. 2), pp. 664f). The term ‘in-comer’ will be used here as a translation of ὁ ἐρχόμενος (2 Cor. 11.4) to describe these people. The frisson in the term ‘in-comer’ is supposed to capture Paul’s feeling that these people should not be trespassing on his territory (2 Cor. 10.13-16).

⁴⁴ Thrall, *II Corinthians* (vol. 2), p. 926.

⁴⁵ Thanks to David Horrell for reminding me of this.

⁴⁶ Thanks again to David Horrell for reminding me of this.

⁴⁷ “Essay I: Paul’s Opponents in Corinth: The Evidence of 2 Corinthians”, pp. 926-945 of her *II Corinthians Volume II (VIII-XII)* (Edinburgh: T&T Clark, International Critical Commentary, 2000).

⁴⁸ For those interested in reading further, Thrall lists the following works in this category: Baur, *Paulus I*, pp. 288-90, 294-5, 297, 300, 309, 313, 318; Plummer, A., *A Critical and Exegetical Commentary on the Second Epistle to the Corinthians*, ICC, (Edinburgh, 1915); Käsemann, E., ‘Die Legitimität des Apostels’, *ZNW* 41 (1942), 33-71; Oostendorp, D.W., *Another Jesus: A Gospel of Jewish-Christian Superiority in II Corinthians* (Kampen, 1967); Barnett, P., *The Second Epistle to the Corinthians* NICNT (Grand Rapids, 1967).

⁴⁹ For those interested in reading further, Thrall lists the following works in this category: Lütgert, W. *Freiheitspredigt und Schwarmgeister in Korinth*, BFTC 12.3, Gütersloh, 1908; Schmittals, *Gnosticism in Corinth: An Investigation of the Letters to the Corinthians* (ET Nashville, 1971); Friedrich, G., ‘Die Gegner des Paulus im 2 Korintherbrief’, pp. 181-215 in O. Betz, M. Hengel, and P. Schmidt, ed., *Abraham unser Vater Juden und Christen im Gespräch über die Bibel* (FS O. Michel), AGJU 5, (Leiden and Cologne, 1963); Georgi, *The Opponents*.

⁵⁰ For those interested in reading further, Thrall lists the following works in this category: Barrett, C.K., ‘Paul’s Opponents in II Corinthians’, *NTS* 17 (1971), 233-54; Murphy-O’Connor, J., *Paul: A Critical Life* (Oxford, 1996)

⁵¹ Cf. Gal. 2.9f; 2 Cor. 10.13-16.

⁵² Thrall, *II Corinthians* (vol. 2), pp. 940f.

⁵³ Barclay, John M G, “Thessalonica and Corinth: Social Contrasts in Pauline Christianity”, *JSNT* 47 (1992), 49-79, reprinted in part in Adams, Edward, and Horrell, David G, eds., *Christianity at Corinth: The Quest for the Pauline Church* (Louisville: Westminster John Knox Press, 2004), 183-196, p. 185. (The page numbers, here and after, refer to the reprint of this article in Adams and Horrell, *Christianity*.)

⁵⁴ Barclay, “Thessalonica”, pp. 185-7.

⁵⁵ Barclay, “Thessalonica”, p. 186.

⁵⁶ Barclay, “Thessalonica”, p. 195.

⁵⁷ See, for example: Chow, John K, “Patronage in Roman Corinth”, in Horsley, Richard A., ed., *Paul and Empire: Religion and Power in Roman Imperial Society* (Harrisburg: Trinity Press International, 1997), pp. 104-125; Danker, Frederick W, *Benefactor: Epigraphic Study of a Graeco-Roman and New Testament Semantic Field* (St Louis, Missouri: Clayton Publishing House, 1982); Lampe, Peter, “Paul, Patrons, and Clients” in Sampley, J. P., ed., *Paul in the Greco-Roman World: A Handbook* (Harrisburg: Trinity Press International, 2003), 488-523; Thiselton, Anthony, *First Corinthians: A Shorter Exegetical and Pastoral Commentary* (Grand Rapids: Eerdmans, 2006), pp. 6-9; Witherington, *Conflict*, pp. 22-24.

⁵⁸ Chow, "Patronage", pp. 122f.

⁵⁹ Perhaps it is significant that Paul says to the Corinthians that they 'proclaim the Lord's death' in eating the bread and drinking the wine (1 Cor. 11.26), which refers back to Paul's earlier discussion of the cross, and so emphasising a cruciform lifestyle as against the patronage system. That is, this is not a definitive statement of what is happening in the Eucharist, but part of the significance of this meal that is being highlighted as being important in the political context of the patronage system. Reflecting on this in the contemporary world, Cavanaugh, William, "The World in a Wafer: a Geography of the Eucharist as Resistance to Globalization", *Modern Theology*, Issue 15 (1999), p. 193, writes,

... the Eucharist does not simply tell the story of a united human race, but brings to light barriers where they actually exist. When Paul discovers that the Corinthians are unworthily partaking of the Lord's supper because of the humiliation of the poor by the rich, Paul tells them, 'Indeed, there have been faction among you, for only so will it become clear who among you are genuine' (1 Cor. 11.9). This verse is puzzling unless we consider that the Eucharist can falsely be told as that which unites Christians around the globe while in fact some live off the hunger of others. Theologians of the Southern hemisphere remind us that the imperative of 'church unity' is often a cover for exploitation of the worst kind. In the North American context, many of our Eucharistic celebrations too have been colonised by a banal consumerism and sentimentality. The logic of globalization infects the liturgical life of the church itself; Christ is betrayed again at every Eucharist. Where the body is not discerned, Paul reminds the Corinthians, consumption of the Eucharist can make you sick or kill you (1 Cor. 11.30). This might explain the condition of some of our churches.

⁶⁰ Lampe, "Paul", pp. 495-498.

⁶¹ Peter Marshall, (*Enmity in Corinth: Social Conventions in Paul's Relations with the Corinthians* (Tübingen: J. C. B. Mohr, 1987), especially Chapter 6 and pp. 396-398), has interpreted 2 Corinthians according to the conventions of friendship and enmity. Whilst Paul was had every right to refuse aid from (a faction of) the Corinthian Church within the conventions of friendship, Marshall argues that Paul's refusal to do so was interpreted by the Corinthian church as a breach of friendship, and was thus the cause of their hostility towards him. The fact that the rival apostles became friends with the Corinthian Christians meant that they became, according to the conventions of friendship, joint enemies of Paul, which would perhaps explain why Paul found it so hard to re-establish his relationship with the Corinthians. Cf. Horrell, David, *The Social Ethos of the Corinthian Correspondence: Interests and Ideology from 1 Corinthians to 1 Clement* (Edinburgh: T&T Clark, 1996), p. 225, '[t]he issue of Paul's rejection of material support emerges, then, at crucial points in 2 Cor. 10-13. In the main body of the letter it is both the opening and the closing issue on which Paul makes a defence. It must be seen as a major cause of conflict between Paul and the Corinthians. This issue plays a fundamental role in the process whereby a significant number of the congregation rebel against Paul.'

⁶² See 2 Cor. 2.17; 11.7-12; 12.13-18.

⁶³ See 1 Cor. 16.1-4; 2 Cor. 8 and 9. Georgi, *The Opponents*, p. 242, suggests that the Corinthians had understood 'Paul's request as an indirect demand for acknowledgement. What he did not dare to request directly he tried to get indirectly', cf. 2 Cor. 12.16.

⁶⁴ Cf. Stagg, Frank, "Exegesis" in Lewis, Jack P. ed., *Interpreting 2 Corinthians 5.14-21: An Exercise in Hermeneutics* (Lewiston, New York: The Edwin Mellen Press

1989), 163-178, p. 165, who argues that reconciliation, or the ministry of reconciliation, is the purpose of the collection.

⁶⁵ Not only did they give to Paul, but they gave generously, beyond their means, to the collection for Jerusalem (2 Cor. 8.1-4).

⁶⁶ E.g. Lampe, "Paul", p. 497.

⁶⁷ Cf. Lampe, "Paul", pp. 503f; Witherington, *Conflict*, pp. 341-3.

⁶⁸ Cf. Bieringer, R, "Paul's Divine Jealousy: The Apostle and His Communities in Relationship" in Koperski, V. and Bieringer, *Sharper than a Two-edged Sword* (Louvain Studies 17,1992), 197-231, reprinted in Bieringer, R. and Lambrecht, J., *Studies in 2 Corinthians* (Leuven: Leuven University Press, 1994), 223-253, p. 238. Peter Oakes, (*Philippians: From People to Letter* (Cambridge: Cambridge University Press, 2001)), argues that the suffering of the Philippian Christians was primarily economic, and the scenario on pp. 89-91, demonstrating how allegiance to Christ causes an economic crisis for a Christian family, is only too plausible.

⁶⁹ Cf. Bieringer, "Paul's Divine", p. 238.

⁷⁰ E.g. Danker, *Benefactor*, pp. 322, 437f; Witherington, *Conflict*, pp. 341-3. For a discussion of the metaphor of parent, see e.g., Burke, Trevor J., "Paul's Role as 'Father' to His Corinthian 'Children' in Socio-Historical Context (1 Corinthians 4.14-21)" in Burke, Trevor J., and Elliott, J. Keith, ed., *Paul and the Corinthians: Studies on a Community in Conflict. Essays in Honour of Margaret Thrall* (Leiden: Brill, 2003), pp. 95-113.

⁷¹ Lampe, "Paul", p. 504, is probably overstating the case when he says that Paul has equality in mind.

⁷² Strangely Paul wrote recommendations for people in his own letters (Agosto, Efrain, "Paul and Commendation" in Sampley, J. P., ed., *Paul in the Greco-Roman World: A Handbook* (Harrisburg: Trinity Press International, 2003), 101-133, p. 101).

⁷³ On this third aspect, Georgi, *The Opponents*, p. 239, writes that Paul 'continuously uses concepts which describe the way a despot keeps a distance from the common people.' Contrast this with Paul who is led as a defeated captive (2 Cor. 2.14).

⁷⁴ Note that Paul addresses key aspects of the patronage system both in 2.14-6.13 + 7.2-4 and in chapters 10-13, and he continually mentions his weakness and suffering (e.g. 2.14; 4.7-11; 6.4-10), which contrasts with a patronage system that was comprehensible to the Corinthians. So Paul was already concerned about the patronage system operating in Corinth when he wrote 2.14-6.13 + 7.2-4, even if he did not write chapters 10-13 until later.

⁷⁵ See the introduction to Dahl's essay, "Paul" in Adams and Horrell, *Christianity*, p. 86.

⁷⁶ Recall the first half of Paul's reporting of a Corinthian complaint, that 'his letters are weighty and strong' (2 Cor. 10.10).

⁷⁷ Mitchell, *Paul*, p. 86. Cf. 'Paul compares the factionalists to silly children whose cries for superiority actually demonstrate their infantile dependence on their leaders' (p. 96).

⁷⁸ This is a common *topos* in talking about factions. See Welborn, "A Conciliatory", p. 61; and Mitchell, *Paul*, p. 96.

⁷⁹ Bieringer, "Paul's Divine", p. 246.

⁸⁰ Furnish, Victor P., *II Corinthians: A New Translation with Introduction and Commentary* (New York: Doubleday and Company, 1984), p. 32, notes that while 'alteration between the first person singular and plural is common in Paul's letters – and notoriously difficult to assess ... – the kind of shift apparent here in 2 Cor. appears in no other letter.' The point being made in this paragraph does not depend on whether

Paul is using an epistolary plural, or if he is including others from his team in some of the points he is making.

⁸¹ The same verb, *συνεργέω*, is found in 2 Cor. 6.1, but the text does not specify who is being worked with. Thrall, *II Corinthians (vol. I)*, p. 451, conclude quite reasonably, with many other scholars and biblical translations, that Paul has his working with God in mind in this verse.

⁸² Thrall, *II Corinthians (vol. II)*, pp. 905f, notes that this is rare compared with 1 Corinthians, and suggests a number of ideas why this might be the case, including that Paul was unable to do this in 2 Corinthians because he felt that his pastoral authority was under threat, and so he could not use this term of equality with the Corinthians, but at the end of the letter (Thrall sees 2 Cor. 10-13 as a separate letter), ‘Paul reverts to his original form of address, as a gesture of conciliation and in the hope that he may now be understood’ (p. 906).

⁸³ Bieringer, “Paul’s Divine”, p. 247. There are other possible explanations for speaking to the Corinthians as a group. Another striking feature of 2 Corinthians is that Paul does not mention any Corinthian individuals by name. Whilst he does not always do this, it is unusual, especially as he does so in 1 Corinthians. Perhaps he is stressing their common identity as the church in Corinth, not a group of factions, or, even more, perhaps he is holding them jointly responsible for their falling out with him, even if some may have thought themselves innocent.

⁸⁴ Davies, W D, *The Gospel and the Land: Early Christianity and Jewish Territorial Doctrine* (Sheffield: Sheffield Academic Press, 1994), p. 209.

⁸⁵ Fitzgerald, “Paul and Paradigm”, p. 257. Similar views are expressed by Beale, G.K., “The Old Testament Background of Reconciliation in 2 Corinthians 5-7 and its Bearing on the Literary Problem of 2 Corinthians 6.14-7.1”, *New Testament Studies* 35 (1989), 550-581, pp. 552, 557, 565; Gloer, W Hulitt, *An Exegetical and Theological Study of Paul’s Understanding of New Creation and Reconciliation in 2 Cor. 5.14-21* (Lampeter: The Edwin Mellin Press 1996), pp. 5, 84; Mead, “Exegesis”, p. 160; Furnish, *II Corinthians*, p. 353; Crafton, Jeffrey A, *The Agency of the Apostle: A Dramatic Analysis of Paul’s Responses to Conflict in 2 Corinthians* (Sheffield: Sheffield Academic Press, Journal for the Study of the New Testament Supplement Series 51, 1991), p. 98; Marshall, I H, “The Meaning of Reconciliation” in Geulich, R, ed., *Unity and Diversity in New Testament Theology* (Grand Rapids: Eerdmans, 1978), 117-132, p. 129; Turner, David L, “Paul and the Ministry of Reconciliation in 2 Cor. 5.11-6.2” *Criswell Theological Review* 4/1 (1989), pp. 77-95, pp. 79, 86; and de Gruchy, John W, *Reconciliation: Restoring Justice* (Minneapolis: Fortress Press, 2002), p. 53. There are some dissenting voices, including Thrall, *II Corinthians (vol. I)*, pp. 438f; and Abernathy, David, “Paul’s Ministry of Reconciliation: Exegeting and Translating 2 Corinthians 5.11-6.2” *Notes on Translation, Summer Institute of Linguistics* 15/4 (2001), 48-64, p. 58. However, the logic of Paul’s argument seems to be well-summarised by the quotation from Fitzgerald.

⁸⁶ In his study of epigraphic material, Bash, *Ambassadors*, pp. 48-51, notes that both the sender and the receiver of an embassy knew that the supplicant was making the request from a position of weakness.

⁸⁷ Cf. Davies, *The Gospel*, pp. 209f, ‘He came to accept his limitations; and 2 Cor. 1-9 reveals a chastened Paul. He apologises for his previous letter, pleads for affection, and reveals an acceptance of life, a reconciliation to experience.’

⁸⁸ See, e.g., Snodgrass, K. R., “Reconciliation: God Being God with Special Reference to 2 Corinthians 5.11-6.4” *Covenant Quarterly* 60/2 (2002), 3-23, and Beale, “The Old”, which argue that parts of Isaiah were the primary influences in Paul’s thought.

⁸⁹ Paul does bring cultic and reconciliation language together in a later letter (Romans 5), but that will be discussed in Section 3.3.

⁹⁰ Breytenbach first showed this in his *Verhöhnung. Eine Studie zur paulinischen Soteriologie* (WMANT 60; Düsseldorf: Neukirchener Verlag, 1989). Whilst I have not been able to read this work for myself, this part of Breytenbach's thesis remains unchallenged in the literature I have read (e.g. Fitzgerald, "Paul and Reconciliation", pp. 242-4), and it still forms part of his latest writing in the area (e.g. "Salvation of the Reconciled (with a Note on the Background of Paul's Metaphor of Reconciliation)" in van der Watt, Jan G., *Salvation in the New Testament: Perspectives in Soteriology* (Leiden: E J Brill, 2005), 271-286, p. 276: 'It should be stressed, however, that Paul's metaphoric language of reconciliation has little to do with metaphors taken from a cultic domain'), even though he has modified his views at other points, such as no longer thinking that the notion of atonement should be used in interpreting Christ's death ὑπὲρ πάντων in 2 Cor. 5.14 ("Salvation", pp. 280f; and "The 'For Us' Phrases in Pauline Soteriology: Considering Their Background and Use" in van der Watt, Jan G., *Salvation in the New Testament: Perspectives in Soteriology* (Leiden: E J Brill, 2005), 163-185).

⁹¹ Breytenbach, "On Reconciliation", pp. 65f.

⁹² I think that this point was made by Breytenbach.

⁹³ Collins, J.N., *Diakonia: Re-interpreting the Ancient Sources* (Oxford, 1990), p. 335, established that διακονία had a range of meanings. Terms in this word group can mean more than just 'service' or 'ministry', for the underlying idea is activity of an in-between kind, so διάκονος could refer to a go-between, a messenger, or a courier, and διακονία could refer to agency or mediation, including a sort of ambassadorial role.

⁹⁴ Thrall, *II Corinthians (vol. I)*, p. 436, writes 'The background imagery is political: the verb προεσβεύω and the noun προεσβευτής are found in inscriptions in connection with legates of the Emperor.' Cf. Breytenbach, "Salvation", p. 275: 'There can be little doubt that Paul depicts his role as apostle to the Corinthians metaphorically in the language of the Hellenistic and Roman polis-diplomacy.'

⁹⁵ See Bash, Anthony, *Ambassadors for Christ: An Exploration of Ambassadorial Language in the New Testament* (Tübingen, J C B Mohr, 1997), pp. 75f, 88f, 100f for examples.

⁹⁶ See Breytenbach, "Salvation", pp. 274f and Fitzgerald, "Paul and Paradigm", pp. 249f for examples.

⁹⁷ Bash, *Ambassadors*. Breytenbach does not dispute this (Breytenbach, "Salvation", pp. 272f, n. 3).

⁹⁸ Breytenbach, "Salvation", pp. 274f.

⁹⁹ Breytenbach, "Salvation", pp. 273-276.

¹⁰⁰ Col. 1.20: 'through him to reconcile (ἀποκαταλλάξαι) to himself all things ... making peace (εἰρηνοποιήσας).'

¹⁰¹ Danker, *Benefactor*, pp. 216-218, gives the following translation of an inscription found at Priene, and present in several other temples of the Eastern Roman Empire:

Decree of the Greek Assembly in the province of Asia, on motion of the High Priest Apollonios, son of Menophilos, of Aizanoi: WHEREAS Providence that orders all our lives has in her display of concern and generosity in our behalf adorned our lives with the highest good: Augustus, whom she has filled with arete for the benefit of humanity, and has in her beneficence granted us and those who will come after us [a Saviour] who has made war to cease and who shall put everything [in peaceful] order; and whereas Caesar, [when he was manifest], transcended the expectations of [all who had anticipated the good news (εὐαγγέλιον)], not only surpassing the benefits conferred by his

predecessors but by leaving no expectation of surpassing him to those who would come after him, with the result that the birthday of our God signalled the beginning of Good News for the world because of him ...

¹⁰² Judge, E. A., “The Conflict of Educational Aims in New Testament Thought” *Journal of Christian Education* 9 (1966), 32-45.

¹⁰³ For example, see the debate in Horsley, Richard, ed., *Paul and Politics: Ekklesia, Israel, Imperium, Interpretation – Essays in Honour of Krister Stendahl* (Harrisburg: Trinity Press International, 2000).

¹⁰⁴ Strabo *Geogr.* 8.6.23. Welborn, *Politics*, p. 41, n. 133, notes this passage, but does not make the inferences that will be drawn here. The translation is taken from the version on the web page (as at 4.12.07): <http://www.perseus.tufts.edu/cgi-bin/ptext?lookup=Strab.+8.6.1>

¹⁰⁵ Horsley, Richard, “1 Corinthians: A Case Study of Paul’s Assembly as an Alternative Society”, in Horsley, Richard A., ed., *Paul and Empire: Religion and Power in Roman Imperial Society* (Harrisburg: Trinity Press International, 1997), 242-252, p. 242.

¹⁰⁶ Cf. the list from Breytenbach, “Salvation”, p. 271: Sophocles, *Ajax* 744; Plato, *Symp.* 193B; 2 Macc. 1.5; 5.20; 7.33; 8.29; Philo, *Praem.* 166; Josephus, *A.J.* 6.143, 151; 7.153, 295; Joseph and Asenet 11.18. See also Fitzgerald, “Paul and Paradigm”, pp. 252f. καταλλάγή / καταλλάσσω is also used of relationships between the gods (Breytenbach, “Salvation”, p. 276).

¹⁰⁷ Marshall, “The Meaning”, p. 121.

¹⁰⁸ Cf. Breytenbach, “Salvation”, p. 277; Marshall, *Reconciliation*, p. 106.

¹⁰⁹ E.g. Breytenbach, “Salvation”, p. 277-9; Fitzgerald notes that this paradigm shift is in continuity with the one that Paul makes with sacrifice, where God’s action is taken prior to and apart from human repentance (Fitzgerald, “Paul and Paradigm”, pp. 253, 245-248).

¹¹⁰ Breytenbach, “Salvation”, p. 271.

¹¹¹ Kim, Seyoon, *The Origins of Paul’s Gospel* (Tübingen: Mohr-Siebeck, 1984, 2nd edition), pp. 13-20, 311-315; Kim, Seyoon, “2 Cor. 5.11-21 and the Origin of Paul’s Concept of “Reconciliation”” *Novum Testamentum* XXXIX/4, 360-384. He notes that some earlier commentators hinted at the possibility (amongst whom he cites Klöpper, A., *Kommentar über das zweite Sendschreiben des Apostels Paulus an die Gemeinde zu Korinth* (Berlin: Reimer, 1874), p. 302; and Menzies, A., *The Second Epistle of the Apostle Paul to the Corinthians* (London: Macmillan, 1912), p. 43), and that some more recent ones had come close to affirming it (e.g. Hofius, O., “Erwägungen zur Gestalt und Herkunft des paulinischen Versöhnungsgedankens”, originally in *ZThK77* (1980), now reprinted in his *Paul* (Tübingen: Mohr-Siebeck, 1989), p. 14; and de Oliveira, A., *Die Diakonie der Gerechtigkeit und der Versöhnung in der Apologie des 2 Korintherbriefes* (Münster: Aschendorff, 1990), pp. 371, 379). He notes (2 Cor. 5.11-21”, pp. 368ff) that there are many allusions to the Damascus road experience in 2 Cor. 5.1-11. The three aorist participles of vv. 18b and 19c (καταλλάξαντος, δόντος, and θέμενος) clearly allude to Paul’s experience of God’s forgiveness/reconciliation, his call to apostleship, and his revelation or entrusting of the gospel for him to preach. Kim uses Hofius’ observations that: (1) v. 19c corresponds to Paul’s testimony about his Damascus experience of God’s revelation of the gospel in Gal. 1.12, 15-16a, and (2) that v. 18c corresponds to his testimony of God’s apostolic commission in Gal. 1.16b. Added to these can be: (3) the correspondence of v. 18b to what is implicit in Paul’s emphasis on God’s grace to him over against his past as a persecutor of the church in Gal. 1.13-14. There are many other allusions to Paul’s Damascus experience in 2 Cor. 5.11-21, including: (1) abandoning his prior “fleshly” estimate of Christ (v. 16); (2) his

own experience of being made a new creature (v. 17); (3) the use of the strong language of συνέχει ('compel', v. 14) accords with his use of other strong language describing his Damascus experience, such as: he was κατελήφθην ('enlisted', Phil. 3.12) by Christ; he is an ὀφειλέτης ('debtor') to the Gentiles (Rom. 1.14); and an ἀνάγκη ('fateful necessity) is laid on him to preach the gospel (1 Cor. 9.16); and (4) the ἐξέστημεν in v. 13 is an allusion to Paul's vision of Christ on the road to Damascus.

¹¹² Kim, "2 Cor. 5.11-21", p. 365; cf. Martin, *Reconciliation*, pp. 46f. Budden, *Following*, p. 161, writes that when Paul recognises who it is who is speaking to him in Acts. 9.4, the question is: 'Will Paul be punished or destroyed, or simply allowed to move on? The answer is neither. God names the injustice, challenges Saul to tell God why he would do this thing, and confronts Paul with a new future in the very act of offering reconciliation and a new beginning. The putting right that was demanded of Saul, as he became Paul, was that he would now build, and defend, the very church that he had set out to destroy.'

¹¹³ Whilst these words do not come from the pen of Paul, they are not inconsistent with his own accounts of the incident (e.g. Gal. 1.13-16), and in Romans 1.10 he writes, '[f]or if while we were enemies we were reconciled to God'.

¹¹⁴ If 1 Tim. was not written by Paul, then the author has certainly got to the heart of the matter when Paul describes himself as the foremost of sinners because he 'was a blasphemer, persecutor, and insolent opponent' (1 Tim. 1.12-16). To strike at the church was to attack Christ, and so be alienated from God.

¹¹⁵ Cf. Gal. 1.12-16, where the persecution of the church of God is linked with Paul's zeal. Perhaps Paul saw that the Corinthians suffered from the same problem, that their zeal was not properly focused (cf. 2 Cor. 7.7, 11).

¹¹⁶ Fitzgerald, "Paul and Paradigm", p. 248

¹¹⁷ Breytenbach, "Salvation", p. 271.

¹¹⁸ Marshall, *Enmity*, p. 35.

¹¹⁹ Aristotle, *Rhet.* 1.9.24, quoted by Marshall, *Enmity*, p. 38.

¹²⁰ Xenophon, *Mem.* 2.6.35, available as at 7.11.10 on the web page:

[http://perseus.uchicago.edu/perseus-cgi/citequery3.pl?dbname=GreekTexts&query=Xen.%20Mem.%202.6.35&getid=1](http://perseus.uchicago.edu/perseus/cgi/citequery3.pl?dbname=GreekTexts&query=Xen.%20Mem.%202.6.35&getid=1). I

was alerted to this saying by Marshall, *Enmity*, p. 36.

¹²¹ Marshall, *Enmity*, p. 37.

¹²² Marshall, *Enmity*, p. 43f.

¹²³ Porter, *Καταλλάσσω*, p. 14, writes that διαλλάσσω was most common in the pre-Hellenistic era, and καταλλάσσω was used infrequently until the Hellenistic period, when its usage became wide-spread, especially in Christian texts.

¹²⁴ Fitzgerald, "Paul and Paradigm", pp. 248-252.

¹²⁵ Note that this is different from Paul's use of it in 1 Cor. 7.11, where Paul's advice to a woman who has divorced her husband is to remain single or to be reconciled with her husband. Cf. Marshall, "The Meaning", pp. 121, 127.

¹²⁶ Marshall, "The Meaning", p. 127f. Marshall, p. 127, documents four different ways that καταλλάσσω and διαλλάσσω are used in the literature:

1. X persuades Y and Z to give up their mutual anger (active).
2. X persuades Y to give up Y's anger against X (active).
3. X persuades Y to give up Y's anger against X (passive/deponent).
4. X gives up his own anger against Y (passive).

Paul's use does not fit this pattern, and he conjectured that Paul was the first person to use the following grammatical structure:

5. X removes the cause of his own anger against Y, namely, Y's sin (active).

Porter, *Καταλλάσσω*, pp. 16-18, divides the first case into two (one where goods are exchanged, and one where reconciliation is enabled), and notes that some other categories could have been added, but that this would only cloud the main hypothesis.

¹²⁷ Porter, *Καταλλάσσω*, where the thesis is expressed on pp. 15f. Recall that Paul's usage caused an explosion of the use of *καταλλάσσω* in Greek literature.

¹²⁸ Cf. Fitzgerald, "Paul and Paradigm", p. 253.

¹²⁹ Fitzgerald, "Paul and Paradigm", p. 259. Paul seems to be close to the theology of the fourth gospel at this point (cf. Jn. 15.13-15).

¹³⁰ Fitzgerald, "Paul and Paradigm", p. 254; Bash *Ambassadors*, p. 155.

¹³¹ Bash, *Ambassadors*, pp. 98f.

¹³² Fitzgerald, "Paul and Paradigm", pp. 255f.

¹³³ Recall *καταλλάσσω* is a compound of *ἀλλάσσω*, which meant 'to alter' or 'to exchange' (see the opening paragraphs of this chapter), so the focus here is on the fact of the exchange, not its mechanism. This will be discussed further in the next section.

¹³⁴ Bash, *Ambassadors*, pp. 48-51.

¹³⁵ See above, point 4 of the standard paradigm of reconciliation.

¹³⁶ Cf. Breytenbach, "On Reconciliation", p. 67: 'There are various examples in the Corpus Hellenisticum where the stronger party ends the war by imposing the conditions of the peace treaty on the weaker side. *Katallasso* refers to the termination of the hostilities, *katallagai* to the new peace relation between the former enemies. The relation between the parties has been changed, not the parties themselves. Usually *katallage* "reconciliation" meant that the fighting parties forgive each other and that amnesty is granted.'

¹³⁷ Recall that the various partition theories are summarised in Thrall, *II Corinthians* (vol. 1), pp. 48f.

¹³⁸ Note that, although Paul mentions all of these problems in 2 Cor. 2.14-6.13 + 7.2-4, in some cases he only makes it explicit elsewhere why they were a potential cause of alienation from God.

¹³⁹ See the discussions in Sections 2.2.1 – 2.2.3 for further details.

¹⁴⁰ Mitchell, *Paul*, p. 1, n. 1, p. 303; Thiselton, *The First*, p. 33; Georgi, *The Opponents*, p. 237.

¹⁴¹ For Christians, there is the imperative to both live a reconciliatory life-style, and to proclaim the possibility of reconciliation. 'Christians bear a missionary responsibility for working with God in the divine plan for cosmic reconstruction' (Lewis, John G, *Looking for Life: The Role of 'Theo-Ethical Reasoning' in Paul's Religion* (London: T&T Clark, 2005), p. 33). The event of the cross overthrows the orderings of this world, forming new sociality, patterns of living, and community ideals (Lewis, *Looking*, p. 206, n. 2).

¹⁴² Webster, John, "The Ethics of Reconciliation", in Gunton, Colin E, ed., *The Theology of Reconciliation* (London: T&T Clark 2003), 109-124, p. 117.

¹⁴³ *Systematic Theology II*, p. 415

¹⁴⁴ Webster, "The Ethics", p. 120.

¹⁴⁵ Cf. Fitzgerald, "Paul and Paradigm", p. 325, n. 92

¹⁴⁶ Commentators often make the mistake of finding in this a condensed, and not quite comprehensible statement of 'substitutionary atonement' (e.g. Gunton, Colin, "Towards a Theology of Reconciliation", in Gunton, Colin E, ed., *The Theology of Reconciliation* (London: T&T Clark 2003), 167-174, p. 170). However, as has already been shown earlier in this chapter, there is no atonement language in the immediate vicinity of 2 Cor. 5.21. The problem of interpreting these verses is removed if it is realised that there is no interest in the mechanism of the exchange at this point, only in the fact of the exchange itself.

¹⁴⁷ Cf. Fitzmyer, Joseph, *Romans*, (London: Geoffrey Chapman, Anchor Bible Commentary Series, 1993), p. 258, who writes, amongst other things, that the righteousness of God is an objective genitive here, the righteousness that God gives to human beings as a gift.

¹⁴⁸ Dunn, J D G, *The Theology of Paul the Apostle* (Edinburgh: T&T Clark, 1998), p. 433. See further pp. 340-6, where he argues that in Greek thought, righteousness is the ideal against which individual action can be measured, but in Hebrew thought, it is more relational, the meeting of obligations laid upon the individual by the relationship of which he or she is part. Cf. Marshall, Christopher D, *Beyond Retribution: A New Testament Vision for Justice, Crime, and Punishment* (Grand Rapids: Eerdmans, 2001), pp. 20, 47f.

¹⁴⁹ For further details, see the footnote at the end of the introductory material to this chapter.

¹⁵⁰ “The Social Meaning of Reconciliation” *Interpretation* 54/2 (April 2000), 158-172, p. 166.

¹⁵¹ This is contrary to Breytenbach, Cilliers, “Using Exegesis: On ‘Reconciliation’ and ‘Forgiveness’ in the Aftermath of the TRC”, in Holness, Lyn and Wustenberg, Ralf K. (eds.), *Theology in Dialogue. The Impact of the Arts, Humanities and Science on Contemporary Religious Thought* (Cambridge, U.K. and Claremont, South Africa, 2002), 245-256, p. 6f, who argues that, although *καταλλάσσω* was drawn from political discourse, it lost all its political reference when it was used by Paul in 2 Cor. 5.18-20:

Reconciliation is not really a concept of Christian or even religious origin. And even more important: It is used in the Pauline literature with reference to the relationship between God and humankind where God changes the sinner, who lived in enmity towards God into a friend, who lives in peace with God.

Precisely because of the use of this notion within Christian soteriology, it becomes virtually impossible to take Paul’s notion of reconciliation as point of departure to discuss reconciliation between the victims and the perpetrators of state violence during the Apartheid era. It is so deeply attached to Paul’s explanation of the saving effect of Jesus’ death that it makes little sense to detach the notion of God reconciling humans from New Testament soteriology and to reintroduce it into interpersonal and interracial relations in the public sector, where a section of the persons involved are not confessing Christians.

¹⁵² It is important to note that the claims that have been made in this chapter about the nature and possibility of reconciliation hold even if Paul was wrong in his assessment of the actual situation in Corinth. That is, the logic of Paul’s argument stands whether or not the actual examples are sound. It is possible to make a stronger claim than has been made in this chapter, namely that Paul argues that the seeking of reconciliation is imperative, certainly for Christians, if not all people, involved in disputes. However, this would engage with the question of whether Paul was being hegemonic in his interpretation of the gospel, and in the nature of the unity on which he was insisting. This is a hard problem to argue about, as the church has only preserved part of half the conversation (some of Paul’s correspondence), and so whilst I believe that Paul was not being hegemonic, so that the pursuit of reconciliation is imperative, it is beyond the scope of this present work to make this case. (Examples of works that assert Paul’s hegemony include: Castelli, *Imitating*; Shaw, *The Cost*; Wire, *The Corinthian*; and some of the discussion in Horsley, *Paul and Politics*. Ehrensperger, *Paul*, provides a close reading of some of the texts used by these authors, undermining some of their claims concerning hegemony.) However, it will be argued, in Chapter 4, that seeking

reconciliation is imperative, because it is the only way for the present generation to halt its propensity to sin in ways that are shaped by the sins of the past.

¹⁵³ Cf. Volf, “The Social”, p. 166: ‘Consequently, reconciliation has not only a vertical dimension, but also a horizontal one; without that horizontal dimension reconciliation would simply not exist.’

3 Reconciliation: Forgiveness, Repentance, Justice and Incompleteness

The previous chapter has established that reconciliation is a viable goal in human relationships because it is made possible by God's work in the world. This chapter will build on this by further considering the nature of reconciliation.

Some people are wary of the idea of reconciliation because it seems to be inherently unjust. This chapter will argue that justice is established through the process of seeking reconciliation. Justice is a gift of God, and it will be recognised as having been achieved through the reconciliation process.

The goal of reconciliation is peace, not just the absence of enmity, but the deep meaning conveyed by the Hebrew word *shalom*. In order to establish peace, there must be both repentance and forgiveness. Reconciliation arises through a process of negotiating repentance and forgiveness.

This chapter will elaborate on the nature of both forgiveness and repentance. In particular, it will be seen that repentance is usually more than just apologising, that it usually involves doing something that goes towards restoring what was damaged in the conflict. However, what it means to repent in any particular situation cannot be determined beforehand. It is the fact that the nature of repentance can only be determined through the process of seeking reconciliation that makes the nature of justice impossible to determine beforehand, but this ultimately leads to a deeper justice.

However, no process of seeking reconciliation, no process of seeking justice, will be ever be complete, and, besides, one or more parties in a conflict may refuse to be part of the process, and so this chapter must also deal with the problem of incompleteness, which will necessitate an excursion into eschatology.

This chapter will proceed in the following way. First of all, it will seek to provide sufficiently thick descriptions of forgiveness and repentance. Forgiveness will be examined before repentance, not because it must come first in practice, but because the literature on forgiveness is much more extensive. After exploring forgiveness and

repentance, the notion of justice will be examined, and it will be argued that justice arises from the process of seeking reconciliation. In the final section, the problem of incompleteness, either because of one or more of the parties refusing to be part of the process, or because of the inherent impossibility of achieving full reconciliation – this is not a utopian dream – will be addressed.

Many conflicts continue over a period of many generations, centuries even. This raises questions about the responsibility of the present generation towards the sins of the past, and, indeed, whether a line can simply be drawn under the past without prejudicing the future. Building on the work of this chapter, the next chapter will consider the nature of reconciliation in such trans-generational disputes.

It is beyond the scope of this thesis to attend to the secondary material on the biblical witness to the same degree as the previous chapter. However, it is believed that the development that is presented here is consistent with the biblical witness, and, at the same time, deepens the understanding of the nature and process of reconciliation.

3.1 Forgiveness

Forgiveness is a concept that has escaped purely theological discourse, and is being explored within political,¹ philosophical,² and therapeutic frameworks.³ In this section, the focus will be on theological formulations of forgiveness.

In the New Testament, the two main words that are sometimes translated as ‘forgive’ are ἄφεσις (release, liberation, forgiveness; ‘it means to remit an offence, debt, fine or penalty, to pardon, to cease to feel resentment against’⁴) and ἀφίημι (let go, leave, leave alone, release, forgive).⁵ Note that all of these are directed towards the other, not towards oneself or one’s group.⁶ A rough calculation shows that less than thirty percent of the occurrences of ἀφίημι in the New Testament are translated as ‘forgive’,⁷ whilst ἄφεσις is used much less, but two-thirds of the uses are translated as ‘forgive’.⁸ Word studies are problematic, and a careful study of the idea of forgiveness (rather than just the use of the word), would not only have to include other words from their semantic network, but would have to consider carefully the uses of these two words where they have not been translated as ‘forgive’.⁹ For example, in Lk. 4.18, ἄφεσις is translated as ‘liberate’. What would happen if the study of forgiveness were to be widened to consider its relationship to other concepts, such as liberation?¹⁰

For the purposes of this thesis, it will be sufficient to consider material from the synoptic gospels plus Acts,¹¹ and it will be seen that there are significant parallels with some of the lines of thought that were established in Chapter 2 about Paul's use of reconciliation in the Corinthian correspondence.

As a way of approaching the study of forgiveness, it is instructive to consider what Donald Shriver and L Gregory Jones have written about Jesus and forgiveness.

Shriver writes that Jesus modelled God's forgiveness in his healings (e.g. Mt. 9.1-8 // Mk. 2.1-12 // Lk. 5.17-26),¹² through his teaching on prayer (e.g. Mt. 6.12 // Lk. 11.4), and by table fellowship (e.g. Mt. 8.9-13 // Mk. 2.13-17 // Lk. 5.27-32; Lk. 7.36-50; 11.37-54; 14.1-24; 19.1-10), and Jesus forgave those who crucified him (Lk. 23.34a).¹³

L Gregory Jones says that Jesus' statement, 'Father forgive ...' (Lk. 23.34a) is central to Luke's understanding of forgiveness flowing from the life, death and resurrection of Jesus; central to Jesus' proclamation and enactment of the kingdom of God was the forgiveness of sins.¹⁴ Jesus' forgiveness of sins was controversial as it diverged from Israel's understanding in crucial ways: Jesus claimed divine authority to forgive sins; and Jesus offered forgiveness without necessarily presuming prior repentance (e.g. in the healing of the paralysed man (Lk. 5.17-26); he tells stories of lost coin, sheep and son in response to charges that he welcomes sinners and eats with them without requiring repentance; and he calls Zacchaeus down and eats with him before he repents). Jesus' cry on the cross ("Father, forgive them, for they know not what they do" (Lk. 23.34a)) implies that his death is an enactment of divine forgiveness, offered even though the people are ignorant of their sins. When resurrected, Jesus offered hospitality and forgiveness, and told his disciples to go to the nations proclaiming a gospel of repentance and the forgiveness of sins (Lk. 24.47; Acts 2.38; 5.31; 10.43; 13.38; 26.18).

Both Shriver and Jones are a bit loose in their exegesis. Whilst Lk. 23.34a is a key verse for both of them, there are three problems with focusing on this verse in particular. Firstly, this text is missing from a wide range of early manuscripts, and so it is bracketed in *Nestle-Aland 27*, indicating that it is of ancient origin, but, in the opinion of the editors, it is unlikely to have come from the pen of Luke.¹⁵ Secondly, it could be

argued that Jesus is not offering his own forgiveness here, but instead asks the Father to forgive. The difference between Jesus' forgiving of sin in Lk. 5.17-26, say, and his handing over of the responsibility of forgiveness to his Father here, escapes the notice of the major commentators.¹⁶ It is unclear what should be made of this distinction.¹⁷ Thirdly, it is not clear whom Jesus is asking his Father to forgive.¹⁸ These three observations imply that the biblical text needs to be examined a bit more carefully, which will now be done.

Focusing on Luke-Acts for the moment, there are two different ways that forgiveness is used: the first is the provenance of God, and is the forgiveness of sins; and the second is the forgiveness that human beings offer one another. These two aspects of forgiveness will be explored in turn.

For Luke, Jesus' indiscriminate table fellowship is not the enacting of the forgiveness of sins, *contra* Shriver. Rather it is an expression of God's desire to reincorporate all people into the covenant community.¹⁹ On this level, it is the same as Paul's statement in 2 Cor. 5.19, that 'in Christ God was reconciling the world to himself'. What is significant in Luke-Acts is that forgiveness, reincorporation into relationship with God and with the community, is nearly always associated with repentance,²⁰ and the receipt of forgiveness always follows repentance, whether that repentance is expressed simply in people seeking Jesus' company and help (Lk. 5.17-26²¹; 7.36-50²²), or in explicit conjunctions of repentance with forgiveness (Lk. 24.47; Acts 2.38; 5.31; 26.18).²³ Moreover, in response to the accusation that Jesus shared indiscriminate table fellowship, Jesus told three parables where repentance was the key to the re-establishing of relationship (Lk. 15), and Luke's account of Zacchaeus (Lk. 19.1-10) is an example of how Jesus' table fellowship led to Zacchaeus repenting, and so to his salvation. Critically, Zacchaeus' repentance involved undoing his participation of the unjust economic practices of the Roman Empire.²⁴ It was also possible for people to have table fellowship with Jesus and not receive God's forgiveness (e.g. Simon in Lk. 7.36-50). That is, Jesus enacted God's offer of forgiveness, rather than enacting forgiveness itself.

This fits well with the understanding of Paul's use of reconciliation in 2 Corinthians that was established in Chapter 2: in Christ, God is making the offer of reconciliation, and, where Jesus came making that offer, now Paul is an ambassador for Christ, God making

his appeal through him. The difference, however, is that Paul cannot forgive people their sins, but only point to the reconciliation which has been achieved in Christ.

Luke does not write much about human beings forgiving each other. In Lk. 17.3f, the followers of Jesus are instructed to forgive whenever there is repentance, whilst in Lk. 11.4, the disciples of Jesus are instructed to pray, 'forgive us our sins, for we forgive everyone who is indebted to us.' Matthew, however, is stronger in his insistence on the obligation to forgive: God will only forgive people if they forgive others (Mt. 6.14f // Mk. 11.25).²⁵ The foundation for this is given in the parable that Jesus tells in Mt. 18.21-35. In the parable, the king, who represents God, forgives a person a debt that can never be paid, and then that person fails to forgive a much smaller debt that is owed to him by a 'fellow servant' (Mt. 18.28). The king then imprisons the person who he had forgiven first of all, because he had failed to forgive his fellow servant. Jesus concludes with, '[s]o also my heavenly Father will do to every one of you who does not forgive your brother from your heart' (Mt. 18.35). Note that, although all the actors in this parable are human beings, the same two levels, which, by now, have become familiar, are present: there is the king, who represents God, and all the other people are 'fellow servants' (Mt. 18.28, 29, 31, 33), and it is God who has taken the initiative in forgiving debts, which carries with it the moral imperative for human beings to forgive each other.²⁶

Besides the general command to forgive everyone, not only those in the community, in Matthew, Matthew is also concerned for the practice of reconciliation within the community. In Mt. 5.23f, the worship of God cannot happen unless one is reconciled to someone who has something against one. The imperative also works the other way around, with Jesus giving a process to encourage the reincorporation of the sinner back into full fellowship in the community (Mt. 18.15-20).²⁷ Such a process is implementing what Jesus spoke of in the same discourse, the Matthean version of the parable of the lost sheep (Mt. 18.10-14).²⁸ Peter's question about forgiving, and then the parable of the unforgiving servant (Mt. 18.21-35), discussed above, stress that the sinned-against person goes into this process in humility, as one who has experienced the forgiveness of God (for an unimaginably greater debt, according to Matthew). If, in the end, the sinner refuses to be reconciled, then this does not mean that she is ostracised, but rather that she is treated with special care and attention, as someone who needs to hear the good

news of Jesus.²⁹ This resonates with Paul's concern for the Corinthians, as explored in Chapter 2.

It is worth returning to ponder Jesus' cry in Lk. 23.34a ('Father, forgive them, for they know not what they do'), and the similar prayer on the lips of Stephen as he is being stoned to death (Acts 7.60, 'Lord, do not hold this sin against them.'). As has been noted already, commentators and textual critics argue about whether or not Lk. 23.34a came from the pen of Luke.³⁰ However, this is to miss the theological point that in Luke-Acts, the followers of Jesus continue the ministry of Jesus by the power of the same Holy Spirit (Lk. 1.14; 24.29; Acts 2.1-41; etc.). So, it would be a surprise if, in the canonical form of Luke-Acts, Jesus and his followers behaved differently when facing similar ordeals. Both Jesus and Stephen express similar desires, that God will not count the sin against 'them'. Whilst it is foolish to attempt to construct a theological principle on a verse or two, there are indications here that forgiveness is being offered where reconciliation between the parties is not possible, for one of the parties will be dead before the others can repent. That is, both Jesus and Stephen model a sort of forgiveness that goes beyond the strict repentance-forgiveness paradigm of reconciliation. However, it is not clear if Jesus was speaking in his capacity as a human being who was being killed, or whether the fuller salvific nature of Jesus' death is in view (cf. Lk. 24.45-47) when he says this. That is, his earlier pronouncements of the forgiveness of sin are used to make a Christological point, with Jesus forgiving the sins himself,³¹ but this is a prayer to the Father to forgive.³²

For human beings, forgiveness is not a transaction between the individual and God, but is worked out in social and political life, within the context of God's eschatological grace.³³ Forgiving does not say what happened does not matter, nor does it entail forgetting.³⁴ Rather, forgiveness recognises that something wrong has been done. The resurrection narratives imply that Jesus was raised as forgiveness, the judgement of forgiveness,³⁵ and L Gregory Jones calls forgiveness the 'judgement of grace'.³⁶ Human forgiveness implies that the future will not be controlled by the past.³⁷

Shriver is helpful in summarising four dimensions of forgiveness between human beings.³⁸ Firstly, '[f]orgiveness begins with a remembering and a moral judgment of wrong, injustice, and injury.'³⁹ Secondly, whilst not abandoning punishment,⁴⁰ it does require abandoning vengeance, which opens the way to a future that does not repeat old

crimes.⁴¹ Thirdly, it requires empathy for the humanity of the other. Finally, forgiveness is aimed at repairing human relationships.

It is important to remember that an offence against another human being, or another community, is also a sin against God.⁴² Thus, in any situation, there are always two levels of forgiveness: the forgiveness being offered by God; and the forgiveness being offered by the party against whom the offence has been committed. It is hard to be specific in speaking about this, because the same term – forgiveness – is used of both, even though they are different, which can lead to confusion. As Volf writes,

[o]nly divine forgiveness actually removes guilt. When human beings forgive they (1) forgo resentment, (2) refuse to press the claims of injustice against the other and therefore also (3) bear the cost of wrongdoing. As a result of human forgiveness, the guilty is *treated* as if he or she were not guilty (to be distinguished from *defining* forgiveness itself as treating the other as if he or she had not committed the offense). But unless forgiven by God, he or she remains guilty, human forgiveness notwithstanding.⁴³

Volf is not quite correct when he says that human beings must bear the cost of wrongdoing, for, in a very important way, Jesus has born the cost of this wrongdoing on the cross, with the result that the process of reconciliation between human beings brings something new (2 Cor. 5.17). Nevertheless, he is right to point out that human beings can forgive each other, and even be reconciled to one another, but still be in a state of alienation from God. That they can forgive each other is because God's forgiveness has made human forgiveness possible, but human forgiveness does not imply a restoration of relationship with God.

There is an important implication of this observation in the opposite direction, namely that it is possible for a person to know forgiveness, the forgiveness of God, even if this is withheld by the offended party, or the offended party is dead and unable to forgive. For example, 1 Jn. 1.9 says, '[i]f we confess our sins he is faithful and just to forgive us our sins and to cleanse us from all unrighteousness.' In the case of the offended party being dead, it will still be necessary to seek forgiveness from the surviving descendants.

It can be very difficult for human beings to forgive. Forgiveness may require the victim first of all to repent of the desire for vengeance, to refuse to reply in kind, or to refuse to be shaped by a dominant story, or to refuse to be shaped by what has been done.⁴⁴

Within the Jewish and the Christian traditions, the imprecatory psalms provide a resource for the process of reaching a place where forgiveness can win over vengeance. From a Christian standpoint, Volf writes,

[f]or the followers of the crucified Messiah, the main message of the imprecatory Psalms is this: rage belongs before God⁴⁵ – not in the reflectively managed and manicured form of a confession, but as a pre-reflective outburst from the depths of the soul. This is no mere cathartic discharge of pent up aggression before the Almighty who ought to care. Much more significantly, by placing unattended rage before God we place both our unjust enemy and our own vengeful self face to face with a God who loves and does justice. Hidden in the dark chambers of our hearts and nourished by the system of darkness, hate grows and seeks to infest everything with its hellish will to exclusion. In the light of the justice and love of God, however, hate recedes and the seed is planted for the miracle of forgiveness. Forgiveness flounders because I exclude the enemy from the community of humans even as I exclude myself from the community of sinners. But no one can be in the presence of the God of the crucified Messiah for long without overcoming this double exclusion.⁴⁶

The ability to forgive is a gift of God,⁴⁷ but it also is a craft, which must be learnt. Within the Christian tradition, ‘forgiveness is at once an expression of a commitment to a way of life, the cruciform life of holiness in which we seek to “unlearn” sin and learn the ways of God, and a means of seeking reconciliation in the midst of particular sins’.⁴⁸ The process of forgiveness might involve lament, prophetic indictment, or even rejoicing at the sufferings brought on by faithfulness to Christ.⁴⁹

What makes forgiveness so hard is that, in many disputes, there have been irreversible actions. What makes forgiveness hard is not just the rage at injustice and the desire for vengeance, but the ‘active suffering of forgiveness’.⁵⁰ One simply cannot get away from the fact that forgiveness is costly, forever carrying the fact that what has been done cannot be undone.⁵¹ Where this becomes unjust is where one party in the dispute is forced, or chooses, to forgive without an agreed process of repentance taking place, but this will be returned to in the section on justice below. However, forgiveness is about the primary will to be reconciled, or to embrace, which is Volf’s metaphor for reconciliation: attending to justice is a precondition of actual embrace, and the will to embrace is the framework of the search for justice, so that embrace is the horizon of the struggle for justice.⁵²

Sometimes, writers on forgiveness make the category mistake that, because God has forgiven, human forgiveness must come first in the process of reconciliation between

human beings, before repentance.⁵³ However, human relationships are a lot more complicated than that: God's offer of forgiveness opens up the possibility of reconciliation, and the process of achieving reconciliation will usually be some sort of dance involving the two parties in processes of forgiveness and repentance. Moreover, in most human conflicts, it is unlikely that only one party is guilty. Further, forgiveness, and for that matter, repentance, is unlikely to be a one-off event, but is more likely to be a process.⁵⁴ The telos of forgiveness is the restoration of communion.⁵⁵

As just one example of forgiveness in politics, Shriver narrates the gift of the African American people to all the American people. He asks, 'What makes it possible for the politically excluded to include excluders in their own political vision and then to proceed politically to weaken the powers of exclusion? How do they relate now to their political enemies in ways that hold out the possibility that the latter may yet become their civic, political friends?'⁵⁶ He argues that the overall history of the African American peoples in America shows how this is done, giving an ethic for enemies: '*the willingness to count oneself as a neighbor and fellow citizen with enemies in spite of the latter's continuing resistance to reciprocating*. In the most practical sense this is forgiveness in politics: "We will be neighbors to you even while you are busy being unneighborly to us. We belong together, and one day you will know it. We will persist until you do."⁵⁷

This example shows that forgiveness is not necessarily passive, but it can be active in establishing justice.

Before considering the nature of repentance, the observations of this section about forgiveness can be summarised in the following way. Forgiveness is offered by God, just as Chapter 2 showed that reconciliation is offered by God. This forgiveness is received through repentance. God's prior offer of forgiveness makes human forgiveness both possible and imperative, but it does not imply that human forgiveness must come before repentance in resolving conflicts between human beings, although, where it does, it may be liberating for the offender. Forgiveness is aimed at the restoration of the offender, and at the restoration of relationship with the offender; it is not primarily about the well-being of the offended party, but it is nevertheless necessary for that party's well-being. Forgiveness is inherently difficult because what has been done

cannot be undone. However, the gift of God is that reconciliation brings new life (cf. 2 Cor. 5.17).

3.2 Repentance

The previous section, on forgiveness, has established that there is often a strong link between forgiveness and repentance. As with forgiveness, there are two levels of repentance that need to be considered: there is repentance towards God, and repentance towards those against whom the offence was committed. As was seen with reconciliation, these two levels are linked, for one cannot simply repent towards God without also repenting towards the people involved, and perhaps even towards the land, although it is possible to repent towards one's neighbours without repenting towards God. There is a further difference between these two sorts of repentance, and it is that repentance towards other human beings usually requires that something be done, whereas to fully repent, that is to repent towards both one's neighbours and towards God, the only further action required is confession of the sin, and the commitment to live differently in the future, through the grace and power of God (cf. 1 Jn. 1.8f).⁵⁸ This is in line with what Paul says in 2 Cor. 5.18-21.

It is the necessarily limited nature of repentance, for what has been done cannot be undone,⁵⁹ even if full restitution is possible, that makes forgiveness difficult,⁶⁰ and causes people to be wary of the process of reconciliation. However, the message of hope from the resurrection is that new beginnings are possible (cf. the 'new creation' in 2 Cor. 5.17).

In any conflict, the nature of repentance can only be determined through the process of reconciliation. At best, a system oriented towards justice, rather than repentance and forgiveness, wants to prescribe what repentance is, before the nature of repentance can be determined through the process of seeking reconciliation, and so it limits the possibilities of reconciliation; at worst it perpetuates the problems through retribution. An investigation of the relationship between reconciliation and justice will be delayed until the next section. The purpose of this section is to provide a sufficiently thick description of the nature of repentance to make these claims credible.

There is a rich vein of biblical material on repentance. In the biblical understanding, human beings are never autonomous, but are made to serve, or to worship. Here

worship is being used in its deepest and broadest sense of serving that which animates and directs the whole of our lives. Often, the Bible contrasts worship of God with the worship of idols. To readers of today, this can seem quite alien. However, the root idea of idolatry is not bowing down before carved images, for bowing down before images is just making explicit the directionality of a person's life. Rather, idolatry is life shaped and motivated by anything which is not God. Idolatry is bad because it results in concrete actions that are destructive.⁶¹ Idolatry is all the more insidious when it is not recognised. For example, it was shown in Chapter 2 that the Corinthians continued to order their lives by the patronage system, which Paul believed was antithetical to a life of worship of God. Or today, taking part in the dominant global economic system, which destroys the lives of countless millions of people, and appears to be destroying the fragile ecosystem, is idolatry.

Human beings are called to turn away from idolatry, and to turn to God. In the Old Testament, the key Hebrew root is שׁוּב (*shûv*), which means either to turn away from someone or something, or to turn to someone or something, and so it can be used (metaphorically) both for turning away from idolatry and turning to God.⁶² This Hebrew word 'is a central word for the concept of repent. The imagery is one of a person doing a turnabout. Critical in this turnabout, if it is to be repentance, is the direction to which one turns, namely, to Yahweh. The moves in this turning process are delineated clearly in Jer. 3.22-4.2, a veritable liturgy of repentance: acknowledging God's lordship (3.22); admitting wrongdoing (3.23), including the verbal confession, "We [I] have sinned" (3.25); addressing the shame (3.25); and affirming and adhering to a new conduct (4.1-2).'⁶³ Although expressed here in terms of a person repenting, the call to repent in the Old Testament is often addressed to the whole communities. Some biblical writers stress what is being turned away from, and others the turning to God. For example, '[i]n Ezekiel repentance is not, as with Amos and Isaiah (Wolff, Dietrich),⁶⁴ described as a return to Yahweh, but as a turning away from wickedness.'⁶⁵

Often, God spoke through the Old Testament prophets to call people to repentance. Thompson and Martens write, concerning the call to repentance, that,

[t]he imperatives are numerous, sometimes by way of warning, and at other times by a way of appeal: "Turn from your evil ways" (2 Kings 17.13). In times of revival, kings proclaimed, "Return (*shûv*) to the Lord, the God of Abraham, Isaac and Israel, that he may return (*shûv*) to you who are left" (2 Chronicles

30.6). God calls, “Return to me, for I have redeemed you” (Isaiah 44.22). Hosea calls, “Return (*shûv*) O Israel, to the LORD your God” (Hosea 14.1[2]). A sustained appeal for return (*shûv*) is given in Jer. 3.11-4.2. A wordplay makes the appeal memorable: “Return (*shûv*) turnable (*m^eshûvâ*) Israel” (Hosea 3.12); literally “Return (*shûv*) ever-turning (*shōvāvîm*) people” (Jer. 3.14, 22). Ezekiel reiterates the appeal: “Repent (*shûv*)! Turn (hiphil of *shûv*) from your idols” (Ezek. 14.6). The appeal to turn from idols is amplified by Joel’s appeal for people to turn (*shûv*) to Yahweh “your God” (Joel 2.12-13; cf. Mal. 3.17; Jer. 4.1).⁶⁶

Repentance allows the flourishing of both human beings and the land (e.g. Hosea 14.4-7), a reversal of the desertification of the land and the healing of humanity (e.g. Isaiah 35), a return to life (e.g. Ezek. 37), and, where punishment for sin was understood as exile from the land, a return to the land (e.g. Jer. 16.15; 31.16; Ezek. 11.17; 20.34, 41f; 34.13; 36.24; 37.21; 39. 27f). In Pauline terminology, repentance takes hold of the work of Christ, freeing people from the power of Sin, so that they can offer their worship to God.⁶⁷

Repentance is when a person, or community, recognises that the direction of her, or its, life is wrong, that intentionally or otherwise she has, or they have, been caught up in idolatry, but now wishes to live differently. The Bible is clear that one cannot change oneself, but that change comes in reaching out for help from God who can bring the change about. Although Olivier Clément is writing about individuals, the following is suggestive:

Repentance entails consciously becoming ‘the one who thirsts’⁶⁸ and at the same time recognizing the wretched nature of the idols with which we try to deceive this desire; the wretched nature of ‘this world’, the net of passions in which we think to catch creation while forgetting the Creator; the wretchedness of our own role, or roles, in the great theatre of ‘this world’.

Then we discover the basic truth about ourselves, that we are loved, and it is because we are loved that we exist.

And love responds to love. The awareness of being loved and the response that it unlocks are the only criterion of repentance.⁶⁹

The Old Testament does not always specify the nature of repentance, but it often implies that some form of concrete action must be undertaken.⁷⁰ Three examples of repentance requiring some form of restitution will now be examined. They have been chosen because they have resonances with the situation in Australia.

For the first example, consider Is. 5.8-10:

Woe to those who join house to house, who add field to field, until there is no more room, and you are made to dwell alone in the midst of the land. The Lord of hosts has sworn in my hearing: "Surely many houses shall be desolate, large and beautiful houses, without inhabitant. For ten acres of vineyard shall yield but one bath, and a homer of seed shall yield but an ephah."

Note how sin results in the land becoming unfruitful.⁷¹ In reading this, it is important to recall that God's pronouncement of judgement is supposed to drive people to repentance.⁷² The nature of repentance is not specified here, but it is clear that it must be more than refraining from further accumulation of land. Even an apology would be insufficient, because it would leave the people continuing in their state of sin. Therefore, repentance must include undoing the accumulation of land, and this requirement perhaps echoes the jubilee legislation (Lev. 25).⁷³

As a second example of repentance requiring action, consider God's judgement on those who are living a lavish lifestyle that is sustained by the exploitation of the poor (e.g. Amos 4.1-12; 6.4-7). Here God escalates disaster in order to bring people to repentance (Amos 4.10), but the rich are able, to a certain extent, to shield themselves from the disaster affecting others (Amos 6.4-6), not worrying about others (Amos 6.6), and they have not repented (Amos 4.10). Again, repentance means taking action that expresses a genuine grief over what is happening to the land and its people (e.g. Amos 6.6), and which changes the unjust economic system.

As a third and final example of repentance involving doing something, consider Is. 58, where the people's fasting does not express repentance,⁷⁴ but rather masks a complete lack of repentance (Is. 58.3). Here it is very clear that repentance is not just stopping doing wrong, but undoing the results of sin (e.g. Is. 58.6-7, 9-10,13).

In all of this, it must be understood that God's gracious action often exceeds people's willingness or ability to repent. Such is God's love that, again and again, God works to bring righteousness in spite of people's failure in their response. Sometimes this is expressed as being because God has compassion on the people (e.g. Jer. 31.20), or because of God's honour (e.g. Ezek. 36.22-38). Again, recall Paul's insistence that God has acted that the world might be reconciled to God, even when the world is in a state of enmity towards God (Rom. 5.10).⁷⁵

Turning to the New Testament, John the Baptist begins his proclamation with the call to ‘repent’ in all three synoptic gospels (Mt. 3.2 // Mk. 1.4 // Lk. 3.3), and Jesus begins his public ministry in the same way in two of the synoptic accounts (Mt. 4.17 // Mk. 1.14). Such a command can only be heard against the Old Testament background of God’s oft-repeated call to the people of Israel to repent; it was, after all, initially addressed to the people of Israel. That is, although repenting is an imperative, the nature of repentance can only be understood by contemplating the Scriptures of the people to whom the call to repent was addressed. God’s call was for people to turn away from their sin, and to return to covenant faithfulness, and to do what needed to be done in order to restore righteousness.⁷⁶ This is consistent with the New Testament message of repenting, turning away from sin, being (re-)integrated into the covenant community, with a lifestyle shaped by the gospel imperatives of the kingdom of God, and empowered by the Holy Spirit to do so.

One example of where the nature of repentance is spelt out by Jesus is his encounter with a rich young man (Mt. 19.16-30 // Mk. 10.17-31 // Lk. 18.18-30). The young man asks Jesus what he must do in order to inherit eternal life. In responding to the young man, Jesus appears to quote from the Decalogue, but in the Markan version, there is an extra commandment: ‘do not defraud’. Ched Myers notes that

a closer reading [of Mark’s version] reveals that there is ... a twist in his citation. For one of the statutes listed by Jesus does not in fact appear in the Decalogue! It is “do not defraud” (*mē apostērēsēs*) and is dropped by Matthew and Luke.⁷⁷ The reference in this addition is clearly to economic exploitation:

In the Greek Bible the verb is appropriated to the act of *keeping back the wages* of a hireling⁷⁸

Myers continues,

[t]his is our first indication that much more is being discussed in this story than the personal failure of this one man: judgment is being passed upon the wealthy class. ... Judging this man to be affluent, Jesus stipulates that his wealth must be distributed to the poor. ... All this emotion [the man departing gloomily] becomes clear in the light of the revelation that “he had much property” (*echōn ktēmata polla*):

A possession is used to describe a piece of property of any kind ... a farm or a field (Acts 5.1), and in the plural lands or estates.⁷⁹

... With this revelation, the story of the man abruptly finishes, as if the point is obvious. As far as Mark is concerned, the man's wealth has been gained by "defrauding" the poor – he was not "blameless" at all – for which he must make restitution. For Mark, the law is kept only through concrete acts of justice, not the façade of piety.⁸⁰

Although one may not want to go as far as Myers in judging wealth per se,⁸¹ it is certainly important to note that, in this particular case, where the wealth has been obtained through defrauding others, that repentance includes making restitution to those who have been defrauded.⁸² Although this man does not repent, Luke records the repentance of Zacchaeus, who volunteers to give half his wealth to the poor, and to return fourfold anything that he has taken (Lk. 19. 1-10).⁸³

In the gospel accounts, Jesus goes beyond just forgiving people their sins by also, as God does in the Old Testament, bringing a righteousness that undoes the results of sin.⁸⁴ Significantly, the first public words of Jesus in Luke are a reading of verses from Isaiah (Lk. 4.18f). Here Jesus is proclaiming that he is going to enact God's liberation (or forgiveness, for recall that 'liberate' and 'forgive' are the same Greek word). One of the ways that he does this is by healing people, and setting them free from demon possession.⁸⁵ That is, Jesus goes beyond requiring simply that others repent by being part of the undoing of the results of sin himself.⁸⁶ That Jesus sends his followers out to do the same thing (e.g. Mk. 6.6b-13 // Lk. 9.1-6; Mt. 28.16-20; Lk. 24.44-49) means that the role of a follower of Jesus is not only to repent, and so do the things that need to be done for one's own sin, but to work as an agent of redemption in the world. This is consistent with Paul's understanding of being an 'ambassador for Christ' (2 Cor. 5.18, 20).

For those wishing to repent, the situation may be so overwhelmingly bad, that it is hard to know where to begin. Here, again, the psalms of lament are helpful, for they show how the expression of overwhelmed-ness in the presence of God can lead to clarity of vision, which then allows transformation.⁸⁷

In summary, the biblical material stresses that repentance is imperative, and that often some form of restitution is required as part of the process of repentance, although what has to be done is often left unspecified, but the process of repentance must include paying attention to those who have been affected by what has happened, and working

with them to seek their welfare. This may be very costly, as it was for the man who was required to divest himself of all of his possessions. What has happened cannot be undone, but there is the hope of new beginnings made possible through repentance.

In order to explore further what repentance might look like in practice, two more recent examples will be examined briefly: the apology to the Stolen Generations in Australia; and what has happened in Germany since 1945. This exploration will begin by considering apology, which is an important part of the process of repentance. Some authors make the mistake of equating apology with repentance,⁸⁸ but the biblical material has shown that repentance usually requires some actions to be taken to address the problems that have been caused.⁸⁹

An apology is a speech-act.⁹⁰ Its aim is to release forgiveness, and so lead to the restoration of relationship. To be effective, like any speech act, an apology must satisfy certain criteria.⁹¹ The most complex situation for an apology is a many-to-many apology. Tavuchis says that such an apology has the following characteristics: it can only be uttered by an authorised person; it is a quintessentially public act; it is not the private opinion of the utterer; it is a matter of public record; it is likely to be formal in tone, indirect, allusive, and expressed in a compressed manner; it is speaking to a wider audience than those offended, including its own institutional history and posterity; it doesn't enumerate all the wrongs; it is a clear prelude to reconciliation; it shifts the moral burden to the offended party for forgiveness; and it should not be turned into counter-accusation.⁹²

Apology is not easy. Geiko Müller-Fahrenholz says that the German term *Entblössung* (literally, “denuding oneself”) describes something of the difficulty of apology:

[i]t identifies a process by which one returns to the point at which the original evil act was done. To revisit this moment implies admitting all the shameful implications of that act. It is painful to enter into this shame. It is more painful still to acknowledge this act in the face of all those who suffered it. All confessions of guilt carry with them an element of self-humiliation which runs counter to our pride and seems to threaten our self-esteem. Nobody likes to be stripped of his or her defences and to appear naked in front of others.⁹³

Moreover, apology is not easy in litigious cultures, where an admission of guilt is to open oneself to liability for compensation.⁹⁴

As an example of apology, consider the apology given by Kevin Rudd, when Australian Prime Minister, in February 2008 to the ‘Stolen Generations’. The *Bringing Them Home* report,⁹⁵ on the implementation and consequences of taking Indigenous children from their parents, was published in 1997. These people have become called ‘The Stolen Generations’.⁹⁶ The report brought home to many non-Indigenous people in Australia, in a very powerful way, the reality of how some First people had been treated, and the drastic consequences of this. Significantly, it was not something that had happened a long time ago, but it was a policy that was in place up until into the 1970s.

Soon after the publication of the report, there was a large public movement, with ‘Sorry Books’ being inscribed by people across the country, and a national ‘Sorry Day’ was organised,⁹⁷ which included well-attended marches across major bridges in Australia as a way of saying sorry to the Indigenous peoples of Australia. There have been ‘Sorry Days’ on an annual basis since, although in 2005, the name was changed to ‘National Day of Healing’, to emphasise that there is a deeper need than just apologising.⁹⁸

Recommendation 5a of the report was:

That all Australian Parliaments

1. officially acknowledge the responsibility of their predecessors for the laws, policies and practices of forcible removal,
2. negotiate with the Aboriginal and Torres Strait Islander Commission a form of words for official apologies to Indigenous individuals, families and communities and extend those apologies with wide and culturally appropriate publicity, and
3. make appropriate reparation as detailed in the following recommendations.⁹⁹

Note that the recommendation was not only for an apology, but also that suitable reparation should be made to those who suffered through the policies of separating families; that is, repentance is more than saying sorry. The repeated refusal of John Howard, the Prime Minister of Australia when the report was published, to make such an apology, despite apologies being issued by the State parliaments,¹⁰⁰ is well documented in the media. Howard’s belief was that the present generation could not be held responsible for what happened in the past,¹⁰¹ and that a line needed to be drawn under the past, and, instead, work should be done towards a better future.¹⁰² However,

as will be argued in Chapter 4 that the relationship of the past to the future is not that simple.

Howard's party lost the election at the end of 2007, and he also lost his seat in the parliament. One of the policy pledges of the new Prime Minister, Kevin Rudd, was that he would make an apology. After much consultation, in front of a carefully selected audience,¹⁰³ with a huge media presence, and with giant screens placed in public places across the country, Rudd made an apology on behalf of the people on 13th February, 2008,¹⁰⁴ the first action of the forty-second parliament of Australia. Significantly, Rudd recognised that the present generation of non-Indigenous Australians bears a historical burden, when he said,

[a]s has been said of settler societies elsewhere, we are the bearers of many blessings from our ancestors and therefore we must also be the bearer of their burdens as well. Therefore, for our nation, the course of action is clear. Therefore for our people, the course of action is clear. And that is, to deal now with what has become one of the darkest chapters in Australia's history. In doing so, we are doing more than contending with the facts, the evidence and the often rancorous public debate. In doing so, we are also wrestling with our own soul. This is not, as some would argue, a black-armband view of history; it is just the truth: the cold, confronting, uncomfortable truth – facing it, dealing with it, moving on from it. And until we fully confront that truth, there will always be a shadow hanging over us and our future as a fully united and fully reconciled people. It is time to reconcile. It is time to recognise the injustices of the past. It is time to say sorry. It is time to move forward together.¹⁰⁵

In his speech, he recognised that the apology itself did not solve the problems, and he hoped that it would be the beginning of a new future for all the people of Australia:

I know that, in offering this apology on behalf of the government and the parliament, there is nothing I can say today that can take away the pain you have suffered personally. Whatever words I speak today, I cannot undo that. Words alone are not that powerful. ... But my proposal is this: if the apology we extend today is accepted in the spirit of reconciliation, in which it is offered, we can today resolve together that there be a new beginning for Australia. And it is to such a new beginning that I believe the nation is now calling us.

Australians are a passionate lot. We are also a very practical lot. For us, symbolism is important but, unless the great symbolism of reconciliation is accompanied by an even greater substance, it is little more than a clanging gong. It is not sentiment that makes history; it is our actions that make history. Today's apology, however inadequate, is aimed at righting past wrongs. It is also aimed at building a bridge between Indigenous and non-Indigenous Australians—a bridge based on a real respect rather than a thinly veiled

contempt. Our challenge for the future is now to cross that bridge and, in so doing, embrace a new partnership between Indigenous and non-Indigenous Australians.¹⁰⁶

In his response to Rudd's speech, the Leader of the Opposition, Brendan Nelson, although too issuing an apology, continued to stress the Howardian line that the present generation is not guilty for the past actions:

Our responsibility, every one of us, is to understand what happened here, why it happened and the impact it had on not only those who were removed but also those who did the removing and supported it. Our generation does not own these actions, nor should it feel guilt for what was done in many, but certainly not all, cases with the best of intentions. But in saying we are sorry, and deeply so, we remind ourselves that each generation lives in ignorance of the long-term consequences of its decisions and actions. Even when motivated by inherent humanity and decency to reach out to the dispossessed in extreme adversity, our actions can have unintended outcomes. As such, many decent Australians are hurt by accusations of theft in relation to their good intentions.¹⁰⁷

There are a number of points that need to be made about these extracts from the speeches of Rudd and Nelson. Firstly, Nelson's speech repeated the proposition that the present generation of people is not responsible for the policy of splitting Indigenous families. Whilst this is not even strictly true, for the policy only ended in the 1970s, this is to miss the point that the Stolen Generations are but one example of bad policies directed towards the Indigenous peoples of Australia; they are part of a continuing history of problems caused for Indigenous peoples of Australia by the non-Indigenous governments, and the present generation cannot absolve themselves just because they were not directly responsible for this particular policy. It will be argued in Chapter 4, that a failure of the present generation to repent for sins of the past will lead to it continuing policies which are destructive for the Indigenous peoples. Secondly, good intentions cannot excuse the policy: although the intentions of many people may have been good, history has shown that the results have been disastrous, and so repentance is required for what happened, even if the intentions were good. Thirdly, whilst Rudd's speech satisfied Tavuchis' criteria for a many to many apology (see above), it did not fulfil Recommendation 5a of the *Bringing Them Home* report (see above), because it did not promise any form of reparation. That is, his speech failed to be a full act of repentance. However, Rudd did detail some concrete measures to help the people who had been affected by the removals, as well as more general policies to try to tackle the significant welfare problems of Indigenous people in Australia. However, as Chapter 4

will argue, these are unlikely to be effective unless they are part of a bigger process of repentance. Finally, the nature of repentance cannot be determined by the Subsequent peoples, but must arise from engaging with the First peoples. Some of the requirements of repentance for what was done to the Stolen Generations were made explicit in the Recommendation 5a of the *Bringing Them Home* report, but they were ignored in Rudd's speech. And this begs the bigger question of what is required of the Subsequent peoples in Australia in order to repent in full towards the First peoples. To use an image from Rudd's speech, the Subsequent peoples of Australia must walk over the bridge constructed by this apology, and see who they find on the other side. It is still too early to judge the depth of the repentance that has been initiated by this apology.

More generally, the example of the apology from Kevin Rudd shows that repentance is more than making an apology, and that the nature of repentance can only be determined by engagement with the injured parties. In the case of the Stolen Generations, the authors of the report specified what they believed was the nature of repentance in this case, recommendations which arose from an extensive engagement with those who had been affected by the policies of taking children away from their families. This is an example of the principle that the nature of repentance is problem-specific, and that it can only be determined by engagement with the injured parties.

Sometimes, upon examination of effective apologies, it is found that considerable preliminary work oriented towards repentance has happened before the apology is issued, and which allows the apology to be recognised as a reconciliatory gesture. For example, a German soldier apologised to some Belarusians in 1994, and this apology was received as reconciliatory by both young and old, but this apology followed several weeks of building a home for children affected by the Chernobyl nuclear disaster.¹⁰⁸ Similarly, when Billy Brandt knelt down at the memorial to the Warsaw uprising in 1970, rather than the usual ritual of bowing his head, it was received with gratitude by many Poles, and was important in paving the way for his *Ostpolitik*, leading to 'a normalization of relationships between Germany and its neighbours in Eastern Europe.'¹⁰⁹ However, as will be seen below, the action by Brandt was part of a larger process of repentance that had been happening in German politics.

Repentance is a difficult process, and it can take a long time to achieve. As a second example of the process of repentance, consider some of the steps that Germany has taken over the decades since 1945.^{110, 111}

The difficulty for a nation of facing up to the enormity of what it has done cannot be underestimated; it can mean adjusting to a whole new way of perceiving of its identity.¹¹² Yet, very soon after the end of the war, some leaders of the evangelical church in Germany met with representatives of other European churches. At the end of the meeting, the German church leaders issued a “Confession of Guilt”, which has become known as the “Stuttgart Declaration”.¹¹³ Some of the people who promulgated the Stuttgart Declaration had been imprisoned for opposing the Nazi regime.¹¹⁴ It was only a mild confession: three hundred words in total in English translation, of which only 3 sentences made a vague and non-specific confession. Mild as it was, the declaration raised a storm of protest in politics, in the press, and in the church.¹¹⁵ In 1947, the Confessing Church issued the “Darmstadt Declaration”. It was much more political, and it brought four specific charges against the political-ecclesiastical culture of Germany. It detailed failures of the church that had enabled Nazism to thrive,¹¹⁶ but it still did not mention anti-Semitism and the murder of millions of Jews, nor the conduct of the German army in the places it invaded. It was not until 1950 that the first local synod of the church put on record the words, ‘[w]e declare that through negligence and silence before the God of mercy, we have shared in the guilt for the crime which was committed by men of our nation against the Jews.’ Gustav Heinemann, in his closing address to the synod, said that the Stuttgart Declaration ‘had on this occasion been defined in real terms at last.’¹¹⁷

So to come to the truth about enormous evils can take time, but also time does not change anything of itself, and there is the risk that people will forget. For example, from 1950, Germany became involved in the Cold War; it made alliances with some of its recent enemies, and it began a new conflict with others of its recent enemies. In such a situation, it is easy to forget past sins, and church leaders who tried to continue the process of repentance were branded as traitors, and America regarded them as people who had been fooled by, and were being used by the Communists.

The German nation made financial restitution to some of the people who had been damaged by the war. In 1952, a law was passed whereby those who had survived the

war with their property intact had to cede half of its value over thirty years to those who had fled from the East, or who had suffered war damages, or who had fled from the Nazis. By 1982, DM 121 billion had been redistributed. It paid the same amount again to people in the Nazi-occupied nations who could prove that they had been robbed or had had suffering inflicted upon them. Compensation was paid to individual Jewish people, and a gift was made to Israel.¹¹⁸ The German word for this process – *Wiedergutmachung* – is ‘less fiscally tinged’ than ‘compensation,’¹¹⁹ and means making good again. A report about their compensation notes that ‘[n]o matter how large the sum, no amount of money will ever suffice to compensate for National Socialist persecution. ... But in dealing with the legacy of the Hitler regime, the Federal Republic of Germany has established a precedent, namely that of legislating and carrying out a comprehensive system of restitution for injustice.’¹²⁰

In 1961-62 in Tübingen, the churches made a declaration about the border with Poland, and recognising Poland’s status as a country, which was ahead of the political climate in exploring the resolution of the border dispute between Germany and Poland. After Poland was finally recognised by the German government, there was a meeting of school teachers from the two countries so that they could teach a mutually acceptable history.¹²¹

On 8th May, 1985, the fortieth anniversary of the end of the war in Europe, the president of the Federal Republic of Germany, Richard Freiherr von Weizsäcker, gave a remarkable speech to the Bundestag, where, amongst other things in speaking about Germany’s past, he recounted and apologised for German mistreatment of others. He stressed that those of later generations are not guilty for what happened, but what was done must always be remembered.¹²² Shriver writes that this speech ‘touches almost all the requirements that are to be met by offending parties if genuine forgiveness is to be extended to them by the offended: acceptance of moral judgement; grateful acknowledgement that forbearance rather than revenge is being tendered from the other side; shared empathy for the hurts that have been inflicted; and the turn in principle, policy, and behavior toward a new reconciliation with the offended.’ He concludes that ‘the von Weizsäcker speech is ... a powerful example of the relevance of public *repentance* to politics.’¹²³

There is evidence that there is still considerable resentment towards Germany in some places,¹²⁴ which indicates that the process of reconciliation between Germany and some other countries is still not complete. Whilst it is beyond the scope of this thesis, which is focused on the situation in Australia, to investigate the reasons for this – it could be the result of an incomplete process of repentance, or a resistance to forgiveness, or perhaps there has not been sufficient engagement between those repenting and those forgiving – this example indicates that the length of a reconciliation process may need to be measured in generations rather than in years.

Before drawing this section to a close, it is worth noting some observations about the process of repentance. From his research, and from his own experience in working to bring peace in various conflicts around the world, John Paul Lederach notes that there are three levels of leadership that can be involved in making peace: the top-level leadership; the middle-range leadership; and the grass-roots leadership.¹²⁵ The problem with operating with people at the top-level is that ‘they are generally locked into positions taken with regard to the perspectives and issues in conflict.’¹²⁶ This is especially the case when negotiations are being made in public, under media scrutiny. The top-level leaders are guardians of the group’s position; they have a dilemma because they ‘must maintain publicly articulated goals and demands in order to not to be seen as weak yet move towards each other at the table.’¹²⁷ (This means that the pursuit of Howard when Prime Minister of Australia, to force him to make an apology, was probably politically inept.) Clearly, not all top-level leaders have the power and influence that is sometimes accorded them in negotiations, but they are important in the peacemaking process, because they are the public face of the group, and they set the public policy, even if they have limited power to implement it. Negotiation at the middle-range leadership level, however, ‘is based on the idea that the middle range contains a set of leaders with a determinant *location* in the conflict who, if integrated properly, might provide the key to creating an *infrastructure* for achieving and sustaining peace.’¹²⁸

To draw this section to a close, the observations concerning repentance can be summarised in the following way. Repentance is imperative, and it usually requires more than an apology; although the sin cannot be undone, which is what makes forgiveness difficult, some form of action is usually required to resolve the problems caused by the sin. In the biblical examples that were discussed, exactly what needed to

be done was not always spelt out; in practice, the nature of repentance can only be determined through engagement with the injured party, in the process of seeking reconciliation. The two examples – the Stolen Generations in Australia, and Germany since 1945 – showed how complex, difficult, costly, and lengthy the process of repentance is in practice. Chapter 6 is a more detailed exploration of what the beginnings of the process of repentance might look like for the Subsequent peoples of Australia. That is, it is an attempt at giving a thick description of the nature of repentance in this particular case.

The next section considers the vexed question of the relationship between reconciliation and justice. It will be argued that justice is established, as a gift of God, in the process of seeking reconciliation.

3.3 Reconciliation and Justice

Reconciliation and justice are inseparable.¹²⁹ Both reconciliation and justice come as gifts of God as the parties involved in a conflict seek to be reconciled to one another; as people engage in a dance of forgiveness and repentance that is aimed towards reconciliation, so justice appears as the gift of God. The clue for this was given in Section 2.5, where it was noted that Paul argues that the grace of God makes a double substitution possible: enmity is replaced by peace; and sin by justice. It is this insight, that justice is established in the process of seeking reconciliation, which will be elucidated in this section.

In focusing on reconciliation, this thesis has been swimming against the tide of Western political philosophy, which has focused on justice.¹³⁰ In Chapter 1, it was noted that one of the problems that many people see with the idea of reconciliation is that it sometimes seems to be an excuse for avoiding justice, and it is worth recalling the words of Susan Dwyer that were quoted in the opening paragraphs of that chapter:

The notable lack of any clear account of what reconciliation is, and what it requires, justifiably alerts the cynics among us. Reconciliation is being urged upon people who have been bitter and murderous enemies, upon victims and perpetrators of terrible human rights abuses, upon groups of individuals whose very self-conceptions have been structured in terms of historical and often state-sanctioned relations of dominance and submission. The rhetoric of reconciliation is particularly common in situations where traditional judicial responses to wrongdoing are unavailable because of corruption in the legal system, staggeringly large numbers of offenders, or anxiety about the political

consequences of trials and punishments. Hence, a natural worry, exacerbated by the use of explicitly therapeutic language of healing and recovery, is that talk of reconciliation is merely a ruse to disguise the fact that a “purer” form of justice cannot be realized.¹³¹

It is hoped that the work of the previous chapter and this one has given a clear enough account of the nature of reconciliation, and that the rest of this chapter will show that this is truly just.

Often, people will argue that justice must be done before reconciliation can be pursued; even the Kairos document says that it is unchristian to ask for reconciliation before justice.¹³² To advocate cheap reconciliation is to betray those who suffer injustice, deception, and violence, ‘[h]ence an adequate notion of reconciliation must include justice as a constitutive element. And yet it is precisely here that watchfulness is needed. For the imperative of justice, severed from the overarching framework of grace within which it is properly situated and from the obligation to nonviolence, underlies much of the Christian faith’s misuse by religiously legitimized violence.’¹³³

Volf rightly observes that ‘there is far too much dishonesty in the single-minded search for truth, too much injustice in the uncompromising struggle for justice’¹³⁴ Here he is probably thinking of the violence that can arise when searching for justice without the prior will for embrace. But justice is even more elusive than this, and injustice can arise, even when people are working for what seems obviously to be just.¹³⁵ For example, in Australia, there was a large campaign to gain equality of wages for First people and non-Indigenous people working in the cattle industry. Although cattle stations were established on Aboriginal land, the First people were able to maintain their connection to the land by working on it, and they were able to return to do their ceremonial work during certain seasons when there was no work on the cattle stations. Important Aboriginal business, such as arranging marriages, could be transacted when communities came together, such as at race meetings.¹³⁶ However, when equal wages were awarded, most First people were driven out of the cattle industry. The result was that they not only had no income, but whilst they worked in the cattle industry, they were still on their own land, and now they had been driven off it.¹³⁷ Furthermore, as will be seen in Chapter 5, by forcing them onto land which was the responsibility of other First people, connections were built up with the land in the new places, which has led to

conflicts between Aboriginal groups wanting to make land claims, because now more than one group had valid connections with the land.

All human notions of justice are going to be inadequate. Marshall writes:

If God is just and God is one, then God's justice must stand apart from all cultural construals of justice. Yet even if we grant the universality of God's justice, the fact remains that every human attempt to give account of that justice, and to apply it concretely to real-life situations is unavoidably particular, and hence partial and fallible. Divine justice itself may be absolute and pure, but our capacity to know, describe, and fulfil that justice most assuredly is not.¹³⁸

It is beyond the scope of this thesis to make an extended study of the nature of justice, but it will be argued that justice is best understood relationally, and that justice will arise from the process of seeking reconciliation.

Before making this exploration, it is important to highlight again that Western notions of justice are sometimes quite different from the ends of justice in other cultures.¹³⁹ For example, for the people of Bougainville, it was essential to make peace within villages, or else they could be open to attack from other villages. That is, justice was oriented towards reintegrating offenders into the village.¹⁴⁰ There were no gaols in this culture, and the imposition of courts and gaols from foreign cultures has been disruptive to the traditional process of reconciliation, branding people as criminals, and their enforced exclusion prohibits the possibility of reincorporating them into the community.¹⁴¹ Further, a foreign-owned copper mining operation and an ensuing war, disrupted many aspects of traditional society.¹⁴² After the war, people began to work at rebuilding broken communities through reconciliation. For disputing groups, a win-win outcome was pursued. The aim of the process of negotiation was to reach a point where communities were gathered, and people stood before the gathering and confessed what they had done, and asked for forgiveness. They gave gifts as tokens of the seriousness of the event and the seriousness of their commitment. In the case where a person or community has harmed another, a version of restorative justice was followed, where token gifts were offered at the end of the process. It was stressed that these were 'gifts to wash away the tears', not compensation.¹⁴³ Reconciliation was recognised to be a process that could take many years, and where there may be a succession of attempts to achieve a good enough result.¹⁴⁴ Throughout this process, people found that they were drawing on traditional wisdom that was resurfacing. This is not to romanticise

traditional culture. An example of an unjust situation in traditional 'justice' is where a rapist is reintegrated into the community through giving a gift and marrying the woman whom he raped, without considering the desires and opinions of the woman who was raped.¹⁴⁵ Here a proper mediation process, which listened to all the parties, needs to go beyond the traditional notions of justice in this culture. Further, and unfortunately, a situation has developed where some people in power were trying to initiate amnesty provisions, which will disrupt the process of reconciliation.¹⁴⁶

After a decade and more of strife, the results of the deeply traumatic events are still present in Bougainville. Some United Nations observers, especially those who have been involved in Africa, are pessimistic about the Bougainvillean reconciliation process. 'They do not accept that the reconciliation ceremonies, beautiful and moving as they are, are sufficient to prevent future blood feuds from breaking out when people are stressed by anxiety or jealousy. They believe that punishment and sanctions are necessary to prevent future payback from people who have suffered murder, rape and torture themselves and in their families.'¹⁴⁷ However, it is not clear that these alternative, culturally-situated notions of justice are any more adequate. No doubt, there will continue to be problems in Bougainville, but from Howley's account of what has been happening in Bougainville, there is no reason to conclude that the processes that they have adopted cannot continue to work.¹⁴⁸

In the Western tradition, there have been two major approaches to justice: retributive and restorative justice. The political experiments in South Africa and Chile, and micro experiments on alternative ways of dealing with crime, have begun to shift the focus towards restorative justice. But there is no easy calculator that can determine what must be done. For example, what does restorative justice mean when the land that was taken has been subsequently 'owned' by another group for generations?¹⁴⁹

To enable clearer thinking about the notion of justice, this investigation will begin with the critique of distributive justice made by Iris Marion Young. The fundamental problem with this notion of justice is that it reduces justice to the sharing out of goods: individuals or communities are nodes and there is a pile of goods that must be shared out between them. However, this ignores the relational and structural issues that lead to injustice.¹⁵⁰ She says that the distributive paradigm is ideological because it forces people to talk about distribution, rather than looking at the bigger issues of oppression

and domination.¹⁵¹ It is often the case that there are inequalities of power in conflict situations. Justice cannot be blind to difference, but a politics of difference means that, in order to promote social justice, some groups will require special treatment.¹⁵² Young writes that

I endorse and follow the general conception of justice derived from a conception of communicative ethics. The idea of justice here shifts from a focus on distributive patterns to procedural issues of participation in deliberation and decisionmaking. For a norm to be just, everyone who follows it must in principle have an effective voice in its consideration and be able to agree to it without coercion. For a social condition to be just, it must enable all to meet their needs and exercise their freedom; thus justice requires that all be able to express their needs.¹⁵³

Whilst Young overplays the idea of freedom here,¹⁵⁴ she is certainly right to emphasise the role of communication, deliberation and decision-making, the importance of relationships in the notion of justice. This should not be surprising, for conflicts are based in broken relationships.¹⁵⁵

For many people, the punishment of wrong-doers is an important component of justice. Villa-Vicencio recalls a conversation that he had with an elderly man at the gallows where Rudolph Hess was hanged in Auschwitz, who said, “You’ve got to have a bit of blood in order to have reconciliation.”¹⁵⁶ However, Christopher Marshall points out that this ascribes too much efficacy to punishment. He rightly argues that

[p]unishment is a finite mechanism; there is a limit to what it can achieve. The penal theory of atonement ascribes too much potency to punishment and too little to sin. It conceives of sin as a debt incurred against God, which the punishment imposed on Christ serves to discharge. But Paul takes sin more seriously than that. Sin is more than a moral debt on the pages of the divine ledger. It is an alien power that distorts personality, corrupts relationships, and enslaves the human will. Sin is not merely an affront to God’s dignity requiring reparation, or a breaking of God’s rules requiring correction; it is a state of volitional-moral enslavement and relational distortion that requires deliverance and reconciliation.¹⁵⁷ It is not clear how punishment can effect the kind of comprehensive deliverance from the power of sin and renewal of relationship with God which Paul ascribes to the atoning work of Christ. Nor is it clear why, if God cannot tolerate sin as much as penal advocates insist, God should be concerned primarily to exact punishment rather than root out the causes and effects of sin in the lives of those it infests. Why shouldn’t a healing remedy, instead of payment of damages, satisfy God’s justice? And if it is the lethal punishment of Christ that vindicates justice, where does the resurrection fit in? Why is it even necessary? How can Paul speak of Christ “being raised for our justification” (Rom. 4.24)?¹⁵⁸

To develop a more adequate notion of justice, one must turn first of all to the Old Testament. Kathryn Tanner is helpful in her elucidation of three features of justice in the Old Testament: ‘First, justice and righteousness are understood in the context of relationship. Second, they are not often opposed to mercy.¹⁵⁹ And third, human justice and righteousness are supposed to be modeled on, or to correspond to, God’s own justice and righteousness.’¹⁶⁰ Justice and righteousness language in the Old Testament are to be understood in the context of the covenant relationship between God and Israel. To justify someone, or the community, is to draw her or them back into the covenant relationship. As has been seen already, the purpose of God’s pronouncement of judgement on people was to draw them to repentance so that they might be drawn back into the community. Thus mercy is an aspect of God’s desire to keep the covenant.¹⁶¹ The people were expected to act towards other human beings in the way that God treated them.¹⁶²

In the West, a judge is supposed to determine guilt and to apply the law dispassionately, but in Israel, during biblical times, judgement was about determining the right standing of a person within the covenant; the goal of the forensic process was the restoration of fellowship within the community. Punitive penalties were not to maintain cosmic balance, but to restore the integrity of the community’s life and its relationship to God. God’s righteousness consists of steadfast loyalty to the people and his saving intervention on their behalf.¹⁶³ This

included rescuing Israel in times of need¹⁶⁴ and of war, forgiving her sins, and defending the rights of the poor and weak within Israel’s own borders through the promulgation and enforcement of law,¹⁶⁵ the inspiration of prophetic word, and the appointment and instruction of kings. For Israel, then, the justice of God was not an abstract theological or philosophical axiom; it was something about God’s being learned from the concrete experience of God’s actions of claiming, blessing, and rescuing Israel. Righteousness language in the Hebrew Bible is thus *action* language as well as relational language. ... God’s righteousness is characteristically associated in the Hebrew scriptures with God’s love and grace, with God’s generosity, forgiveness, and liberation. God’s justice and God’s mercy stand, significantly, in parallel, not in opposition.¹⁶⁶

Perhaps this hints at why many white people refused to take part in the TRC: they regarded justice as punishment, but the native Africans were concerned with giving the gift of bringing them into relationship. Many white people could not receive the judgment of forgiveness.¹⁶⁷

This understanding of righteousness and justice is continued into the New Testament, expressed particularly in the writings of Paul. Dunn rightly points out that Paul takes over this concept of righteousness in his use of the language, so, ‘the righteousness of God’ (Rom. 1.17) is Paul’s way of ‘explicating “the power of God for salvation”’ (Rom. 1.16).¹⁶⁸ As Marshall writes, justification then is ‘a demonstration of God’s rectifying power to accomplish justice on earth.’¹⁶⁹

In Section 2.5, it was seen that Paul brings the concepts of justice and reconciliation together in 2 Cor. 5.18-21, and it was argued there that this hinted that justice comes as a gift of God in the process of seeking reconciliation. Paul brings justice and reconciliation together again in Rom. 5.1-11. In 5.9-10, Paul uses justification (to make just, or to make righteous) and reconciliation in parallel: both justification (v. 9) and reconciliation (v.10b) have the same effect, namely that by them ‘we ... shall be saved by’ him.¹⁷⁰ There is a further linking of justice and reconciliation, for the peace that results from reconciliation, the state of being no longer enemies of God (v. 10), is brought about by justification (v. 1).¹⁷¹ Dunn overstates the case when he writes, ‘the close parallel between v. 9 and v. 10b shows that Paul regards one as equivalent to the other ... so ... a sharp distinction between the language of sacrifice and reconciliation should be avoided.’¹⁷² Firstly, he speaks without sufficient care of the language of sacrifice being parallel to that of reconciliation, whereas the concepts that Paul is bringing together here are justification and reconciliation; sacrifice is the mechanism that Paul says has brought about justification (and hence reconciliation, as justification and reconciliation are being used in parallel here). Secondly, as Chapter 2 and this chapter have been showing, reconciliation is a very rich concept, and is not at all identical to justification. However, what is true, and is firmly established by Paul in Rom. 5.1-11, is that justification, the establishment of justice, and reconciliation come together as a gift from God; that is, justice will be established in the process of reconciliation.

Volf is helpful in arguing that the struggle for justice can only happen within the overarching framework of the pursuit of reconciliation. He concludes that justice is subordinate to grace,¹⁷³ that justice is transcended by grace,¹⁷⁴ that reconciliation has primacy over liberation, and love over justice.¹⁷⁵ Four interconnected claims follow from his discussion.¹⁷⁶ Firstly, the primacy of reconciliation over justice implies that the

will to embrace (i.e. to be reconciled) is unconditional and indiscriminate.¹⁷⁷ Secondly, embrace can only happen when truth and justice have been established. That is, reaching reconciliation is a process which ‘includes the will to rectify the wrongs that have been done and to reshape the relationship according to what one believes to be true and just.’¹⁷⁸ Thirdly, the nature of justice is shaped by the desire for embrace, that is, ‘[t]o agree on justice in a situation of conflict, you must want more than justice; you must want to embrace.’¹⁷⁹ Fourthly, to struggle for justice outside the framework of seeking reconciliation will only lead to further injustice.

Reconciliation is the process of negotiating forgiveness and repentance. It was argued in the previous section that the nature of repentance could only be known through the process of engaging with the other parties in the conflict with the aim of achieving reconciliation. The degree of the willingness of the parties in a dispute to engage in the process of reconciliation, the degree to which they repent and forgive, is the degree to which justice can be established.

With this in mind, it is now possible to see why Dwyer is concerned that seeking reconciliation is inherently unjust.¹⁸⁰ It may be that, in emerging from a conflict situation, the parties are only able to commit to a limited degree of forgiveness and repentance in the first instance, or it may be that some parties are hiding behind the rhetoric of reconciliation in order to protect themselves from doing the hard work of either repenting or forgiving. In the former case, what can be achieved must be understood as the first step in the process of reconciliation; all parties need to approach the process with the desire that complete reconciliation be achieved, but recognising that a lesser goal is all that can be achieved for the moment. However, the latter case is not reconciliation at all.

These insights help interpret the problems that were highlighted in Section 1.2 with the Truth and Reconciliation Commission (TRC) in South Africa, which has fallen short of delivering full reconciliation. In the TRC, not only did the granting of amnesty to perpetrators, under certain conditions, offend some people’s notions of justice, but the TRC was also constrained by only being able to recommend, but not enforce, reparation.¹⁸¹ That is, a limited level of reconciliation and justice was built into the TRC from the start; it was the best that could be negotiated at the time in the move from armed conflict towards democratic elections. To a certain extent, these problems are

mitigated if it is recognised that reconciliation is ‘a long-term process that requires ongoing efforts of empowerment, confrontation, pain, dialogue, exchange, experimentation, risk-taking, the building of common values, and identity transformation.’¹⁸² However, this longer-term process of reconciliation must be undertaken if a fuller reconciliation, and hence a deeper justice, is to be achieved.

John Paul Lederach gives an example of the relationship between justice and reconciliation from his work in Nicaragua during the 1980s. He noticed that Psalm 85 was read in conciliation meetings. Verse 10, translated from the Spanish in which it was read, reads, ‘Truth and mercy have met together; peace and justice have kissed.’ At a training workshop, he asked the facilitators of the mediation process what they understood by this. For ‘truth’ they suggested honesty, revelation, clarity, open accountability, and vulnerability. Mercy brought forth images of compassion, forgiveness, acceptance, and a new start, grace. Justice evoked making things right, rectifying the wrong, and restitution. Finally, peace was associated with harmony, unity, well-being, the feeling and prevalence of respect and security. Lederach then put these four concepts as circles in four corners of a Venn-diagram, and asked what they should call the place where truth, mercy, justice, and peace meet, and one of the participants immediately said ‘That *place* is reconciliation.’ Lederach comments on this, saying, ‘What was so striking about this conceptualization was the idea that reconciliation represents a social space. Reconciliation is a locus, a place where people and things come together.’¹⁸³

This section has argued that the pursuit of justice by itself is likely to lead to further injustice; even what seems to be just may turn out to be unjust. Justice is relational, and is aimed at the establishing of right relationships. Justice is rightly pursued within the context of seeking reconciliation. It is only through the process of reconciliation, the negotiation of forgiveness and repentance, that the nature of repentance, and hence justice, becomes clear, and it is God’s justice-making, God’s work of reconciliation, which makes the establishment of justice possible. What happens when one or more of the parties involved in a conflict refuses to be part of the process of reconciliation will be addressed in the next section.

3.4 Unfinished Business: Reconciliation and Eschatology

In Section 1.2.3, it was noted that people reflecting on the work of the TRC came to see it as part of a process of reconciliation: it would not deliver reconciliation itself, but it could lay some foundations for the continuing work of reconciliation. Reconciliation is always going to be a process.¹⁸⁴ It will probably be the case that in any process of reconciliation, the parties involved will reach points at which no further progress can be made for the time being, either because a significant level of reconciliation has been achieved, or because there is currently an insurmountable problem that needs more time and work before it can be resolved.

The Christian faith is realistic about the proclivity to sin, and that there will not be any final reconciliation in this world. Rather, it looks towards the eschatological banishment of enmity (e.g. Rev. 21.1-7). Schreier expresses it in this way:

We can hold to a conflictive view of reality without making conflict the ultimate shape of that reality. This is essentially what Christianity does. It acknowledges the enmity between God and the world, and that this enmity will be overcome completely somehow in the future, eschatologically. Perhaps it would be better to say that not only *may* a Christian hold to a conflictive view of reality, but a Christian *must* hold to such a view in order to acknowledge sin and evil in the world and to participate in the process of overcoming it.¹⁸⁵

It is the nature of human relationships that there will never be complete reconciliation in this life. Nevertheless, it is understood that this eschatological hope has broken into history through the death and resurrection of Jesus, so that the pursuit of reconciliation can bear fruit.

However, what is to be done in practice when one party in a conflict continually refuses approaches to seek reconciliation? Typically, this question is asked by people who feel that they are the ones who have been wronged, and they are asking about what must be done when people refuse to repent, but it can equally be asked the other way around, from the point of view of people who wish to repent, where forgiveness is being withheld. Volf is surely right when he eschews the messianic task of achieving the final reconciliation, but asks instead '*what resources we need to live in peace in the absence of the final reconciliation.*'¹⁸⁶ There is no getting away from the fact that to offer forgiveness, to pursue a non-violent resistance to evil, may ultimately be costly. This does not mean that the evil of the other is condoned, but it may be that there is no overt

way to stand up to it,¹⁸⁷ or that one loses one's life in the process (in Christian terms, taking up one's cross and following Jesus (Mt. 16.24-28 // Mk. 8.34-9.1 // Lk. 9.23-27)). However, there are two important caveats to this: firstly, self-oblation is not an option, for a cross is always given to someone to carry; and, secondly, human martyrdom is not redemptive in the same way as the death of Jesus. As Yoder helpfully writes,

[t]he cross is not a recipe for resurrection. Suffering is not a tool to make people come around, nor a good in itself. But the kind of faithfulness that is willing to accept evident defeat rather than complicity with evil is, by virtue of its conformity with what happens to God when he works among us, aligned with the ultimate triumph of the lamb. This vision of ultimate good being determined by faithfulness and not by results is the point where we moderns get off.¹⁸⁸

Christian theologians argue about what will happen at the eschaton, but I find Volf's reading the most convincing one, that in the end there will be the '*final exclusion of everything that refuses to be redeemed by God's suffering love.*'¹⁸⁹ Human beings are not to attempt a final solution, but if their righteous actions are rejected, and the parties permanently refuse God's redeeming grace, then they will be permanently excluded from God's loving embrace. That is, whilst people might suffer continuing injustice from those who refuse to be reconciled with them, and must act in righteousness in return, ultimately there will be a final judgement of those who exclude themselves from God's love.¹⁹⁰

3.5 Conclusion

This chapter has elucidated further the nature of reconciliation, as a dance, a negotiation of repentance and forgiveness, which leads to the establishment of justice.

Forgiveness is offered by God, and is received through repentance. God's prior offer of forgiveness makes human forgiveness both possible and imperative, but it does not imply that human forgiveness must come before repentance in resolving conflicts between human beings. Forgiveness is aimed at the rehabilitation of the offender, and at restoring relationships with the offender. Forgiveness is inherently difficult because what has been done cannot be undone. However, the gift of God is that reconciliation brings new life (cf. 2 Cor. 5.17).

Where there has been sin, repentance too is imperative, and it usually requires more than an apology; although the sin cannot be undone, some form of action is usually required to resolve the problems caused by the sin. In practice, the nature of repentance can only be determined through engagement with the injured party, in the process of seeking reconciliation. Two examples – the Stolen Generations in Australia, and Germany since 1945 – showed how complex, difficult, costly, and lengthy the process of repentance is in practice.

This chapter argued that the pursuit of justice by itself is likely to lead to further injustice; even what seems to be just may turn out to be unjust. Justice is relational, and is aimed at the establishing of right relationships, dealing with the past. Justice is rightly pursued within the context of seeking reconciliation. It is only through the process of reconciliation, the negotiation of forgiveness and repentance, that the nature of repentance, and hence justice, becomes clear, and it is God's justice-making, God's work of reconciliation, which makes the establishment of justice possible.

The process of reconciliation is always going to be incomplete; the degree of reconciliation that can be achieved is the degree of justice and the level of peace that can be established. The final section of this chapter considered what happens when one or more of the parties involved in a conflict refuses to be part of the process of reconciliation. This is less than ideal, but the one-sided approach of repentance, or, more likely, the living out of forgiveness, remains imperative, is rewarded with the release that comes from acting rightly, and looks towards the reformation of the other parties in the conflict, be it within the historical horizon, or only on the eschatological horizon.

In all this, it must not be forgotten that the whole basis of being able to seek reconciliation is a gift of God. Again it has been seen that God's offer of reconciliation through the offering of forgiveness, had made space in the world for human beings to be reconciled to one another. It was also seen that it was possible for human beings to be reconciled to one another, without reference to God, but that forgiveness relies on God's prior offer of forgiveness, and that repentance in its fullest meaning is to begin, or renew a creative relationship with God, from whom the creativity that enables forgiveness and repentance flows.

There remains one significant issue to be addressed, and that is what reconciliation, forgiveness, repentance and justice, mean in conflicts that have been running over multiple generations. Typical questions that arise are: Is the present generation guilty of the sins of the past? Can a line be drawn under the past because we are going to live differently in the future? Can the present generation do anything about what happened in the past? The next chapter will argue that the present generation is likely to sin in ways that are shaped by the sins of the past, and so a line cannot simply be drawn under the past in order to travel into an untrammelled future. Furthermore, the present generation in any dispute is part of a corporate entity which remains guilty of its sins in the past. The only way to overcome these problems is to seek reconciliation through a process of repentance.

¹ See, for example, Helmick SJ, Raymond G., and Petersen, Rodney L., *Forgiveness and Reconciliation: Religion, Public Policy, and Conflict Transformation* (Pensylvania: Templeton Foundation Press, 2001); Bethke Elshtain, Jean, "Politics and Forgiveness" in Nigel Biggar (ed.), *Burying the Past: Making Peace and Doing Justice after Civil Conflict* (Washington: Georgetown University Press, 2001), 40-56.

² See, for example, Griswold, Charles L., *Forgiveness: A Philosophical Exploration* (New York: Cambridge University Press, 2007).

³ See, for example, van Deusen Hunsinger, Deborah, "Forgiving Abusive Parents: Psychological and Theological Considerations", in *Forgiveness and Truth*, edited by Alistair McFadyen and Marcel Sarot, 71-98. L Gregory Jones, *Embodying Forgiveness: A Theological Analysis* (Grand Rapids: Eerdmans, 1995), chapter 2, rightly criticises some therapeutic approaches to forgiveness which separate it out from its primary end, which is communion with God and with one another.

⁴ Breytenbach, Cilliers, "God's Mercy and our Forgiveness. Reflections on the synoptic Tradition" in van der Watt, J.G, et al. (eds.), *Friendship and Love Where There Were None*, (University of Pretoria: Institute for Missiological and Ecumenical Research, Pretoria 2005), 84-95, p. 3 in the pre-publication manuscript.

⁵ See Balz, Horst, and Schneider, Gerhard, eds., *Exegetical Dictionary of the New Testament*, 3 Volumes, (Grand Rapids: Eerdmans, 1990), vol. 1, pp. 181-183; and *A Greek-English Lexicon of the New Testament and Other Early Christian Literature Third Edition (BDAG) Revised and Edited by Frederick William Danker* Chicago: University of Chicago Press, 2000), pp. 156f.

⁶ Wink, Walter, *When the Powers Fall: Reconciliation in the Healing of the Nations* (Minneapolis: Fortress Press, 1998), pp. 16f.

⁷ Counting is distorted by the occurrences of material in more than one synoptic gospel, and the presence of multiple uses of it in particular pericopes. The figure of roughly thirty percent counts every occurrence of the word (approximately 43 out of 139 uses); a figure of about twenty percent if the synoptic parallels and multiple uses are ignored. Figures refer to the English Standard Version translation.

⁸ 11 out of a total of 17.

⁹ Choices made about translating the same word in different ways can have a dramatic effect on reading the text. For example, in a study of the translation of Paul's use of χάρις, Ehrensperger shows this word is usually translated as 'grace' when used of God, but by a range of other words when the (grammatical) subject is not God. She then shows how this has a radical effect on the understanding of Paul's theology, or, perhaps,

expresses the theological presuppositions of the translators, which then leads to a particular understanding of Paul's exercise of authority. See chapter 4 of her *Paul*.

¹⁰ Of course, this is not unrelated to the quest of various liberation theologies. See also chapter 5 of Carter, Warren, *Matthew and Empire: Initial Explorations* (Harrisburg: Trinity Press International, 2001), for an interesting study on what 'he will save his people from their sins' (Mt. 1.21) might have meant in the context of the Roman Empire.

¹¹ The two words are used comparatively rarely outside Matthew, Mark, Luke, John and Acts. In fact, they only appear in citations of the Greek version of the Old Testament, and in the baptismal traditions in Ephesians and Colossians (Breytenbach, "God's mercy", p. 4 in the pre-publication manuscript).

¹² In the Bible, sickness is not politically neutral. Carter, *Matthew and Empire*, p. 80, writes,

[t]he catalogue of diseases in Mt. 4.23-25 reflects in part the social, economic, and political hardships and inequalities of the imperial world. One cause of disease, malnutrition, results from an inadequate food supply and land resources, from the poor's limited economic resources for land, seed, and animal improvement, from taxes and tributes, high food prices, overwork, and control of the marked by elite merchants. Healing resists such a world and anticipates God's transforming empire. Jesus' feeding stories (Mt. 12.1-8; 14.13-21; 15.32-39) anticipate a time when all people enjoy abundant provision (cf. 2 Baruch 73.2-3; 74.1). Paralysis and demon possession (Mt. 4.24) are frequently observed phenomena in contexts of political oppression, colonial dominance, and social conflict. Jesus' exorcisms point to God's empire that overcomes the devil's sovereignty (Mt. 12.28).

¹³ Shriver Jr., Donald W, *An Ethic for Enemies: Forgiveness in Politics* (New York: Oxford University Press, 1995) pp. 38-42.

¹⁴ Jones, *Embodying*, pp. 101-103. The rest of the paragraph is drawn from this.

¹⁵ See further, Marshall, I H, *The Gospel of Luke: A Commentary on the Greek Text* (Grand Rapids: Eerdmans, 1978) pp. 867f; Fitzmyer, Joseph A., *The Gospel According to Luke X-XXIV* (New York: Doubleday, Anchor Bible, 1985), pp. 1503f. Marshall, p. 868, concludes, '[t]he balance of the evidence thus favours the acceptance of the saying as Lucan, although the weight of the textual evidence against the saying precludes any assurance in opting for this verdict.' Evans, C F, *Saint Luke* (London: SCM 1990), p. 867, writes that it could have been that 'the sentence was inserted at a later stage from the still fluid oral tradition as an additional characterization of the death of Jesus – perhaps with reference to Is. 53.12, 'made intercession for the transgressors.'" Volf, *Exclusion*, p. 125, writes, that '[t]hough Jesus may never have uttered the prayer ... these words are indelibly inscribed in the story of his passion, indeed in his whole life that leads to the cross.' Moberly, R W L, *The Bible, Theology, and Faith: A Study of Abraham and Jesus* (Cambridge: Cambridge University Press, 2000), p. 58, note 20, making reference to Childs' work on textual criticism within a scriptural context (Childs, B, *The New Testament as Canon: An Introduction*, (London: SCM, 1984), pp. 518-530), writes, 'even if the verses were not part of the original Lukan text, they have generally been seen as consonant with, and furthering, its portrayal of Jesus, such that they may appropriately be seen by Christians as part of the received version of Luke's gospel.' This last point will be returned to below.

¹⁶ Craddock, Fred B, *Luke* (Louisville: John Knox Press, 1990) Evans, *Saint Luke*; Fitzmyer, *The Gospel*; Marshall, *The Gospel*, to which must be added Volf, *Exclusion*, pp. 122, 125; and Jones, *Embodying*, pp. 101-103.

¹⁷ Martin, Troy B, “The Christian’s Obligation Not to Forgive”, *The Expository Times* 108/12 (September 1996), 360-362, p. 362, sees this as critical in dealing with people who refuse to repent: ‘When a victim has exhausted every means of holding a perpetrator accountable, this victim should transfer responsibility for the recalcitrant perpetrator to God. This transference provides emotional, psychological, and spiritual freedom to the offended even while the unresolved relationship with the offender remains. ... By transferring the responsibility of forgiveness to God, the injured party is able to recognize the continued injustice of the situation without being chained to the perpetrator.’ Robert Schreier (*The Ministry of Reconciliation: Spirituality and Strategies* (Maryknoll: Orbis Books, 1998)), pp. 61f, reads this in the opposite direction, as the cry of someone who wishes to forgive, but who is unable to do so at the moment because of the enormity of what has been done. The seeking of reconciliation in the face of recalcitrant offenders will be discussed further below (Section 3.4).

¹⁸ E.g., Marshall, *The Gospel*, pp. 867, opts for the executioners, or all who are involved in the execution; and Fitzmyer, *The Gospel*, pp. 1503f, thinks that it is referring to the Jewish leaders who were crucifying and mocking him.

¹⁹ E.g. Shriver, *An Ethic*, p. 38, writes ‘...Jesus apparently went out of his way to affirm that forgiveness is the doorway through with a diversity of humans – many of them alienated by social custom from each other – can come together to form a new community.’

²⁰ Two of the three exceptions to this are Acts 10.43 and 13.38, where forgiveness is associated with belief. However, in both cases, the statement about forgiveness comes as part of a narrative of the life of Jesus which begins with the baptism of John (Acts.10.37; 13.24), and Luke says that John’s baptism was ‘a baptism of repentance’ (Lk. 3.3; Acts 13.24). The third exception is in the song of Zechariah over his son John (Lk. 1.77), but it has already been seen that John had a message which included a baptism of repentance for the forgiveness of sins (Lk. 3.3).

²¹ Note, however, that sickness was often associated with sin in that culture. See also the conclusion of the next pericope, where Jesus says, ‘I have not come to call the righteous but sinners to repentance’ (Lk. 5.32).

²² Verse 47 is critical in understanding this story. The NRSV rightly translates this as: ‘Therefore, I tell you, that her sins, which were many, have been forgiven, hence she has shown great love.’ Some commentators have argued that the woman is forgiven because she has loved much, but this is contrary to the force of the parable that Jesus tells in this instance, that love arises from being forgiven (Fitzmyer, *The Gospel*, pp. 686f; Marshall, *The Gospel*, pp. 313f). That is, the forgiveness has been given off-stage, and here the reader sees the loving response that results from truly receiving forgiveness. Jesus’ words in v. 48 (“Your sins are forgiven”) are simply a re-statement of the reality of something that has already happened (Fitzmyer, *The Gospel*, p. 692; Marshall, *The Gospel*, p. 314), and the reader is given no more details about how this happened.

Further questions concerning the relationship between the forgiveness of Jesus and the forgiveness of God in Luke are raised by this story. Although the people at the meal understand Jesus as forgiving the sins of the woman (v. 49), Luke here uses the perfect passive form of the verb to forgive in vv. 47 and 48, just as he did in 5.20, unlike Mark and Matthew, who use the present passive. That is, in both incidents in Luke, Jesus is proclaiming something which has already happened, even though his audience in both cases understand him as being the one who is conferring forgiveness on the person concerned, which is, in fact, what the Markan and Matthean narratives have Jesus doing. As yet, I have not been able to determine the significance of this observation.

²³ Perhaps this is a narrative-critical reason which supports the textual-critical observation that it is likely that Lk. 23.34a did not come from the pen of Luke, for here there is no repentance associated with the request to forgive.

²⁴ It is usually assumed that Zaccheus was extortionate in his taking of taxes, for this was common practice (see, for example, Carter, *Matthew and Empire*, chapter 8). The text gives no clues as to whether this was the case, or if the promise to give back four times any amount defrauded was in fact a claim of innocence regarding this assumed crime. However, Zacchaeus was an agent of the oppressive Roman imperial regime, and his giving his money away was an important part of repenting of being part of the system.

²⁵ Pokrifka-Joe, Todd, "Probing the Relationship between Divine and Human Forgiveness in Matthew: Hearing a Neglected Voice in the Canon", in *Forgiveness and Truth*, edited by Alistair McFadyen and Marcel Sarot, 165-172. Saunders, Stanley P., "Learning Christ": Eschatology and Spiritual Formation in New Testament Christianity", *Interpretation* 56/2 (April 2002), 154-167, pp. 160f, is instructive: 'Matthew also frames the gospel with the identification of Jesus as 'Emmanuel, God with us' (1.23; 28.20), which renders everything in between an extended illustration of what it means for Jesus to be 'God with us.' In other word, the gospel is showing those who follow Jesus what it is like to live in the presence of God, thereby turning the whole story into a manual for 'spiritual formation.' The presence of God in Jesus fundamentally alters the human experience of space, both physical and relational. In the 'reign of heaven' depicted by Matthew, both Jesus and his disciples possess the power to heal and to exorcise demons (10.1). In this reconstruction of space in the presence of God, new social relationships that would be unthinkable in the old time and space are now made possible, including reconciliation with enemies (5.38-48), the restoration of the lost sheep of the house of Israel (9.35-38; 10.6), and limitless forgiveness (18.21-22). In a world where God supplies each day what is needed (6.25-33), there is no need for social and economic practices based on the assumption of scarcity (14.13-21; 15.32-39; 19.16-30). Where God is present, there is no need to continue the practices of domination (20.24-28; 23.1-112). God is present, in fact, among the 'least ones' of the world (25.31-46). In God's presence, the world is no longer held captive by the politics of violence and fear (2.1-23). By the story's end, even the Empire's use of crucifixion to intimidate and control has been robbed of its power.'

²⁶ cf. Eph. 4.32: 'Be kind to one another, tender-hearted, forgiving one another, as God in Christ forgave you.' Jones, *Embodying*, p. 103, writes that 'Christians seek to provide a faithful witness to God's Kingdom by embodying the forgiveness wrought by Jesus in the power of the Holy Spirit.' Note that in this parable, forgiveness follows repentance. It remains true that God's offer of forgiveness can only be appropriated by repentance, and Matthew adds, by also forgiving others.

²⁷ Garland, David E., *Reading Matthew: A Literary and Theological Commentary on the First Gospel* (New York: Crossroad, 1995), pp. 191f, contrasts this with a similar process in the Qumran literature (1QS 5.25-6.1; CD 7.2-3; CD 9.2-8, 16-22), where the process is judicial, rather than reconciliatory.

²⁸ In Luke 15.3-7, the sheep is lost, whilst in Matthew it goes astray, and the other ninety-nine in Luke are the righteous, but in Matthew they are the ones who did not go astray. In Matthew there is the hint that erring members may not be recovered. Matthew is concerned that the church should not let the 'little ones' drift away because they are superfluous. That is, the thrust of the parable is about relationships within the community, rather than adding people to the community. See Garland, *Reading*, pp. 189f.

²⁹ A person who does not wish to repent and be reconciled, is to be treated as a ‘Gentile and a tax collector’ (Mt. 18.17). In Matthew, there are Gentiles who display significant faith (the magi, the centurion, the Canannite woman, and Pilate’s wife). Jesus eats with tax collectors (Mt. 9.10f), is reprimanded for eating with tax collectors (Mt. 11.19), and he says that tax collectors will enter the kingdom of God ahead of the temple authorities (21.31f). See Garland, *Reading*, p. 192. Cf. Paul calling on the Corinthians to be reconciled to God.

³⁰ Evans, *Saint Luke*, p. 867, summarises two possible scenarios concerning how these two verses came to be included: ‘(i) that Stephen’s prayer for the forgiveness of his executioners and his prayer of self-committal imply that both were present in the gospel text (v. 43a and v. 46), so that Jesus supplied a model for the first martyr; or (ii) that the prayer of Jesus at death was augmented to make it not less than the prayer of Stephen (or the prayer of James for the forgiveness of his enemies recorded in Eusebius, *Historia Ecclesiastica* 2.23.16).’

³¹ E.g., in Lk. 5.21, the scribes and the Pharisees ask ‘Who can forgive sins but God alone?’ Jesus perceives their thoughts (v. 22), and then he heals the man to show that ‘the Son of Man has authority on earth to forgive sins’ (v. 24).

³² For some helpful thoughts on the significance of this, see Schreiter, *The Ministry*, pp. 61-63.

³³ Jones, *Embodying*, pp.37-39. Christopher Jones (“Loosing and Binding: The Liturgical Mediation of Forgiveness”, in *Forgiveness and Truth*, edited by Alistair McFadyen and Marcel Sarot, 31-52), p. 31, writes, ‘... the Lord’s prayer, the whole direction of Jesus’ teaching and life which the prayer sums up, and the narratives of Jesus’ death all make clear that being forgiven and forgiving others are inseparable. Therefore the mediation of forgiveness is not a private transaction between God and the individual but the ordering of the life of the Christian *community* by the dynamic of forgiveness – divine and human, received and offered’ (his italics).

³⁴ Troy Martin, “The Christian’s”; Schreiter, *The Ministry*, pp. 66-68. But see further, Volf, *Exclusion*, pp. 131-140, where he argues that ‘a certain sort of forgetting’ (p. 131) is essential, the eschatological forgetting that ‘assumes that the matters of “truth” and “justice” have been taken care of ... that perpetrators have been named, judged, and (hopefully) transformed ... that victims are safe and their wounds healed ... a forgetting that can therefore ultimately take place *only together with* the creation of “all things new”’ (p. 131, cf. Rev. 21.1-5). The alternative is the eternal suffering caused by memory’ (his italics).

³⁵ E.g. Christopher Jones, “Loosing”, p. 42, writes, ‘Rowan Williams has shown how in the resurrection narratives the risen Jesus generates hope by resolving the ambivalence of the disciples’ memories: they are confronted by their victim as their judge, but his judgement is merciful and healing, the source of repentance and newness of life.’ He goes on to quote from Rowan Williams, *Resurrection: Interpreting the Easter Gospel* (London: 1982), p. 32: ‘If forgiveness is liberation, it is also a recovery of the past in hope, a return of memory, in which what is potentially threatening, destructive, despair-inducing, in the past is transfigured into the ground of hope.’

³⁶ Jones, *Embodying*, pp. 53-59, discusses Flannery O’Connor’s story, “Revelation”, where a woman, Ruby, learns to see differently through an encounter with the purifying fire of God’s judgement of grace, a fire that forces her to acknowledge her own sin and need of grace. He concludes, p. 59, ‘[t]he revelation of the judgment of grace that comes to Ruby, like the revelations that the two sons receive in Jesus’ parable, suggests that forgiveness is a free gift and that its purpose is the restoration of communion with God and with others in Christian community and the re-creation of human life with holiness as its destiny. But this forgiveness is inseparable both from the judgement that

challenges human self-deception and from the repentance that becomes possible as we learn to see ourselves more clearly.’ See also chapter 5 of Jones, *Embodying*.

³⁷ See e.g. Schreiter, *The Ministry*, pp. 57f. Cf. Schreiter, *The Ministry*, pp. 57f: ‘Human forgiveness, that is, human beings forgiving one another, ... is about not being controlled by the past. It is the possibility of having a future different from the one that appears to be dictated by past wrongdoing. Forgiveness is an act of freedom.’

³⁸ Shriver, *An Ethic*, pp. 7-9; Shriver, Donald, “What is Forgiveness in a Secular Political Form?” in Helmick SJ, Raymond G., and Petersen, Rodney L., *Forgiveness and Reconciliation: Religion, Public Policy, and Conflict Transformation* (Pensylvania: Templeton Foundation Press, 2001), 151-157, p. 154. See also da Silva, Anthony, “Through Nonviolence to Truth: Ghandi’s Vision of Reconciliation” in Helmick SJ, Raymond G., and Petersen, Rodney L., *Forgiveness and Reconciliation: Religion, Public Policy, and Conflict Transformation* (Pensylvania: Templeton Foundation Press, 2001), 295-317, p. 303.

³⁹ Shriver, *An Ethic*, p. 7. Jones, *Embodying*, p. 14, writes that sin must be confronted and judged in the context of forgiveness.

⁴⁰ The efficacy of punishment is discussed further below.

⁴¹ On this, Miroslav Volf (“Forgiveness, Reconciliation, and Justice: A Christian Contribution to a More Peaceful Social Environment” in Helmick SJ, Raymond G., and Petersen, Rodney L., *Forgiveness and Reconciliation: Religion, Public Policy, and Conflict Transformation* (Pensylvania: Templeton Foundation Press, 2001), 27-49, p. 38), writes: ‘Forgiveness is more than just the overcoming of anger and resentment. It always entails forgoing a rightful claim against someone who has in some way harmed or offended us.’

⁴² If Ps. 51 is David’s response to his adultery, the murder of Uriah so that he could take Bathsheba, and the subsequent death of the child which resulted from the sexual union of David and Bathsheba, then Ps. 51.4, ‘Against you, you only have I sinned’, where ‘you’ is God, is not entirely adequate if it is taken at face value. It is better understood that David is saying that not only did he wrong Bathsheba, Uriah, and others, which was to have continuing consequences (2 Sam. 12.10-12), but it was also a sin against God.

⁴³ Volf, “Forgiveness”, pp. 45f, n. 30. Cf. Schreiter, *The Ministry*, p. 57. Recall that only God can forgive sin (Lk. 5.21).

⁴⁴ Volf, *Exclusion*, pp. 115-119. Olga Botcharova (“Implementation of Track Two Diplomacy: Developing a Model of Forgiveness” in Helmick SJ, Raymond G., and Petersen, Rodney L., *Forgiveness and Reconciliation: Religion, Public Policy, and Conflict Transformation* (Pensylvania: Templeton Foundation Press, 2001), 269-294, p. 280), observed over her six years of being involved in conflict resolution training for religious people and community leaders in the former Yugoslavia, that ‘[n]o skill training for problem solving was possible until the feelings of trauma were addressed and some basic healing from victimhood was achieved. Achieving forgiveness, as the culmination of the healing process, made it possible for the parties to move forward to reconciliation.’ She further notes that the ‘first steps in healing require restoring love to oneself. Forgiveness begins for the victims when they make themselves look at the “ugly gaping wound” caused by loss and confront the secret shame and guilt that accompany the damage done to their sense of self-identity. The process of attending and overcoming the shame is as painful as the process of opening and cleansing the wound, which is needed in order to give it a chance to heal. Confronting the fears of their new reality requires identifying and naming each fear, recognizing them one by one. Only by pulling them out of the darkness, admitting them, sorting them out, do we deprive them of the power that they have over us’ (pp. 288f). Schreiter, *The Ministry*, pp. 63-66 says that in problems between individuals, the first step is God’s healing of the person who

has been wronged, who then must forgive the perpetrator, which then leads the wrongdoer to repentance.

⁴⁵ Volf attributes this observation to Janowski, Bernd, “Dem Löwen gleich, gierig nach Raub: Yum Feindbild in den Psalmen”, *Evangelische Theologie* 55/2 (1995), 115-173, pp. 173.

⁴⁶ Volf, *Exclusion*, p. 124.

⁴⁷ Wink, *When*, pp. 23f. Cf. the following from Sheila Cassidy, quoted by Wink, *When*, p. 24:

I know what it is like to be powerless to forgive. That is why I would never say to someone, “You must forgive.” I would not dare. Who am I to tell a woman whose father abused her or a mother whose daughter has been raped that she must forgive? I can only say: however much we have been wronged, however justified our hatred, if we cherish it, it will poison us. Hatred is a devil to be cast out, and we must pray for the power to forgive, for it is in forgiving our enemies that we are healed.

⁴⁸ Jones, *Embodying*, p. 230.

⁴⁹ Jones, *Embodying*, p. 231. See also Linn et al, *Don't*.

⁵⁰ Volf, *Exclusion*, p. 125. Geiko Müller-Fahrenholz (*The Art of Forgiveness: Theological Reflections on Healing and Reconciliation* (Geneva: World Council of Churches Publications, 1997), p. 26) reminds us that it is easier for the victim to ‘hide behind barricades of repression, anger, and self-righteousness. ... There is a moment of *Entblössung* [literally, ‘denuding oneself’] and disarmament on the victims’ side which must be taken very seriously indeed.’

⁵¹ Volf, *Exclusion*, p. 125, writes, ‘As Dietrich Bonhoeffer saw clearly, forgiveness is a form of suffering (*The Cost of Discipleship* (ET: New York: The McMillan Publishing Company, 1963), p. 100); when I forgive I have not only suffered a violation but also suppressed the rightful claims of strict restitutive justice. Under the foot of the cross we learn, however, that in a world of irreversible deeds and partisan judgments redemption from the passive suffering of victimization cannot happen without the active suffering of forgiveness.’

⁵² Volf, “Forgiveness”, p. 38.

⁵³ Schreiter, *The Ministry*, pp. 63-66 says that in problems between individuals, the first step is God’s healing of the person who has been wronged, who then must forgive the perpetrator, which then leads the wrongdoer to repentance. Interestingly, for problems between communities of people, Schreiter says that repentance must come first, then forgiveness, then reconciliation. Botcharova, “Implementation”, pp. 288ff, agrees with Schreiter, that personal healing comes first, then the choice to forgive, which leads to establishing justice, and finally reconciliation. By establishing justice, she means something like determining the nature of repentance, which is discussed in the next section.

⁵⁴ See, e.g., Linn, Dennis and Linn, Sheila Fabricant and Linn, Matthew, *Don't Forgive Too Soon: Extending the Two Hands that Heal* (New York: Paulist Press, 1997); Botcharova, “Implementation”; Schreiter, *The Ministry*, p. 58.

⁵⁵ Jones, *Embodying*, p. 4.

⁵⁶ Shriver, *An Ethic*, p. 178.

⁵⁷ Shriver, *An Ethic*, p. 173 (his italics). Strangely, whilst in his inaugural presidential address, Barack Obama made extensive reference to the history and future of relationships between black and white Americans, he said nothing about the prior, gaping wound of the relationship between the native Americans and the incomers.

⁵⁸ It is here that the model of substitutionary atonement is helpful: for those who feel that they owe God something, that God must be appeased in some way, this model

correctly states that nothing needs to be done, and it argues this by saying that Jesus has already paid the price for sin.

⁵⁹ W S Merwin's short story, "Unchopping a Tree" (*The Miner's Pale Children* (New York: Atheneum, 1970), pp. 85-88), is a moving and poignant parable that exposes the delusion that things can be put back as they were.

⁶⁰ See the discussion in Section 3.1 above, on the difficulty of forgiveness. Cf. Jones, *Embodying*, p.125, who notes that the resurrection does not cancel the judgement of the cross, for there is a world of difference between Christ uncrucified, and Christ crucified and risen.

⁶¹ For example, in a few short verses in Amos, there is: the destruction of people and their land (1.3); removing peoples from their land and taking them into slavery (1.6); breaking a treaty and handing the people over to others (1.9); unrelenting hostility (1.11); rapacious murder of women in order to take over their lands (1.13); the insulting and shaming of a people group (2.1); and so on. This example was suggested by Thompson, JA and Martens, Elmer A, כּוּשׁ, *New International Dictionary of Old Testament Theology and Exegesis* volume 4, (Carlisle: Paternoster Publishing, 1997), p. 58.

⁶² Thompson and Martens, כּוּשׁ, p. 56.

⁶³ Thompson and Martens, כּוּשׁ, p. 57.

⁶⁴ Here Zimmerli is making reference to the following works that appear in his footnote: Wolff, Hans Walter, "Das Thema 'Umkehr' in der alttestamentlichen Prophetie," *Zeitschrift für Theologie und Kirche* 48 (1951), 129-148; and Dietrich, Erich Kurt, *Die Umkehr im Alten Testament und im Judentum* (Stuttgart: Kohlhammer, 1936), especially pp. 137-152.

⁶⁵ Zimmerli, Walther, *Ezekiel volume 1*, Hermeneia Commentary (Philadelphia: Fortress Press, 1979), p. 386.

⁶⁶ Thompson and Martens, כּוּשׁ, p. 57.

⁶⁷ That is, there is only 'freedom from', not absolute freedom. Chapter 4, "Freedom", of Jones, Tobias, *Utopian Dreams: In Search of the Good Life* (London: Faber and Faber, 2007), argues persuasively that this is the case.

⁶⁸ Clément must have Is. 55.1-3 in mind here.

⁶⁹ Clément, Olivier, *On Being Human: A Spiritual Anthropology* (1986, ET: New York: New City Press, 2000), p. 21.

⁷⁰ As a fictional exploration of this, consider *Saint Maybe* by Anne Tyler (London: Vintage, 1992). Ian's brother, Danny, committed suicide after Ian told Danny that his child was probably the result of a relationship his wife, Lucy, had had before they got married. (Danny and Lucy had got married very quickly after they first met.) Then Lucy went into depression, and died some months later from an overdose. Lucy's three children were then left without parents. Feeling a great weight of responsibility for the death of Danny and Lucy, Ian wanders into the 'Church of the Second Chance', which met in a shop. During the worship he makes a public confession of his sin, and is prayed for by the church. Afterwards, he speaks with the minister, and explains what had happened. At the end of his explanation, he asks "Don't you think that I'm forgiven?" The minister responds briskly, "Goodness no." He goes on to say, "... you can't just say 'I'm sorry, God.' Why anyone could do that much! You have to offer reparation – concrete, practical reparation, according to the rules of our church." For Ian, that meant dropping out of college, and bringing up the three children.

⁷¹ This will be explored further in Section 6.5.

⁷² Jonah is the prototypical example of the understanding of this dynamic, where Jonah refuses to go and pronounce God's judgement on Ninevah, the capital of the Assyrian

Empire, the arch-enemies of Israel, because he knows that they will repent, and that God will withdraw the threat of destruction.

⁷³ Moshe Weinfeld, (“‘Justice and Righteousness’ – משפט צדקה – The Expression and Its Meaning” in Reventlow, H G and Hoffman, Y, *Justice and Righteousness: Biblical Themes and their Influence* (Sheffield: Sheffield Academic Press, 1992; Journal for the Study of the Old Testament Supplement Series 137), 228-246), pp. 238f, writes, ‘[i]f we look for exactly what it was that the prophets opposed, we see that the main wrongdoing is not the perversion of the judicial process, but oppression perpetrated by the rich landowners and the ruling circles who control the socioeconomic order.’ Is. 5.8 ‘undoubtedly refers to those who foreclose the mortgages of the poor who cannot repay their debts, and turn their fields into their own personal property’ (p. 239). Subverting justice is not the problem, but the enactment of unjust laws. Micah 2.5 looks forward to a future reallocation of land where landowners who have taken the land from others will not be allotted any land. Micah condemns those who take the land from women because their husbands are away at war (Micah 2.8f). It is noteworthy that when a Shunamite women returns to her land after a seven-year absence due to famine to find that it has been taken by someone else, she petitions the king, and the land and its produce during her absence is returned to her (pp. 238-241).

⁷⁴ Fasting, sack cloth, and ashes (present together in Is. 58.5) were typical physical expressions of repentance (again, see Jonah 3.6-10). The logic of prayer and fasting seems to be this. An unbroken fast will lead to death. By fasting, the people are making explicit that they understand that their sin will lead to death. The prayer is prayer of repentance. They can only be saved from death caused by the fast if God causes them to break their fast by releasing them from their sin and its consequences.

⁷⁵ This passage will be discussed further in Section 3.3 below.

⁷⁶ Curiously, the article on μετανοέω, μετάνοια in the *Theological Dictionary of the New Testament* (vol. IV, pp. 974-1008), ignores the richness of this heritage. It translates these words as ‘conversion’, and it weaves a narrative from the ‘law righteousness’ of Judaism to the purity of Christianity, and it concludes that the post-New Testament consideration of what repentance means in practice is a ‘fateful relapse of post-apostolic and early Catholic Christianity into Jewish legalism’. It finds a ‘striking expression in the change understanding of μετάνοια. The primitive Christian view is moralised. Conversion becomes – for the second time – penance’ (p. 1008). This understanding of Judaism is now, rightly, discredited. Moreover, the insistence of this article that ‘repentance’ is a one-off conversion event does not take into account Jesus’ teaching about repenting multiple times (e.g. Lk. 17.3f), and it completely misses the richness of the nature of repentance that is being explored in this section.

⁷⁷ Here he is assuming that Mark was written first, and that Matthew and Luke used Mark. His conclusion does not depend on this.

⁷⁸ Myers is quoting here from Taylor, Vincent, *The Gospel According to St. Mark* (New York: St Martin’s, 1963), p. 428 (italics in Myers). Craig Evans (*Mark 8.27-16.20* (Word Biblical Commentary) (Nashville: Thomas Nelson, 2001)), p. 96, attributes this observation to the earlier Field, F., *Notes on the Translation of the New Testament* (Cambridge: Cambridge University Press, 1899), pp. 33-34.

⁷⁹ Myers is quoting here from Taylor, Vincent, *The Gospel According to St. Mark* (New York: St Martin’s, 1963), p. 430. Morna Hooker (*The Gospel According to St Mark* (Black’s New Testament Commentary) (London: A & C Black, 1991)), p. 241, notes that ‘defrauding’ could mean “‘depriving” someone of property’.

⁸⁰ Myers, Ched, *Binding the Strong Man: A Political Reading of Mark’s Story of Jesus* (Maryknoll: Orbis Books, 1988), pp. 272-274. It is interesting to note that, where ‘in Mt. 19.21 the giving away of one’s goods to the poor expresses how extremely serious a

thing it is to follow Christ, in the *Gospel of the Nazaraeans* it is motivated by charity' (Schneemelcher, Wilhelm, ed., Wilson, R. McL., tr., *New Testament Apocrypha: Volume One – Gospels and Related Writings* (James Clarke & Co Ltd, 1991, Revised Edition), p. 158). An extract from Fragment 16 of the *Gospel of the Nazaraeans* reads:
[Jesus] said to him: Go and sell all that thou possessest and distribute it among the poor, and then come and follow me. But the rich man then began to scratch his head and it [*the saying*] pleased him not. And the Lord said to him: How canst thou say, I have fulfilled the law and the prophets? For it stands written in the law: Love thy neighbour as thyself; and behold, many of thy brethren, sons of Abraham, are begrimed with dirt and die of hunger – and they house is full of many good things and nothing at all comes forth from it to them!

(This fragment is quoted by Origen in his *Commentary on Matthew*, and this translation taken from Schneemelcher, *New Testament*, vol. 1, p. 161). The temptation to reduce the claims of justice to charity is an ever-present one.

⁸¹ This issue of wealth and ownership will be returned to in Sections 5.4 and 6.5.

⁸² Further, Jesus invites the man, once he has given away his possessions, to follow him (Mk. 10.21 // Mt. 19.21 // Lk. 18.22), which is the Markan word for a life of discipleship. That is, this narrative implies that being a disciple of Jesus requires the return of ill-gotten wealth.

⁸³ This repentance is also perhaps seen in Acts 2.42-47, where the selling of goods and land could be seen as redistributing things accumulated through unjust economic practices. Richard Hays is right that a faithful response to this text is not to slavishly copy it, that the narrative 'calls us to consider how in our own communities we might live analogously, how our own economic practices might powerfully bear witness to the resurrection, so that those who later write our story might say, "And great grace was upon them all." Such metaphorical mappings of the biblical stories onto our lives do not require us to imitate the narrated practices point for point or to reprisenate ancient economic conventions in detail. . . . Rather, the metaphorical conjunction between the narrated church of Acts 2 and 4 and the church that we experience unsettles our "commonsense" view of economic reality and calls us to rethink our practices in radical ways' (*The Moral Vision of the New Testament: A Contemporary Introduction to New Testament Ethics* (Edinburgh: T&T Clark, 1996), pp. 302f.) He is surely correct when he writes that contemporary churches in the West have only practised 'modest forms of economic discipleship [which] fall far short of the New Testament Vision, and most of the churches I have known have been formed by the forces of market capitalism as least as much as by the teachings of Jesus' (Hays, *The Moral*, p. 468).

⁸⁴ Cf. Volf, *Exclusion*, p. 298, 'After all, the cross is not forgiveness pure and simple, but God *setting aright the world of injustice and deception*' (his italics).

⁸⁵ Cf. Müller-Fahrenholz, *The Art*, pp. 14f. Recall the earlier discussion of healing in a footnote in Section 3.1.

⁸⁶ This, then, is also meant to drive us to repentance. Jones, *Embodying*, p. 125, writes, '[t]he risen Christ – the Judge judged for us, the pure Victim sacrificed for us – returns to us his judges with a judgment that does not condemn but calls us to new life. By keeping our eyes steady on Christ, we can accept our responsibility for our own complicity in the universal disaster of sinful brokenness, and receive forgiveness and the re-establishment of communion. That is, forgiveness is done in such a way that it requires our repentance and turning away from our complicity in evil (Jones, *Embodying*, pp. 125-127.)

⁸⁷ I owe this observation to Judith Crane.

⁸⁸ See, e.g., Dwyer, "Reconciliation", p. 81.

⁸⁹ Cf., for example, the refusal of Native Americans to receive an apology from the General Council of the United Church in Canada, because words were not enough (Wink, *When*, p. 58).

⁹⁰ Austin, J.L., *How to Do Things With Words* (Cambridge, Massachusetts: Harvard University Press, 2nd edn, edited by J. O. Urmson and Marina Sbisa, 1975), p. 79; Tavuchis, Nicholas, *Mea Culpa: A Sociology of Apology and Reconciliation* (Stanford, California: Stanford University Press, 1991), pp. 22ff.

⁹¹ General criteria are discussed initially in Lecture II of Austin, *How*, pp. 12-24, and then elaborated more fully during the rest of his lecture series.

⁹² Tavuchis, *Mea*, pp. 99-109. See also Shriver, *An Ethic*, p. 221.

⁹³ *The Art*, p. 25. Tavuchis, *Mea*, p. 8, makes a similar observation: ‘apology expresses itself as the exigency of a painful re-remembering, literally of being mindful again, of what we were and had as members and, at the same time, what we have jeopardized or lost by virtue of our offensive speech or action. ... As shared mementos, apologies require much more than admission or confession of the unadorned facts of wrongdoing or deviance. They constitute – in their most responsible, authentic, and, hence, vulnerable expression – a form of self-punishment that cuts deeply because we are obliged to retell, relive, and seek forgiveness for sorrowful events that have rendered our claims to membership in a moral community suspect or defeasible.’

⁹⁴ Tavuchis, *Mea*, pp. 93-95.

⁹⁵ The full title of the report is: *Bringing Them Home: National Inquiry into the Separation of Aboriginal and Torres Strait Islander Children from Their Families*. A significant part of the report is the record of the experiences of many Aboriginal people. As at 2.12.09, the full text of the report can be found on

http://www.hreoc.gov.au/social_justice/bth_report/index.html. See also the earlier report by Peter Read, “The Stolen Generations: The Removal of Aboriginal Children in New South Wales 1883 to 1969”, New South Wales Ministry of Aboriginal Affairs, Occasional Paper No. 1, 1981. The fourth reprinting, dated 2006, is available as at 1.3.10 on the web page: www.daa.nsw.gov.au/publications/StolenGenerations.pdf.

⁹⁶ The term ‘stolen’ was used as early as 1915 by Hon P McGarry, who strongly opposed the NSW government ‘*Aborigines Protection Amending Act 1915* which gave it total power to separate children from their families without having to establish in court that they were neglected. ... According to McGarry it allowed the Board ‘to steal the child away from its parents’” (*Bringing them Home*, Part 2, Chapter 3). It was used in the title of Read’s report on the taking of children in NSW, “The Stolen”. Attwood, “Learning”, also discusses the generation of this disputed term. He notes that ‘[t]his narrative accrual could not have happened had there not been an appropriate cultural and political milieu for it’ (Attwood “Learning”, p. 196). McKenna notes that ‘Bain Attwood has described how, in three decades between 1970 and 2000 a gradual process of ‘narrative accrual’ has seen the work of indigenous writers, academic historians, novelists, film-makers, play-wrights, feminists and journalists constitute the Stolen Generations narrative as a site of ‘collective memory’ for Aboriginal Australians. With the release of *Bringing Them Home* in 1997, this narrative had become central to the identity of Aboriginal Australians. In turn, three decades of increased political activism by Aboriginal people and their non-Aboriginal supporters had begun to alter the way Australians were remembering their past. Just as Aboriginal people, imbued with a greater sense of cultural pride, mourned their historical experience in settler Australia as one of subjugation and oppression, non-Aboriginal Australians began to question the moral legitimacy of their national past. For both Aboriginal and non-Aboriginal Australia, the past was being reimagined.’ However, Norman must be right when he observes that the term ‘stolen generation’ does not do justice to the complexity of

Aboriginal child removal, nor of the wider violent dispossession of the Aboriginal people (“An Examination”, p. 14).

⁹⁷ Recommendation 7 of the report.

⁹⁸ My personal impression of the day in May 2005, when I took part in events in Canberra, and then scoured the media for coverage of events across Australia, is that it was not a big day in the consciousness of the majority of Australians. It seemed almost as if people felt that they had done their bit by saying sorry in the big events on the first ‘Sorry Day’.

⁹⁹ *Bringing Them Home*, pp. 249f. The report also lists apologies already received from a number of churches and other bodies (pp. 250-253).

¹⁰⁰ That the State parliaments had already issued apologies is recorded in Graham Ring, “The Hardest Word Has Just Been Uttered”, *New Matilda*, 13th February, 2008, which can be found as at 3.12.09 at: <https://lists.riseup.net/www/arc/antar-news/2008-02/msg00036.html>.

¹⁰¹ Howard’s position was rather disingenuous, for he was a Member of the House of Representatives from 1974, when the separation policy had only just ended; it was something his generation was partly responsible for.

¹⁰² It is also possible that Howard was simply reflecting the opinion of many in Australia. For example, Mark Byrne wrote in his article, “Reconciliation: Stalled, Fermenting, or Taken Out The Back and Shot?” in *New Matilda* on 30th November, 2005 (which can be found as at 3.12.09: <https://lists.riseup.net/www/arc/antar-news/2005-11/msg00064.html>),

Nevertheless, the government is motivated by popular opinion as well as ideology. Opinion polls have consistently shown that while the majority of Australians are willing to accept that Indigenous people were mistreated in the past, they are divided as to whether disadvantage today represents continuing mistreatment or is rather the fault of Indigenous people themselves. They are certainly not in favour of apologising for the actions of people long dead, and do not see themselves as perpetuating racism and exploitation by their lifestyles and attitudes. In addition, the Howard government has done a sterling job of associating an apology to the Stolen Generation with personal and legal responsibility for their plight, rather than understanding 'sorry' to be a simple expression of compassion.

¹⁰³ Phillip Coorey, “Rudd to act on 'blight on the nation's soul'”, *The Sydney Morning Herald*, 11th February, 2008, reports that ‘[t]he state and federal governments will pay for more than 100 members of the stolen generations to be in Canberra for the event. Among those invited will be the sporting stars Evonne Goolagong-Cawley, Matt Bowen, Greg Ingliss, David Peachey, Dean Widders and Michael Long. Lady Wilson, the widow of Sir Ronald Wilson, who co-authored the 1997 *Bringing Them Home* report will be there, as will its co-author Mick Dodson. The activists Faith Bandler and Evelyn Scott, both of whom campaigned for voting rights for Aborigines before the 1967 referendum, will also be there.’ This article is available as at 3.12.09: <https://lists.riseup.net/www/arc/antar-news/2008-02/msg00018.html>.

¹⁰⁴ The full text of his speech can be found at: <http://www.pm.gov.au/node/5952>. It can also be found in the Hansard of the House of Representatives for 13th February, 2008, pp. 167-173, which can be found by following the links on: <http://www.aph.gov.au/Hansard/hansreps.htm#2008>. Both pages were available on 2.12.09.

¹⁰⁵ Hansard, 13th February, 2008, p. 170.

¹⁰⁶ Hansard, 13th February, 2008, pp. 170f.

¹⁰⁷ Hansard, 13th February, 2008, p. 174.

¹⁰⁸ Müller-Fahrenholz, *The Art*, pp. 27f.

¹⁰⁹ Müller-Fahrenholz, *The Art*, pp. 32f, 61f. As Müller-Fahrenholz goes on to observe, Brandt's gesture was not appreciated by everyone, the same people who later claimed that his *Ostpolitik* was a sell-out. See also Shriver, *An Ethic*, pp. 91f. Shriver notes that a *New York Times* reporter wrote in 1990 that Brandt is the 'only German who is genuinely popular' in Poland.

¹¹⁰ The Nuremberg trials were an important part of the post-war process. Whilst this is noted here, it is beyond the scope of this thesis to examine their place in the process of repentance. However, it was observed in Section 1.2 that the option of bringing people to trial was explicitly eschewed in making the transition from some conflict situations. The efficacy of punishment will be briefly discussed in Section 3.3, on the nature of justice.

¹¹¹ Most of the details in this narrative come from Shriver, *An Ethic*, pp. 84-92.

¹¹² In this respect, it is interesting to read an essay by Karl Barth ("The Christian Message in Europe Today", based on a lecture given in the summer of 1946 in Düsseldorf, Cologne, Bonn and other German centres, reproduced in his *Against the Stream: Shorter Post-War Writings 1946-52* (London: SCM, 1954), 165-180), written in 1946. He recognises that what has happened as a result of the 1914-1918 and 1939-1945 wars is the dethroning Europe, at least in its understanding of itself, and wonders how it, and the church in particular, should respond to the potential colonisation of Europe by either America or Russia, in the face of a very uncertain future. He is very careful to say that the church's role is not in the rescuing of Germany and Europe as a national project; Europe may rise again economically, or it might decline, but that is not to be the focus of attention of the church. Rather, he exhorts the church to seek the Kingdom of God. Where Barth is weak in his article is in not reflecting on the role that the church might play in seeking to shape the political life of Europe in such a way that it reflects more closely the Kingdom of God.

¹¹³ Walker, Peter K., "Bishop Bell – The Man", *The Expository Times* 121/5 (February 2010), 223-228, p.226. The context of this 'declaration' must be born in mind when considering it.

¹¹⁴ de Gruchy, *Reconciliation*, pp. 107-111.

¹¹⁵ Shriver, *An Ethic*, pp. 85.

¹¹⁶ Shriver, *An Ethic*, pp. 87f. The apolitical stance of the church, is itself a political stance. Cf. Cavanaugh's critique of the church in Chile during the Pinochet years (see his *Torture*).

¹¹⁷ Koch, *Heinemann und die Deutschlandfrage*, 1972, pp. 119, 121, quoted in Shriver, *An Ethic*, p. 88.

¹¹⁸ Shriver, *An Ethic*, p. 89.

¹¹⁹ Shriver, *An Ethic*, p. 89.

¹²⁰ quoted in Shriver, *An Ethic*, p. 89.

¹²¹ Shriver, *An Ethic*, p. 90.

¹²² Shriver, *An Ethic*, pp. 107-113. An English translation of the speech can be found on the page: <http://www.hariguchi.org/yoichi/weizsaecker.html> (as at 15th April, 2008), reprinted from Geoffrey Hartman, ed., *Bitburg in Moral and Political Perspective* (Bloomington: Indiana University Press, 1986). Note, however, that this thesis disagrees with his statement about the guilt of the present generation. See Chapter 4 for a more nuanced argument concerning the responsibility of the present generation for the sins of the past.

¹²³ Shriver, *An Ethic*, p. 112 (his italics).

¹²⁴ For example, consider the way that football matches between England and Germany are treated by the English fans, and the way that they are reported in the media, or the

very difficult political situation which arose from a proposed visit by President Reagan to Bitburg Cemetery (Shriver, *An Ethic*, pp. 92-107; Müller-Fahrenholz, *The Art*, pp. 63f).

¹²⁵ See Lederach, *Building*, pp. 37-55.

¹²⁶ Lederach, *Building*, p. 40.

¹²⁷ Lederach, *Building*, p. 44.

¹²⁸ Lederach, *Building*, p. 46.

¹²⁹ Volf, "Forgiveness", pp. 35f, argues that public discourses on reconciliation are often devoid of moral content, and force a choice between unity and justice.

¹³⁰ Shriver, *An Ethic*, p. 6.

¹³¹ Dwyer, "Reconciliation", p. 82.

¹³² *Kairos*, art. 3.1, p.9.

¹³³ Volf, "Forgiveness", p. 36.

¹³⁴ Volf, *Exclusion*, p. 29.

¹³⁵ The reason for this is the same as will be explored in Chapter 4, namely that sin distorts the ability to know what is right, and hence just.

¹³⁶ McGrath, *Born*, p. 170. See also Willis, Peter, "Riders in the Chariot: Aboriginal Conversion to Christianity at Kununurra" in Swain, Tony and Bird Rose, Deborah, *Aboriginal Australians and Christian Missions: Ethnographic and Historical Studies* (The Australian Association for the Study of Religions, 1988), 308-320, p. 316.

¹³⁷ Keeffe, Kevin, *Paddy's Road: Life Stories of Patrick Dodson* (Canberra: Aboriginal Studies Press, 2003), pp. 200f; Olive, Noel, ed., *Karjini Mirlimirl: Aboriginal Histories from the Pilbara* (South Fremantle: Fremantle Arts Centre Press, 1997), p.12.

¹³⁸ Marshall, *Beyond*, pp. 25f.

¹³⁹ As another example, consider the *ubuntu* theology of Desmond Tutu (Haws, Charles G., "Suffering, Hope and Forgiveness: The Ubuntu Theology of Desmond Tutu", *Scottish Journal of Theology* 62/4 (2009), 477-489).

¹⁴⁰ Howley, Pat, *Breaking Spears and Mending Hearts: Peacemakers and Restorative Justice in Bougainville* (London: Zed Books, 2002), pp. 103, 184

¹⁴¹ Howley, *Breaking*, pp. 137-139, 184, 195, 200.

¹⁴² For example, elders lost the respect of younger people, some of whom had more disposable income, and so no longer lived within the strictures of their traditional culture. Village life had been disrupted, with people fleeing into the jungle, or being based in camps. The fighting and brutality split villages and caused enmity between villages. The consumption of alcohol and the ensuing wild violence was deeply damaging to village life and infrastructure.

¹⁴³ Howley, *Breaking*, p. 126, summarises the opinions of many people he spoke to in his research thus: 'Compensation is for gain and is equivalent to setting a value on the life of a loved one. With a gift, one asks for forgiveness; with compensation there is no forgiveness and the person is attempting something that is impossible, that is putting a value on something that cannot be bought or paid for. Compensation does not reconcile. Its main effect is a tit-for-tat payback which never ends.' See also pp. 113, 122-129.

¹⁴⁴ Howley, *Breaking*, p. 111.

¹⁴⁵ Howley, *Breaking*, pp. 14, 22, 62, 67, 71, 140-142. However, Walter Moberly helpfully pointed out to me that Deuteronomy 22.28f gives a similar requirement, which must be about what might be called 'social security' of the victim of the rape.

¹⁴⁶ Howley, *Breaking*, pp. 181-183.

¹⁴⁷ Howley, *Breaking*, p. 178.

¹⁴⁸ For this thesis it is interesting to note that many disputes in Bougainville were about land. The Bougainvilleans are not so much interested in the question of who owns the land, treating the land as a commodity, but in who can use it. However, whilst using the

land for gardens for a few years makes the question of ownership irrelevant, the establishment of plantations, such as cocoa or copra, effectively render the land the property of one group of people for a generation or more. (See Howley, *Breaking*, pp. 142-144).

¹⁴⁹ This will be discussed further in Chapter 5.

¹⁵⁰ Young, Iris Marion, *Justice and the Politics of Difference* (Princeton: Princeton University Press, 1990), pp. 16-18. Cf. p. 53, '[t]he injustices of exploitation cannot be eliminated by redistribution of goods, for as long as institutionalized practices and structural relations remain unaltered, the process of transfer will re-create an unequal distribution of benefits. Bringing about justice where there is exploitation requires reorganization of institutions and practices of decisionmaking, alteration of the division of labour, and similar measures of institutional, structural and cultural change.'

¹⁵¹ Young, *Justice*, p. 74f.

¹⁵² Young, *Justice*, p. 157f.

¹⁵³ Young, *Justice*, p. 34.

¹⁵⁴ Recall the earlier discussion of worship and freedom in Section 3.2. There is no such thing as absolute freedom for human beings.

¹⁵⁵ Lederach, *Building*, p. 26.

¹⁵⁶ "Restorative Justice in Social Context" pp. 210f. This view is a very powerful one, and underlies some aspects of sacrificial systems throughout various cultures (Young, Frances, *Sacrifice and the Death of Christ* (London: SPCK 1975)). In interpreting Jesus to people who hold this world-view, that 'without the shedding of blood there is no forgiveness of sins' (Heb. 9.22), the writer to the Hebrews interprets Jesus' death as the final, not to be repeated, sacrifice for sins (e.g. Heb. 7.11-10.25). That is, the further shedding of blood is unnecessary, and achieves nothing.

¹⁵⁷ These ideas will be explored more fully in Section 4.6.

¹⁵⁸ Marshall, *Beyond*, pp. 66f. Cf. Volf, *Exclusion*, p. 122, who observes that, '[s]ince "no deed can be annihilated," as Nietzsche said, at the very least the original offense remains. Within the framework of justice, guilt is eternal and therefore, concludes Nietzsche, "all punishments, too, must be eternal (Nietzsche, *Thus Spoke Zarathustra: A Book for Everyone and No One* (London: Penguin, 1969), p. 162). And yet even an eternal hell for the tormentors that Nietzsche's logic demanded could not set things right for those who have been tormented, as Dostoevsky's sagacity perceived (*The Brother's Karamazov* (San Francisco: North Point, 1990), p. 245).'

¹⁵⁹ Cf. Weinfeld, "Justice", p. 238, noting the combination of kindness with justice, righteousness, and mercy in the Hebrew Scriptures, says that "'kindness' is identical with goodness and mercy. It is not a *character* that is congruous with strict justice, since if it were to be applied in court it would otherwise interfere with the execution of justice, which must be untempered by impartiality. We must therefore conclude that the word משפּ [justice], and especially the phrase צדקהּ משפּ [justice and righteousness], does not refer to the proper execution of justice, but rather expresses, in a general sense, social justice and equity, which is bound up with kindness and mercy.' Weinfeld seems to be arguing in his paper that 'strict justice' can be unjust because it may be implementing unjust laws. True justice is redemptive, closely tied to kindness and mercy.

¹⁶⁰ Tanner, Kathryn, "Justification and Justice in a Theology of Grace", *Theology Today* 55/4 (January 1999), 510-523, p. 514.

¹⁶¹ Contrast this with retributive justice: Marshall, *Beyond*, p. 44, writes, '[i]n the retributive sphere, justice and mercy stand in tension. Justice entails giving persons their just deserts; mercy involves setting aside the demands of justice and treating persons contrary to what they justly deserve.'

¹⁶² Tanner, “Justification”, pp. 512-516.

¹⁶³ Marshall, *Beyond*, p. 49. Cf. Dunn, J D G, *Romans 1-8* (Word Biblical Commentary, 1988), pp. 40f.

¹⁶⁴ Cf. Weinfeld, “Justice”, pp. 241-244 notes that God’s judgement (משפּ) is often used in the sense of saving people from the hand of the wicked.

¹⁶⁵ Cf. Weinfeld, “Justice”, writes, ‘When the prophets speak of משפּ צדקה [justice and righteousness], they are certainly not referring to a settlement between the parties, or acts of charity associated with the judicial process, and they certainly do not mean merely *just* judicial decisions. When we survey the verses that refer to משפּ צדקה in the prophetic literature and the Psalms, we find that the meaning of the concept is not confined to the judicial process. On the contrary, the concept refers to the improvement of the conditions of the poor’ (p. 237) and ‘when the prophets refer to משפּ and צדקה, they do not mean merely that judges should judge accurately. They mean primarily that the officials and landowners should act on behalf of the poor’ (p. 245).

¹⁶⁶ Marshall, *Beyond*, p. 50.

¹⁶⁷ The idea of the ‘judgement of forgiveness’ was discussed in Section 3.1 above.

¹⁶⁸ Dunn, *Romans 1-8*, p. 41.

¹⁶⁹ Marshall, *Beyond*, p. 41.

¹⁷⁰ Note that Paul has brought cultic language and reconciliation language together here – it is through Jesus’ blood that people are justified; it is through his death that they are reconciled to God – something that he did not do in his earlier correspondence with the church in Corinth.

¹⁷¹ Recall that Paul’s presentation of God’s action is the opposite of the early Greek proverb that said to help a friend and harm an enemy (see Section 2.5).

¹⁷² Dunn, *Romans 1-8*, p. 259.

¹⁷³ Volf, “The Social”, p. 167.

¹⁷⁴ Volf, “The Social”, p. 168.

¹⁷⁵ Volf, “The Social”, p. 171.

¹⁷⁶ Volf, “The Social”, pp. 171f.

¹⁷⁷ Volf, “The Social”, p. 171, ‘[t]he process of reconciliation should proceed under the assumption that, though the behaviour of a person may be judged as deplorable, even demonic, no one should ever be excluded from the will to embrace for the simple reason that, at the deepest level, relationships do not rest on moral performance and therefore cannot be undone by its lack.’

¹⁷⁸ Volf, “The Social”, p. 171.

¹⁷⁹ Volf, “The Social”, p.

¹⁸⁰ Recall the quotation from Dwyer at the beginning of this section.

¹⁸¹ Chapter 2, §3 (1) of the “National Unity and Reconciliation Act of 26th July, 1995. See also, for example, Tutu, *No*, chapter 4. He writes later, p. 221, that while the whites are still living off the fat of the apartheid system and blacks are in hovels, ‘we can kiss goodbye to reconciliation.’

¹⁸² van der Merwe, “National”, p. 117. See also pp. 117-121. Cf. Verwoerd, “Towards”, pp. 156f; Villa-Vicencio, Charles, “Getting on With Life: A Move Towards Reconciliation” in Villa-Vicencio, Charles and Verwoerd, Wilhelm, ed., *Looking Back Reaching Forward: Reflections on the Truth and Reconciliation Commission of South Africa* (Cape Town: University of Cape Town Press 2000), 199-209, p. 199; and Villa-Vicencio, “Restorative Justice in Social”, p. 235, ‘[the TRC] has provided a somewhat fragile foundation that needs to be reinforced by a range of other nation-building initiatives, on which a strong and enduring structure can one day emerge.’

¹⁸³ Lederach, *Building*, pp. 26-31.

¹⁸⁴ In fact Lederach suggests that, from his experience, it takes as long to get out of an armed conflict as it took to get in. He writes further, *Building*, p. 78, '[w]e must develop the capacity to think about the design of social change in time-units of decades, in order to link crisis management and long-term future-oriented time frames.'

¹⁸⁵ *Reconciliation: Mission and Ministry in a Changing Social Order* (Maryknoll: Orbis Books, 1992), pp. 24f (his italics). Cf. Gunton, "Towards", p. 169.

¹⁸⁶ Volf, *Exclusion*, p. 109 (his italics).

¹⁸⁷ See Scott, James C., *Domination and the Arts of Resistance: Hidden Transcripts* (New Haven: Yale University Press, 1990). This, of course, was the position of most of the early Christians, and so this must be borne in mind when reading the New Testament. For example, when this is recognised, the actions in Mt. 5.38-42 become acts of non-violent resistance in the face of an overwhelmingly powerful political force (see, e.g. Wink, Walter, *Engaging the Powers: Discernment and Resistance in a World of Domination* (Minneapolis: Augsburg Fortress, 1992), pp. 175-184; Wink, Walter, "Neither Passivity nor Violence: Jesus' Third Way (Matt. 5.38-42 par.)" in Swartley, William M., ed., *The Love of Enemy and Nonretaliation in the New Testament* (Louisville: Westminster John Knox Press, 1992), 102-125).

¹⁸⁸ Yoder, John Howard, *The Politics of Jesus* (Grand Rapids: Eerdmans, 2nd edition, 1994), p. 238.

¹⁸⁹ Volf, *Exclusion*, p. 299.

¹⁹⁰ Volf, *Exclusion*, Chapter VII.

4 Reconciliation and the Sins of the Past

The past is not dead and gone; it isn't even past.¹

The nature of reconciliation – the process of forgiveness and repentance – has been explored in Chapters 2 and 3, and it was shown that the pursuit of reconciliation establishes justice. However, the particular issues that arise in conflicts that run over multiple generations, especially the relationship of the present generation to past sins, have not been explored as yet. This is the purpose of this chapter.

In a conflict between groups of people, the dispute can outlast any particular generation involved in it. The responsibility of the present generation in a trans-generational conflict is widely disputed. This chapter will argue that the present generation in any dispute has a propensity to continue to sin in ways shaped by the sins of its forebears. Further, the present generation is part of a corporate body that remains guilty of the sins of the past generations, even if the sins of the past have not been repeated by the present generation. These problems can be overcome, and can only be overcome, by pursuing a policy of repentance as part of the project of being reconciled with other parties in the continuing conflict, who have a similar responsibility to forgive. This repentance and forgiveness is not only for the sins of the present generation, but those of past generations as well.

This chapter is of particular importance to the peoples of Australia, for it implies that, without the repentance of the present generation of Subsequent peoples, policies concerning the relationship between the different peoples of Australia are likely to continue to be destructive towards the Indigenous peoples of Australia. The next chapter will explore the history of land disputes in Australia over the last half century, as a way of testing this hypothesis. Chapter 6 will consider what it might mean for the present generation of Subsequent peoples to repent.

The argument of the present chapter is as follows. The next section fleshes out the claims of this chapter in a bit more detail, drawing on some examples that seem to indicate their veracity, and the following section presents a case study that is

theologically suggestive concerning the relationship between the present and past generations. Because people in the West tend to think about individuals, and conglomerations of individuals, rather than corporate entities, the third section considers the nature of corporate entities. The fourth section explores a biblical example of one generation complaining that it is being punished for the sins of previous generations, not its own sin, and the proof that they were indeed sinning themselves is a warning to any community which thinks that it is able to go into the future without being shaped by the sins of the past. After a brief excursion discussing the nature of punishment for sin, the sixth section argues that corporate entities are shaped by the sins of the past so that they are bound to sin in ways that reflect their sinful past. The final section argues that corporate reconciliation, corporate repentance and forgiveness, is needed to break this inter-generational pattern of sin, and to resolve the problems that are left from the sins of the past.

4.1 Aligning Ourselves

So far, the discussion of reconciliation, of forgiveness and repentance, has been a bit loose in specifying whether individuals or groupings of people were involved. However, there is one issue that arises when considering conglomerations of people, such as communities or nations, and that is that the problems can outlive the lives of the people who were, or who are, currently engaged in them.

It is a well-established fact that conflicts can proceed down the generations. Michael Ignatieff, in his exploration of the conflict in the former Yugoslavia, helpfully writes,

the past continues to torment because it is not the past. These places [the Balkans] are not living in a serial order of time but in a simultaneous one, in which the past and present are a continuous, agglutinated mass of fantasies, distortions, myths, and lies. Reporters in the Balkan wars often observed that when they were told atrocity stories they were occasionally uncertain whether these stories had occurred yesterday or in 1941, 1841, or 1441.

He concludes that this ‘is the dreamtime of vengeance. Crimes can never safely be fixed in the historical past; they remain locked in the eternal present, crying out for vengeance.’² Here it is clear that the present generation of people in the disputes needs to break the cycle of violence, and seek to be reconciled to one another.³

But what if the conflict appears to lie in the past? For example, can the present generation of non-Indigenous Australians be held responsible for the massacres of Aboriginal people in the past? Whether or not they can be held responsible, can the present generation do anything about it? Specifically does it make any sense for the present generation to repent of the sins of the past? And, why has no set of policies ever delivered significant welfare improvements for the Indigenous peoples of Australia?

Theologically, there is a subtle, but important relationship between the past, present and future. Stated simply, it is that the present generation is likely to continue to sin in ways that are shaped by the sins of the past, even if it tries to do the right thing. Moreover, the present generation is part of a corporate entity which remains guilty of the sins of the past. The only way to overcome these problems is to seek reconciliation.

The purpose of this chapter is to substantiate these claims. However, before trying to establish this case, it is worth taking time to ponder three observations from people who have been trying to interpret what has been happening in Australia.

Firstly, the historian Mark McKenna notes that Aboriginal culture and oral history stresses continuity in history, whereas the dominant culture wants to push the past away as time goes on. However, he argues, this history is inseparable from the present, and so remains unreconciled.⁴ Steve Hemming makes a similar point when he writes,

Stanner's 'great Australian silence' may have ended in one sense, but it lives on through the positivist separation of the past and present. This separation allows politicians such as John Howard to avoid an apology to the stolen generations and, as Rose argues, treat the present as a 'way station on the road to the future' rather than the 'real domain of moral action.'⁵ Positivist history also fails to recognise the fundamental formative relationship between the imperial centres of Europe and the colonised peripheries such as Indigenous Australia. The west was built on the rest in more than just political and economic ways. Indigenous people have been one of Europe's most influential others, shaping the culture of both the colonisers and the colonised in fundamental ways. An understanding of the complexity of this long-term relationship is an integral part of reading the colonial archive.⁶

Secondly, John Wilcken highlights the fact that the situation of the present generation stands in continuity with the past, when he writes,

[p]ast history is a fact, and it cannot be changed. The crimes of the last two centuries have to be owned by Australians – not as if we are personally guilty of what was

done by our predecessors, but rather as acknowledging that our present situation (which includes very particularly the dominant position of the European population) stands in continuity with that sin-stained past, and is the direct result of it. Thus we Australians today cannot say that what was done in the past is no concern of ours. As people living in history, we bear the burden of the crimes of the past – just as we are enriched by the grace which was present also in the lives of our predecessors. True reconciliation can come about only if we humbly and honestly accept that burden.⁷

Finally, Gillian Cowlishaw pinpoints the way that the present generation of non-Indigenous peoples has a tendency to side with the Aboriginal peoples because of what happened in the past, so denying their continuing responsibility, and which also blinds it to the way that it is continuing the same behaviours towards Aboriginal people.

These histories seem to present with ease a view of our own past that fills us, as readers, with horror at the same time as it distances us from it. How is it that in reading these accounts we position ourselves on the side of the Aborigines and identify our forebears as the enemy? These violent and racist men could be our grandfathers and they certainly left us something, if not the land they took or the wealth they made from it, then the culture they were developing. The call to examine the colonial past is in danger of foundering on the complacency of an imagined distance from the spectacle of blood and violence. Continuity with the past is easily severed and the cultural source of these events is lost. Our disgust and horror at the violence and abusive racism means we are absolved. Where before, readers were offered no access to the contemporary experience of the anthropologists' timeless Aborigines, now historians immerse readers in an awful past and distract them from contemporary forms of violence and racism.⁸

4.2 An English Case Study

Martin Graham tells a story of an experience where an apology of the present members of the church for what had happened in the past, created a space for the work of the present church to be welcomed, whereas there had been hostility towards it up to that point.⁹ The context was a barbecue mission in Tonbridge, Kent. Each morning of the mission, people would hand out invitations to people in the street to come for a free barbecue. During the morning and during the barbecue, worship bands would be worshipping at various places around the town. However, seemingly inexplicably, there was all sorts of disruption to what was going on, a '*spiritual* climate ... as if the people of the town didn't *like* us'.¹⁰ For example, someone hung loud speakers out a window where there was a worship band, and played obscene music; people were gratuitously rude when given an invitation to the free barbecue; and youths cycled through an evening meeting. Things like this had not happened in other towns where similar missions had taken place. A few days into the mission, there was a message in tongues

during the morning worship session, which was attended by the one hundred and fifty members of the team that was drawn from the various churches in Tonbridge. In the interpretation of the message, a picture emerged of what God was saying to the church: ‘You need to listen to Tonbridge; Tonbridge is hurting; Tonbridge has been hurt by the church.’¹¹ As people there explored what this might mean, it emerged that some hundreds of years ago, church authorities in Tonbridge had stolen the poor fund and spent it on themselves. As well, in the mid-nineteenth century, when railway workers had arrived in the town, they had been informed that they were not welcome in the church. There were other stories too, which Graham does not record. Graham concludes, that ‘[w]hat became clear was that the contemporary generation of Tonbridge residents had, as it were, “received” a dislike for the church, without knowing why they should have such an attitude. It was in the DNA of Tonbridge, if you like, that the church was disliked from generation to generation – a ‘spiritual stronghold’ if ever I saw one.’¹² Later that day, when there were about 300 people eating at the barbecue, Graham felt God say to him that he had to apologise on behalf of the church for what the church had done in the past. He

went to the microphone and said, quite simply, that we had been praying and that God had shown us that the church had hurt the people of Tonbridge (I told the story of the railway workers) and that in response to this, we really wanted to say how sorry we were – if they felt able to receive this apology. I was also able to say that, in hurting people in this way, we had misrepresented the image of God and the truth was that, unlike the ‘no’ they had received from the church, there was a ‘yes’ for them from God.¹³

Graham records that ‘the atmosphere changed instantly. People were ready to receive us – and our message,’¹⁴ and, further, that many people became Christians that day, including some of the youths who had been so disruptive with their bicycles the evening before.

There are several points from this story for which theological investigation will bear dividends. Firstly, the story is told of corporate entities: it is the town and the church which have a broken relationship, expressed by the behaviour of individuals (e.g. the person who played loud music to drown out the worship) and groups of people (e.g. the youths who cycled through an event). There was something about the way that the people in the town itself were acting as a corporate entity, expressed by Graham as a ‘spiritual climate’. Secondly, the present generation was living out a hatred of the

church, even though it may not have been conscious either of its doing so, nor of the roots of the problem. Graham says that the attitude was ‘inherited’, part of the town’s ‘DNA’. Unfortunately, Graham does not explore in this story how the church’s sinful history was part of its DNA, and how this worked itself out in the way that the church was continuing to behave. Thirdly, the roots of the antagonism were multiple incidents, some of them a long time ago. As was noted in the second point, there is not enough information to know if the past attitudes of the church were also being lived out in the present generation of the church, or if the offensive incidents were firmly situated in the past. Fourthly, an apology on behalf of the church, in this case by an outsider, was effective in defusing the animosity between the town and the church.¹⁵

4.3 Thinking Together

One of the hardest things for people brought up in Western culture is to think about is the relationship of a person to various groupings of people. This is because a ‘person’ has been understood to be an individual, and participation in larger groupings of people – family, local community, working community, nation, and so on – is seen as largely accidental and/or voluntary. When Margaret Thatcher famously said, ‘who is society? There is no such thing! There are individual men and women and, there are families’,¹⁶ she was expressing this dominant understanding. However, the experience of bereavement, of being changed oneself when someone dies or moves away, indicates that personhood is more than being an individual, that it certainly includes, and is formed by, the multiple networks of relationships of which an individual is part.¹⁷

Thinking corporately is innate to many other cultures. For example: it was seen in Section 3.3 that the village was important in the identity of the people of Bougainville; Vincent Donovan gives the example of a whole tribe of Masai converting to Christianity, because it was impossible for the tribe to be split;¹⁸ and there is an African saying, ‘I am because we are, and because we are therefore I am.’¹⁹ All of these point to the fact that it is possible to conceive of the world very differently. That is not to say that these worldviews are perfect, but they provide encouragement for reconsidering the nature of corporate entities.²⁰ In fact, biblically, corporate entities are part of the created order.²¹

What makes it so difficult for Western people to think about disputes that have run over multiple generations is that there is a tendency to reduce guilt to individuals,²² and then it is hard to see how a group of individuals could be guilty of the sins of another group of individuals in the past. However, the above experience of Graham, indicates that there is a stronger cohesion and continuity in the life and actions of a community over time. Clearly, a more adequate notion of corporate entity is needed. Alasdair MacIntyre is surely correct when he writes,

I inherit from the past of my family, my city, my tribe, my nation, a variety of debts, inheritances, rightful expectations and obligations. This thought is likely to appear alien and even surprising from the standpoint of modern individualism. From the standpoint of individualism I am what I myself choose to be. I can always, if I wish to, put in question what are taken to be the merely contingent social features of my existence. I may biologically be my father's son; but I cannot be held responsible for what he did unless I choose implicitly or explicitly to assume such a responsibility. I may legally be a citizen of a certain country; but I cannot be responsible for what my country does or has done unless I choose ... to assume such responsibility. Such individualism is expressed by those modern Americans who deny any responsibility for the effects of slavery upon black Americans, saying "I never owned any slaves." It is more subtly the standpoint of those other modern Americans who accept a nicely calculated responsibility for such effects measured precisely by the benefits they themselves as individuals have indirectly received from slavery. In both cases, 'being an American' is not in itself taken to be part of the moral identity of the individual. And of course there is nothing peculiar to modern Americans in this attitude: the Englishman who says, "*I never did any wrong to Ireland; why bring up that old history as though it had something to do with me?*" or the young German who believes that being born after 1945 means that what Nazis did to Jews has no moral relevance to his relationship to his Jewish contemporaries, exhibit the same attitude, that according to which the self is detachable from its social and historical roles and statuses.²³

It should not be impossible to think about ways of conceiving corporate identity, for it is already present in the way that language is used. For example, Rudd spoke of 'the government and the parliament' in his speech of apology,²⁴ or one might say, 'I play cricket for Australia,' or 'Australia took part in the war that began in 1914.' All of these examples must be about something that is more than a collection of individuals; the second example includes the idea of representation, or doing something on behalf of; and the third recognises a historical continuity of a corporate entity. Moreover, corporate entities can have a personality. For example, inspectors of government schools in England have to report back on the 'ethos' of a school. Corporate entities can have a way of behaving, or a culture, where this means more than those things that we associate with a particular grouping of people (such as baguettes with France), but the

things that drive and shape its actions, whether this is implicit or explicit. An example of this is America's understanding of its 'manifest destiny' to impose capitalism and its understanding of democracy on the whole world.²⁵

In the English legal system, there is no separate notion of a 'corporation', but the law is based on treating a corporation as analogous to an individual, and developing the law based on that.²⁶ This is suggestive, for it can then be seen that this 'corporate individual' has an existence, a history and a future, that it is not entirely dependent on those people who are part of it at a particular time. It is also suggestive of the idea of a corporate entity having a 'personality', and it lends itself to thinking analogously about how a corporate entity might 'sin', or be part of a conflict over multiple generations, and how the present generation may have responsibility for the past actions of this corporate entity. However, one must not press this analogy too far, because there are many questions that it cannot answer, such as how does one belong to multiple overlapping networks, or how does one become part of, or cease to be part of, a corporate entity, or how does it relate to other corporate identities, and what is the relationship of the individual to the corporate?

The work that Wink has done on the language of the 'powers' in the New Testament is helpful.²⁷ The powers are not intrinsically evil, for they were created in, through, and for Christ:

For in him all things in heaven and on earth were created, things visible and invisible, whether thrones or dominions or rulers or powers – all things have been created through him and for him. He himself is before all things, and in him all things hold together (Col. 1.16f).²⁸

In his careful study of the language of powers in the New Testament, Wink concludes that 'principalities and powers' refer to the inner and outer aspects of any given manifestation of power.²⁹ The inner, spiritual part is its driving force that 'animates, legitimates, and regulates its physical manifestation in the world.'³⁰ McFadyen also recognises that an institution has an internal being, its 'legitimizing ground, which, in negotiation with its context, determines its present form, and drives any change, an ideal of social life which functions as a quasi-religious basis both for the present form of the institution and for any subsequent transformation.'³¹ The tangible manifestations of power, such as political systems, offices, laws,

economic systems, the church, and nations, are all examples of the outer aspect of a power.³²

Critically, God addresses corporate identities. For example, as will be discussed in the next section, God addresses Israel as a whole, and Jesus speaks to ‘Jerusalem’ (Lk. 13.34f). In Revelation chapters 2 and 3, John is instructed to write to the ‘angel’ of each of seven churches. In each case, the message highlights what might be called the personality of that particular church. Another way of saying this is that the angel is the ‘spirit’ of that particular corporate entity, that church.³³

4.4 ‘It was them. We are not guilty.’

This chapter is trying to establish the truth of three interconnected propositions: that the present members of any corporate entity will sin in ways that are shaped by the sins of the past generations of that corporate entity; that the corporate entity remains guilty of the sins of the past; and that the present generation can overcome both problems by repenting of sin, both the sins of the past, and its own sin. As was noted in the previous section, these propositions are difficult for contemporary Western people to accept because of the tendency to think about corporate entities by reducing them to collections of individuals. From a biblical standpoint, Ezekiel 18 has been important to people who wish to contest the validity of the propositions being explored in this chapter. However, this individualistic reading of Ezekiel 18 cannot be sustained.³⁴ Nevertheless, Ezekiel 18 does have a bearing on the argument of this chapter, and so it will be explored more carefully in this section.

Ezekiel gives one of the most robust responses in the Bible to the claim by a group of people that they are guiltless, and that their present problems are the result of the sins of previous generations. Ezekiel is addressing the generation of people who were alive at the time of the defeat of Judah by the Babylonians.³⁵ Both Ezekiel and his readers regard the crisis as a punishment for sin. What is contested is who sinned.³⁶ The people to whom Ezekiel is speaking quote the parable ‘The fathers have eaten sour grapes, and the children’s teeth are set on edge’ (Ezek. 18.2; cf. Jer. 31.29-30).³⁷ That is, they claim that their present predicament is the result of the sins of their forebears, not their own sin; they prefer to think of themselves as being unjustly punished than to admit their guilt (Ezek. 18.19), even to the point of claiming that it is God who is unjust rather than them (Ezek. 18.29).³⁸ Ezekiel claims that they are being punished for their own sins.

Ezekiel claims that God is just because the proverb is not true: God only punishes the guilty party. Ezekiel makes his case by giving three examples (18.5-18), which seem to be reflecting on Deuteronomy 24.16.³⁹ It is important to note that Ezekiel is arguing by analogy: he is using legal language (i.e. for relationships between human beings) for the examples, and raising them to speak about relationships between human beings and God.⁴⁰ The people claim to be in the third category: their fathers have sinned, and they are innocent (18.14-18). Ezekiel, however, says that the present generation is sinful, that they are suffering the punishment of God for their own sin, for God only punishes the guilty.⁴¹

Of course, Ezekiel must show that the present generation really is guilty. In the initial encounter of Ezekiel with God, God pronounces the guilt of the present generation (Ezek. 2.43-8; 3.7). Moreover, in many other places, Ezekiel makes the important point that they are not only sinning, but also sinning *in the same way* as previous generations (e.g. Ezek. 6.9f; 20.30-32).⁴² Finally, God sometimes speaks to the people as if the sins of all the generations are happening in the perpetual present (e.g. some of Ezek. 16; 23). In summary, God sees Israel as a corporate entity, with a continuity of existence through time that is more extensive than any particular generation, and which has a consistent history of sin, and, moreover, the present generation is continuing to sin in the same way as its forebears.

This should lead any reader of Ezekiel to be concerned about any claims that a line can simply be drawn under the past, claiming that it was the previous generations who did wrong, for subsequent generations, it seems, might continue to sin in the same way as past generations.

Ezekiel goes further than his interlocutors, and speaks of the dynamics of God's relationship with people: it is possible for righteous people to fall out of favour with God by their sin, and for sinful people to come back into favour through repentance (18.19-29; cf. Jer. 18.7-10). That is, there is no accounting, where the good is weighed against the bad, but it is the current relationship that matters. This heightens the sense of the responsibility of the present generation, because they could have repented and averted the present disaster, but they did not. However, this is also a passage of hope: the people could be fatally deflated because they are the generation which is being

punished at last, but Ezekiel promises the possibility of redemption if the people do repent; God desires the people to repent (18.23, 32), and the whole passage (vv. 21-28) is sandwiched by the call to repent, indicating the way that Ezekiel is urging the people to go.⁴³

It is important to clarify one point: Ezekiel is speaking to the whole community, not just individuals. Joyce notes that the ‘sour grapes’ proverb (18.2) is a complaint of the present *generation*, and that he addresses the people collectively as the ‘House of Israel’ (18.25, 29, 30, 31; cf. other uses of the plural form of address in 18.2, 3, 19, 32⁴⁴);⁴⁵ although the legal examples that Ezekiel uses are about individuals from different generations, Ezekiel is speaking to the community as a whole. That is, when Ezekiel uses the legal metaphor to speak of the relationship between God and people, the individuality is about generations, not about persons.

4.5 An Aside on Punishment in Ezekiel’s Worldview

Before considering further questions, it is important to clarify the dynamics of the situation that Ezekiel was addressing. Within the thought world of Ezekiel and his interlocutors, the punishment for breaking the covenant with God was exile from the land, the land that was part of God’s covenant gift to the people. The question that Ezekiel does not address is: why were earlier generations not punished by exile when they were sinful?⁴⁶

There are at least three partial answers to this question. Firstly, as has already been seen in Section 3.2, the announcement of God’s judgement was always to call people to repentance and the restoration of the covenant relationship. Secondly, God is presented as being merciful in not punishing people as they deserve, but giving them time to repent. Thirdly, it is notoriously difficult to attribute a causal relationship between particular sins and their consequences; in fact, the reasoning usually goes the other way: a disaster has happened, so what was the cause?⁴⁷

The question of why the sinful generations were not sent into exile immediately, is posed sharply right near the beginning of the biblical text, in the story of Adam and Eve in Genesis 2-3.⁴⁸ Adam and Eve are told that if they eat of the fruit of the tree of knowledge of good and evil, then they will die. Yet, when they eat of the fruit of this tree, they do not fall down dead; instead they are expelled from the garden. This

suggests that the meaning of ‘death’⁴⁹ and ‘exile’, or how the punishment of sin is to be recognised and understood, is more complex than it might first appear. In Australia, the continuing problems of the Indigenous peoples, and the repeated failure of any programmes to help them, indicates that there is something fundamentally wrong.

4.6 Bound to Sin

Ezekiel has established his case that the people are being punished because of their own sin, sin that repeats the sins of their fathers. But this leaves a very important question. The people to whom Ezekiel was speaking claimed that they were not sinning, and so were being punished for the sins of their forebears; Ezekiel claims that they were sinning, and so were being punished for their own sin. If Ezekiel was right, that the people were sinning, and so they were being punished for their own sin, then the people were either wilfully sinning whilst brazenly claiming that they were not, or they did not know that they were sinning. What if they did not know that they were sinning? That is, is it possible that the people thought that they were, on the whole, doing right, living within the covenant that provides a way of dealing with sin, and yet were still sinning in ways that they did not know about, ways that were ultimately destructive? More pointedly, is it possible that communities continue to sin even when they try to do what is right? Or, in terms of the present political discourse in Australia, is the present generation guiltless, and can it move into the future without repeating the sins of the past?

This section will argue that the present generation of non-Indigenous people is bound to sin in ways that follow on from the sins of its forebears, even if it wants to choose what is right, unless it begins a process of deep and profound repentance, and seeks reconciliation with the Indigenous communities. This does not mean that Indigenous communities will not also need to repent, but the primary concern of this section is to expose the oft-repeated claim that the present generation of non-Indigenous people is not responsible for what happened in the past as a dangerous fiction, for the present non-Indigenous generation continues to act in a sinful way which is shaped by its history.

The place to begin is to recall a major insight of Paul, that sin is not just wrong actions, but sin is also a power that causes people to do wrong things. This observation is critical to understanding Romans, and is central to Romans 6 in particular. All human beings

are captive to sin, but Christ's death on the cross has broken the power of sin, so that, being incorporated into Christ's death and resurrection, we may die to sin and rise to new life. This conversion experience begins the long process of repentance and being released from the grasp of the power of sin, as we learn to live more in the power of the Holy Spirit.

Augustine was helpful in elucidating just how pernicious this captivity to sin is, because it not only affects the ability to *do* what is right, but it also damages the ability to *know* what is right. In his arguments with Pelagius, Augustine made an extended argument about the will. For Augustine, the will is directed towards what a person sees as 'good', and pushes away from behaviour that is irrational with respect to this good; it is connected to desire and the affections; it is not only drawn to the good, but also pushed towards it by the internal dynamic of intentionality of desire.⁵⁰ Unfortunately, the will can become disoriented. This has the unfortunate consequence that a person can will to do what is right, but, because the will is not true, the person sins in acting according to her will. The will can become distorted through habitual action, or by being compelled to take part in sinful actions. In the latter case, being compelled to take part in sinful action leads to the distortion of the will, as what has happened becomes internalised.⁵¹ That is, the will becomes distorted, and a person becomes bound to sin,⁵² which will be referred to as 'bound willing'.

Whilst this argument is usually made for individuals, it has considerable descriptive power for conglomerations of people. As was seen above (Section 4.3) one can think of corporate entities as having a 'spirit' or 'personality'. As with the will of an individual, the will of a corporate entity can also be damaged, so that a corporate entity can be bound to sin, that is, a corporate entity may wish to do what is right, but end up sinning because it is unable to know what the right thing is to do.⁵³

Often, the will is distorted by the creation and internalisation of a false narrative.⁵⁴ An example of this is the way that Indigenous peoples were written out of the non-Indigenous narratives of Australian history for several generations; although Indigenous peoples had figured prominently in both historical and descriptive works in the nineteenth century, they were hardly mentioned in history books between 1900 and the 1960s; they were virtually written out of history.⁵⁵ Further, a dominant myth was established, of peaceful settlement, of the 'Aussie battler', who struggled against the

elements to establish the modern nation of Australia. It conveniently forgot that wherever the incoming people moved to, a state of war resulted. It is clear from the newspaper reports that this happened, that there was a state of war wherever the ‘frontier’ was to be found. Settlers found themselves to be under attack, and carried guns for protection. Reprisals were frequent, and hugely disproportionate, and started almost at the beginning of the establishment of the settlement of the first incomers.⁵⁶ That the so-called ‘history wars’ – the argument over what really happened in Australia – are so vitriolic, shows not only how hard it is for a nation to give up false narrations of its history, but also that it is difficult to face the implications of uncovering a truer narration of that history, even though it has the potentiality of liberation for all the peoples of Australia, if it leads to repentance and forgiveness.

It was suggested in Section 1.4 that by planting a flag in the soil, claiming ownership of the land and sovereignty over it for the English Crown, Captain Arthur Phillip committed a foundational sin against the First peoples of Australia: he did not recognise the Indigenous systems of law, including their ownership of the land, nor did he engage with the full humanity of the First peoples. In the next chapter, it will be seen that these foundational sins have become established in the very fabric of the life of the dominant culture. The *Mabo and Others v State of Queensland (No 2)* (1992) 175 CLR 1 judgement recognised this in part, with the majority judgement overturning the previous legal precedent that failed to recognise any form of Indigenous ownership of land. However, what it was not able to do was address the issue of sovereignty, as the law itself was an expression of this claim to sovereignty.⁵⁷

Given this history, it is not surprising that the attempts to sort out the welfare problems of the Indigenous peoples of Australia have continuously failed, for the present generation continues to sin in ways that are shaped by the sins of the past, and its will has been distorted so that it cannot know what is right, even when it desires to do what is right.⁵⁸ Further, it is to be expected that the present generation of non-Indigenous Australians will continue to sin in ways that are shaped by its forebears, unless Rudd’s apology leads to a deeper engagement in the process of repentance and reconciliation.

4.7 Corporate Reconciliation

Corporate entities that have sinned need to repent. Ezekiel finishes his argument in chapter 18 with the call to corporate repentance. ‘The final words of the chapter (vv.

30b-32) focus on the challenge to repentance. ‘Get yourselves a new heart and a new spirit! Why will you die, O house of Israel?’ (v. 31); ‘Turn and live’ (v. 32). These words make explicit the challenge to repentance which is clearly implied in vv. 21-24 and 26-28.⁵⁹ ‘The call to repentance is addressed to the community *as a whole*, and it is the restoration of the whole people of God for which Ezekiel presses.’⁶⁰

But the present generation can do more than repent of its own sins; it can break the pattern of bound willing by also repenting of the sins of the past. As has been argued in this chapter, corporate entities can have a history that goes beyond those who are that corporate entity at any point in time. Where there has been a conflict that has continued over a period of time, where not everyone who has been part of the conflict is still alive, then those who are currently part of those corporate entities can do more than be reconciled over their own parts in the conflict, for they can be part of the reconciliation of the corporate entities themselves. That is, those who are part of a corporate entity which has sinned in the past can repent of the history of sin of the corporate entity of which they are part, and likewise those whose forebears were sinned against can forgive the sins of the past.

Returning to the biblical text for a moment, it is possible to read Ezekiel 18 as contradicting this point, for it could be read as saying that the present generation is only being punished for its own sins, or, more generally, that guilt does not transfer down the generations, for the present generation is being punished only for its own sins, not the sins of its forebears. If this reading is correct, then Ezekiel 18 is a significant shift in understanding from the main thrust of the rest of the Old Testament, the so-called deuteronomistic histories in particular, which argue that the party who received the punishment acted wickedly, but nonetheless it received the punishment that had been building up for generations (e.g. see 2 Kings 21.15; 22.17; 24.20). This is also the understanding of other parts of Ezekiel.⁶¹ So why is there this seeming contradiction in Ezekiel concerning trans-generational guilt? Kaminsky suggests that Ezekiel was a prophet, not a systematic theologian, and the problem that he was addressing in chapter 18 was a particular complaint by the people that their sin did not warrant the punishment of the exile. In such a rhetorical situation, it is possible to use arguments that contradict what may be said to another audience on another day about a different problem, and so what Ezekiel says in chapter 18 does not signal a paradigm shift.⁶² That is, this thesis ascribes to the, perhaps unfashionable, view that the best reading of the

thrust of the Old Testament thinking on this issue is that guilt passes down the generations.

Therefore, what Tutu writes about forgiveness is surely true:

If we are going to move on and build a new kind of world community there must be a way in which we can deal effectively with a sordid past. The most effective way I can think of is for the perpetrators or their descendents to acknowledge the horror of what happened and the descendants of the victims to respond by granting the forgiveness they ask for, providing something can be done, even symbolically, to compensate for the anguish experienced, whose consequences are still being lived through today. ... If the present generation could not legitimately speak on behalf of those who are no more, then we could not offer forgiveness for the sins of South Africa's racist past, which pre-dates the advent of apartheid in 1948. The process of healing our land would be subverted because there would always be the risk that some awful atrocity of the past would come to light that would undermine what has been accomplished thus far ... True forgiveness deals with the past, all of the past, to make the future possible. We cannot go on nursing grudges even vicariously for those who cannot speak for themselves any longer. We have to accept that what we do we do for generations past, present and yet to come. That is what makes a community a community or a people a people – for better or for worse.⁶³

Whilst Tutu is speaking of the importance of forgiveness for all the sins of the past, it is surely analogously true too of repentance,⁶⁴ the counterpart of forgiveness in reconciliation.⁶⁵

There are two important caveats that must be noted. Firstly, Tutu's remark is most true about intentionality. That is, reconciliation is probably like taking the layers off an onion: the reconciliation of one layer of problems reveals another layer of problems underneath, which will need to be resolved. A one-off process of repentance and forgiveness will probably not resolve all the layers at once, but there needs to be the intention to resolve each layer as it is revealed. Secondly, what has happened does not go away, even though reconciliation has brought justice, healing, and new beginnings. Recall the example from Section 4.3 above, where Alasdair MacIntyre says that the relationship between a Jewish person and a German born after the war cannot avoid being affected by what has happened in the past, even if there has been reconciliation.

This thesis has been focusing on the need for the Subsequent peoples to repent, because this need is not often recognised. The present generation must enter a process of repenting not only for its own sin, but also the sins of its forebears.⁶⁶ It was already

noted that there was something about the popular apology to the ‘Stolen Generations’ that made it feel as if it was not only for what happened to these people,⁶⁷ but also for what has been done to all the Indigenous peoples since the first incomers landed to stay in the land. It now behoves the peoples of Australia to work on the process of repentance and forgiveness, the seeking of reconciliation.

4.8 Conclusion

This chapter has considered the nature of the responsibility of the present generation in any multiple-generational dispute. It has been shown that the present generation of any institution is part of the history of that institution. Although this means that the present generation is not guilty of the sins of past generations, it is the case that the present generation is part of an institution that is guilty of any unaddressed past sins. Moreover, because of the nature of bound willing, the present generation is likely to continue to sin in ways shaped by the sins of the previous generations, even if it does not want to do so. That does not mean that individuals are necessarily guilty as individuals, but they are part of a larger institution, which is guilty. The only way to resolve these two problems is for the present generation to repent and seek reconciliation, and for the present generation of the offended parties to give forgiveness.

The next chapter, on the history of land in Australia over the past half century, investigates if this has happened in practice in Australia. It will be seen that the foundational fallacy, or original sin – that British sovereignty and ownership was assumed over the continent, without reference to the Indigenous peoples, as part of the failure to recognise the full humanity (and culture) of the Indigenous peoples – has brought disastrous consequences both for the Indigenous and the non-Indigenous peoples, as well as for the land. The reason why no programmes have been able to resolve the problems that were introduced at the beginning of Europeans coming to live in the continent is that present occupants of Australia have been shaped by their history, and have been unable to choose what will bring healing to the land. The only way to resolve the problems for all the peoples of Australia is for the Subsequent peoples of Australia to seek reconciliation with the First peoples of Australia.

¹ Attributed to one of William Faulkner’s characters in Shriver, *An Ethic*, p. 4, and widely attributed to Faulkner elsewhere, but I have not managed to find the original quotation, nor its context.

²² Michael Ignatieff, “Wounded Nations, Broken Lives: Truth Commissions and War Tribunals,” *Index on Censorship* 5 (1996), 110-22, quoted in Minow, “Innovating”, p. 98.

³ Botcharova, “Implementation” reports on the experience of trying to bring reconciliation in the Balkans.

⁴ McKenna, *Looking*, p. 78.

⁵ Hemming gives the source of this quotation as Rose, Deborah Bird, “Histories and Rituals”, in Attwood, Bain, ed., *In the Age of Mabo* (St Leonards, Allen and Unwin, 1996), 33-53.

⁶ Hemming, Steve, “Taming the Colonial Archive: History, Native Title and Colonialism” in Gray, Geoffrey and Paul, Mandy, *Through a Smoky Mirror: History and Native Title* (Canberra: AIATSIS, 2002), 49-64, pp. 58f.

⁷ Wilcken S.J., John, “A Theological Approach to Reconciliation” in Brennan S.J., Frank, ed., *Reconciling Our Differences: A Christian Approach to Recognising Aboriginal Land Rights* (Richmond, Victoria: Aurora Books, 1992), 63-77, p. 69.

⁸ Cowlshaw, Gillian, “Studying Aborigines: Changing Canons in Anthropology and History” in Attwood, Bain and Arnold, John, eds, *Power, Knowledge and Aborigines* (Victoria: La Trobe University Press, 1992), 20-31, p. 27

⁹ Graham, Martin, *Sizzling Faith: The Dream that Got the Church On the Move!* (Eastbourne: Kingsway, 2006), pp. 82-88.

¹⁰ Graham, *Sizzling*, p. 83, his italics.

¹¹ Graham, *Sizzling*, p. 84.

¹² Graham, *Sizzling*, p. 85.

¹³ Graham, *Sizzling*, p. 87.

¹⁴ Graham, *Sizzling*, p. 88.

¹⁵ Mills, Brian and Mitchell, Roger, *Sins of the Fathers: How National Repentance Removes Obstacles for Revival* (Tonbridge: Sovereign World, 1999) and Mill, Brian and Pickering, Brian, *Fountains of Tears: Changing Nations Through the Power of Repentance and Forgiveness* (Tonbridge: Sovereign World, 2004), give many more stories of people who have repented on behalf of others over incidents that happened in the past, and how this has brought restoration of relationships and healing in the present. It is beyond the scope of this thesis to investigate this phenomenon, particularly the issue of who is authorised to repent on behalf of a corporate entity. This behaviour goes beyond the suggestion of Tavuchis (see Section 3.2) that apology needs to be made by a recognised representative of that entity.

¹⁶ This was said during an interview for *Woman’s Own*, 23rd September, 1987. As at 7.12.09, this can be found archived at:

<http://www.margarethatcher.org/speeches/displaydocument.asp?docid=106689>.

¹⁷ McFadyen, Alistair, *The Call to Personhood: A Christian Theory of the Individual in Social Relationships* (Cambridge: CUP, 1990), p. 317, begins his definition of a person as ‘[a]n individual who is publicly identifiable as a distinct, continuous and integrated social location from whence communication may originate and to which it may be directed; who has the capacity for autonomous engagement in social communication, and who has a unique identity sedimented from previous interaction.’ This view is contested by Harris, “Should”.

¹⁸ Donovan, V J, *Christianity Rediscovered: An Epistle from the Masai*, (London: SCM, 1978), p. 92.

¹⁹ Mbiti, J S, *African Religions and Philosophy* (New York: Doubleday, 1970), p. 141, quoted in Villa-Vicencio, Charles, *A Theology of Reconstruction: Nation-Building and Human Rights* (Cambridge: CUP, 1992), p. 166.

²⁰ Maurice Halbwachs has argued that human beings have very few memories that do not depend on being part of a group of some sort. This is noted in Parker, Russ, *Healing Wounded History: Reconciling Peoples and Places* (Cleveland: The Pilgrim Press, 2001), pp. 40f.

²¹ Westermann, C, *Creation* (London: SPCK, 1974), chapter 1. See also Hardy, D W, "Created and Redeemed Sociality", in Gunton and Hardy, chapter 1, pp. 21-47.

²² E.g. Weber, Theodore R, "Guilt: Yours, Ours, and Theirs", *Worldview* 18 (February 1975), 15-22, p. 19.

²³ MacIntyre, Alasdair, *After Virtue: A Study in Moral Theology* (Gerald Duckworth & Co Ltd; 3rd edition, 2007), pp. 220f (his italics). Cf. Wendell Berry, quoted in Parker, *Healing*, p. 83, 'Once you begin to awaken to the realities of what you know, you are subject to staggering recognitions of your complicity in history and in the events in your own life ... a historical wound, prepared centuries ago to come alive in me at my birth like a hereditary disease and to be augmented and deepened in my life.'

²⁴ See Section 3.2.

²⁵ Northcott, Michael, *An Angel Directs the Storm: Apocalyptic Religion and American Empire* (London: I. B. Taurus, 2004).

²⁶ The Chambers Concise Dictionary defines 'corporate' in the legal sense of a group 'legally united into a body so as to act as an individual'.

²⁷ Wink, Walter, *Naming the Powers: The Language of Power in the New Testament* (Philadelphia: Fortress Press, 1984), chapter 2.

²⁸ Wink, *Naming*, pp. 13-21, 64-67.

²⁹ His interpretation is not uncontested. Andrew Lincoln is very helpful in mapping out the various modern interpretations of this language in his article "Liberation from the Powers: Supernatural Spirits or Social Structures", in M Daniel Carroll R, D J A Clines and P R Davies (ed.), *The Bible in Human Society: Essays in Honour of John Rogerson* (Sheffield: Sheffield Academic Press, JSOTS 200), 335-354. He argues that, although this is not what the language meant when the New Testament was written, it is a valid interpretation for today.

³⁰ Wink, *Naming*, p. 5.

³¹ McFadyen, *Call*, p. 241.

³² Wink, *Naming*, p. 5.

³³ Wink, Walter, *Unmasking the Powers: The Invisible Powers That Determine Human Existence* (Philadelphia: Fortress Press, 1986), chapter 3.

³⁴ Many readings of Ezekiel see Ezekiel as being on a trajectory that moves from a communal notion of personhood and responsibility to a more individualised one (see Joyce, Paul M, *Divine Initiative and Human Response in Ezekiel* (Sheffield: SAP JSOT Supplement Series 51, 1989), p. 36 for some examples of such readings). However, this individualised reading of Ezekiel cannot be sustained.

Joel Kaminsky ("The Sins of the Fathers: A Theological Investigation of the Biblical Tension Between Corporate and Individualized Retribution", *Judaism*, Summer 1997, available, as at 24.2.10:

http://findarticles.com/p/articles/mi_m0411/is_n3_v46/ai_20119166/?tag=content;coll1) rightly criticises the way of thinking that sees Ezekiel on the trajectory from communal to individual conceptions of identity and responsibility, noting that this way of thinking reflects a modern bias towards privileging the individual over the communal, and the political project of wanting to construct a trajectory from the messiness of the communal, law-based religion of Israel to the purity of the individual, grace-filled Christianity. Besides the problematic ideological position of such an argument, Kaminsky notes that the idea of communal responsibility is present in the books of the

Old Testament that many scholars believe were written late, such as Dan. 6.25 and Esther 9.7-10, and he notes that this idea is carried through into the New Testament (e.g. Mt. 23.29-36; Jn. 9.2; 1 Thess. 2.14-16). (He makes the same point, about the presence of corporate responsibility in parts of the Hebrew Bible that were written late, in Chapter 2 of his *Corporate Responsibility in the Hebrew Bible* (Sheffield: Sheffield Academic Press, 1995; Journal for the Study of the Old Testament Supplement Series 196), where he argues that its presence in 2 Kings was the result of a number of post-exilic redactions of the material.)

To the evidence that is cited in Kaminsky's paper, the following observations could be added. The famous Jer. 31.33 is often mis-translated as 'I will put my law within them, and I will write it on their hearts', where it should read 'heart' (singular), as it is in the Hebrew. That is, God is performing this operation on the community. Three further pieces of evidence of the communal idea continuing into the NT are also worth considering: (1) Matthew sees the work of Jesus as being about the renewal of the community of Israel (cf. Barton, Stephen, "Matthew", in Barton, Stephen, *The Cambridge Companion to the Gospels* (Cambridge: Cambridge University Press, 2006), pp. 123f, who sees the evangelist's central preoccupation being 'the revelation of the divine presence (kingdom of heaven) in the coming of Jesus as messiah, in fulfilment of scripture, to call Israel to repentance and through a renewed Israel to bring God's blessings on the nations of the world'); (2) in Acts whole households are converted (e.g. Acts 10; 17.25-33); and (3) in Paul the corporate is important, in a way that Westerners find it hard to understand, for example, 2 Cor. 5.14f is not about some sort of substitutionary death, but the idea that when Jesus died, everyone really did die.

It is an erroneous ideological choice to give priority to individual responsibility over corporate responsibility when the biblical material records both types of responsibility.

However, even if Ezek. 18 is not part of a trajectory towards individual responsibility, is it the case that Ezekiel is speaking of individual responsibility here? It is not, for Ezekiel was speaking to a *community* in crisis. He is responding to a *community* complaining that their *fathers* (i.e. the previous generations) had sinned, and it is they (i.e. the present generation) who are being punished. That is, the purpose of Ezek. 18 'is to demonstrate the collective responsibility of the contemporary house of Israel for the national disaster which she is suffering' (Joyce, *Divine*, p. 36). He argues convincingly that, '[a]lthough a single man is considered in each of the three test-cases [Ezek. 18.5-18], it is the cause of the nation's predicament which is being explored; the proverb blames the sins of *previous generations* for the sufferings of the *present*, and accordingly the individuals of the test-cases represent a *generation*. ... the possibility of Yahweh judging individuals in isolation from their contemporaries is not considered. This is because the question at issue is a different one, namely, 'Why is this inevitably communal national crisis happening?'' (Joyce, *Divine*, p. 46; my italics).

Nevertheless, the way that Ezekiel argues in chapter 18 does hint at a more complicated relationship between the individual and the corporate. Rather than simply individualising the relationship with God, or totally subsuming the individual into the corporate, Kaminsky suggests that Ezekiel is exercising social imagination. On p. 172 of his *Corporate*, he quotes affirmatively from Matties, Gordon H., *Ezekiel 18 and the Rhetoric of Moral Discourse* (Atlanta: Scholars Press, 1990; Society of Biblical Literature Dissertation Series number 126), pp. 149f:

[t]here is no self apart from the moral community, just as there is no community apart from moral selves. The part and the whole are not separable ... Ezekiel seeks to reconstruct the 'house of Israel' using the old traditions, but is calling for commitment to a new orientation within the old traditions. In dialogue with the past, Ezekiel seeks to imagine a new reality. That is the function of his individual-community motif. It is not to place religion on a new foundation of individualism, but to create a new interdependence that will build a community of character again.

Whilst this generates creative resonances for a reader of today, who is interested in the relationship between the corporate and the individual, and so the text is being generative, it is not clear that Ezekiel thought in this way.

³⁵ Zimmerli, *Ezekiel*, p. 377.

³⁶ Joyce, *Divine*, p. 38.

³⁷ Note that in Jer. 31.29-30, the proverb is regarded as true, whereas Ezekiel is trying to counter it. Nicholson has argued that the tradition of Jeremiah arose largely amongst the exiles in Babylon, causing Joyce to speculate that Ezekiel could in part be a polemical response to this (Joyce, *Divine*, pp. 139f, endnote 35 to chapter 3).

³⁸ Joyce, *Divine*, p. 52.

³⁹ Joyce, *Divine*, p. 41, writes, 'Ezekiel's concern is to discuss the causes of a particular historical disaster, the defeat of the nation and the deportations which followed it, but he advances his argument by drawing on analogies from the realm of criminal law. Recognition of the reapplication of this language is crucial to the understanding of the chapter.'

⁴⁰ Kaminsky, *Corporate*, pp. 164f. On p. 164 he writes, '[v]erses 1-20 are a theological construction that is spun from the legislation found in Deut. 24.16.'

⁴¹ Kaminsky, *Corporate*, p. 166. Moshe Weinfeld asserts that the same is true of the deuteronomistic historians, namely that the 'conception that God only requites the sins of the fathers on the children only if the latter propagate the evil ways of their fathers is, in effect, the underlying view of the concept of retribution in the deuteronomistic history' (Weinfeld, M., *Deuteronomy and the Deuteronomistic School* (New York: Oxford University Press, 1971), p. 318, quoted in Kaminsky, *Corporate*, p. 44. Nevertheless, in the deuteronomistic history, it does seem that God's punishment is being held back, so that, even though the generation being sent into exile was being punished for its own sins, it also appears to be being punished for the accumulated sins over the generations (Kaminsky, *Corporate*, pp. 42, 44f).

⁴² Cf. the deuteronomistic history, which records that each king sinned (and caused the nation to sin) in the same ways as his father (Kaminsky, *Corporate*, pp. 42f).

⁴³ Kaminsky, *Corporate*, pp. 166-168.

⁴⁴ Kaminsky, *Corporate*, p. 165.

⁴⁵ Joyce, *Divine*, p. 37; Kaminsky, *Corporate*, p. 163. On p. 165, Kaminsky writes that it 'is highly unlikely that this language was employed in order to proclaim a new theology of retribution in which God judged each person as an autonomous entity.'

⁴⁶ Kaminsky, *Corporate*, chapter 2, shows that the deuteronomistic historians blame the exile on the repeated history of evil of the nation under each king (e.g., see pp. 42f). The reforms of Josiah were not enough to turn the tide. Where the exile is sometimes blamed on Manasseh (2 Kings 21.1-18; 23.26f; 23.36-24.6), this is more that the sins of Manasseh were so heinous that they would have been sufficient to cause exile by themselves, even though God did cause the exile at that point, and the nation under subsequent kings continued to sin in the same ways as Manasseh and his forebears (p. 46).

⁴⁷ Joyce, *Divine*, p. 38, helpfully points out that ‘it is impossible to demonstrate a direct causal relationship between human sin and divine punishment. This is precisely because the reasoning characteristically goes the other way: adversity is interpreted as punishment for sin and then an attempt is made to identify the sin in question.’

⁴⁸ Thanks to Walter Moberly, who reminded me of this.

⁴⁹ Moberly, Walter, *The Theology of the Book of Genesis* (Cambridge: Cambridge University Press, 2009), Chapter 4.

⁵⁰ McFadyen, *Bound*, pp. 179f.

⁵¹ Sexual abuse is an extreme and unfortunate example of where this is the case. McFadyen, *Bound*, chapter 4 is helpful on the dynamics of sexual abuse. See the endnote below for a further explication of this.

⁵² McFadyen, Alistair, *Bound to Sin: Abuse, Holocaust and the Christian Doctrine of Sin* (Cambridge: Cambridge University Press, 2000), pp. 187f.

⁵³ Parker, *Healing*, pp. 59f. Cf. Jesus, who says to ‘Jerusalem’ that it is treating him in the same way as it treated all the prophets in the past (Lk.13.31-35).

⁵⁴ See, for example, Schreiter, *Reconciliation*, chapter 2. McFadyen, *Bound*, pp. 113-116; 123f, demonstrates how a false narrative can be established in the case of the sexual abuse of a child. Abusers confuse the victim’s willing. For example: (1) the relationship with abuser outweighs the abuse; (2) with rewards, inducements, or other benefits; or (3) the initiation of the abuse is seductively incremental. In the first two cases, the willing for the inducements may be confused with willing the abuse, especially so when desire for benefits leads to initiation of abuse, so eliminating the difference between means and ends. ‘Childhood sexual abuse abuses the child’s active willing and intentionality, and this is why it can have such long-term traumatic consequences’ (p. 124). For incremental abuse, the gradient so shallow that it obfuscates not only when they became abusive, but also the point at which willing became operative. What seems abusive doesn’t seem so abusive from the step before. So, looking back, the victim is easily convinced that the abuse was accepted willingly from the beginning. The fact that lots of abusers have been abused suggests that the basic pattern and direction of dynamic life-intentionality (their spirit), including will, has been affected. Furthermore, sexual abusers of children often seem to have little sexual attraction to children, but abuse seems to be about resolving issues of personal identity structures sedimented thorough histories of distorted interaction. The issues themselves may not be sexual, but may be about security, trust, worth, vulnerability, which the abuser tries to resolve through power, domination, humiliation, or the semblance of intimacy.

⁵⁵ Reynolds, *Why*, pp. 92-94.

⁵⁶ This is well-documented in more recent histories. See for example, chapters VIII to X of Reynolds, *Why*.

⁵⁷ In his judgement in the *Mabo and Others v State of Queensland (No 2)* (1992) 175 CLR 1 case, Justice Brennan repeatedly made statements along the line of, ‘[i]n discharging its duty to declare the common law of Australia, this Court is not free to adopt rules that accord with contemporary notions of justice and human rights if their adoption would fracture the skeleton of principle which gives the body of our law its shape and internal consistency’ (p. 29).

⁵⁸ Concrete evidence of this will be given in Chapter 5 on the recent history of land in Australia, and then this will be reflected on theologically in Section 5.4.

⁵⁹ Joyce, *Divine*, p. 53.

⁶⁰ Sakenfeld, K D, “Ezekiel 18.25-32”, *Interpretation* 32 (1978), p. 296, quoted in Joyce, *Divine*, p. 142, endnote 69 to Chapter 3; italics in the quotation.

⁶¹ Kaminsky, *Corporate*, pp. 41-47; 174.

⁶² Kaminsky, *Corporate*, p. 176. On p. 177, part of the conclusion of his study of Ezekiel 18 reads, '[s]uch theological innovations should be seen as *ad hoc* creations that were not necessarily intended to systematically reject the more usual corporate conceptions of divine retribution. It is very dubious to highlight such an *ad hoc* speech and thus to interpret it as signaling a general shift in Ezekiel's understanding of divine retribution.'

⁶³ Tutu, *No*, pp. 226f.

⁶⁴ Cf. Daniel's prayer of confession of the sins of the past (Daniel 9; cf. Ezra 9.6ff; Nehemiah 1.6ff). Cf. also Leviticus 26.40-46, where people are encouraged by God to confess not only their own sins, but also the sins of their forebears.

⁶⁵ Parker, *Healing*, p. 17, goes further than this, suggesting that reconciliation in the present brings healing to the people who were involved in the past, who are already dead.

⁶⁶ Parker, *Healing*, p. 102.

⁶⁷ See Section 3.2.

5 Land in Australia: Raising Questions About Reconciliation

The last three chapters have been developing the theology of reconciliation, and now it is time to return to the situation in Australia. Chapter 1 briefly outlined the early history of the occupation of Australia, and described how the decade of reconciliation, and public art and memorials have begun to acknowledge the history of relationships between the peoples of Australia. The purpose of this chapter is to investigate the state of the process of reconciliation in Australia in more detail.

Land has been chosen as the topic of this case study for a number of reasons. The most important reason is that land is essential to Indigenous identities, to Aboriginal cultures in particular, and so the approach of Subsequent peoples to the claims of First peoples concerning their land will be a good indicator of the commitment of Subsequent peoples to the process of reconciliation. Secondly, some First peoples have chosen to bring their political struggle to the attention of the Subsequent peoples by using the non-Indigenous legal system to make claims over their land, and so forcing the Subsequent peoples to take note of their rights.¹ Thirdly, claiming ownership of the land was part of the foundational sin of the British occupation, and so, from the point of view of the theology developed in earlier chapters, particularly Chapter 4, it will be instructive to see how this has played itself out in the recent history of relationships over land. Fourthly, the struggle has been well-documented, and so there is plenty of material to work with. Finally, the period in view is nearly half a century, a significant proportion of the time since the first Europeans arrived to stay, and a sufficient length of time to track changes in a situation where the time needed for change is often measured in generations.

The approach taken in this chapter is to study legislation and court cases in Australia concerning land from the late 1960s until 2005. Starting and ending dates for a study can be somewhat arbitrary. However, the 1960s saw the beginnings of a change in non-Indigenous attitudes to First peoples, with, for example, the 1967 referendum that recognised the Australian citizenship of Aboriginal people for the first time. It also saw the beginning of the court case that, although the Yolngu failed to establish their claim, was the catalyst for a report which resulted in the first land rights legislation for First peoples in Australia. The end date for this study is perhaps more arbitrary, and was chosen largely to be able to have closure on this chapter. Nevertheless, there are a number of reasons why this choice is not entirely arbitrary. Firstly, it is the year in

which I visited Australia to meet with people and talk with them about reconciliation. Secondly, the interpretation of the native title legislation seems to have reached a furthest extreme by that point. Thirdly, there were some big changes being discussed concerning the nature of Aboriginal land tenure, namely the possibility that individuals and groups might be able to mortgage corporately held lands, and to cover these changes adequately would require leaving this study indefinitely unfinished.²

As the focus of this chapter is on the commitment of the Subsequent peoples to reconciliation, and, in particular, the degree of their repentance for what has happened since the foundational sins of the occupation, this chapter will largely investigate the responses of Subsequent peoples to the land claims made by the First peoples.

In outline, this chapter proceed as follows. The first section attempts to describe some of the features of Aboriginal understandings of land. This is necessarily limited in scope, a description by an outsider, but it is essential to have at least some understanding of land in Aboriginal cultures in order to comprehend why this is such an important issue for First peoples, and also to expose some of the ways that the Subsequent peoples have failed to engage properly with Aboriginal cultures. Section 5.2 gives a narrative outline of the history of land through the courts and in legislation since the late 1960s, so that the overall picture is not lost in the details presented in Section 5.3. Finally, Section 5.4 provides a critique of what has happened, from the point of view of the theology developed in Chapters 2 to 4.

5.1 Land in Indigenous Australian Cultures

Land is very important in Indigenous cultures in Australia. Everything is bound up in the relationships between the people and the land: artefacts,³ language,⁴ ceremonies, law,⁵ knowledge and the process of initiation, conception, birth, life and death. Popular slogans such as ‘the land does not belong to the Aboriginals but the Aboriginals belong to the land’ do not comprehend the complexity of the relationship, not least because it imports the alien category of ‘ownership’ into a relationship that is about responsibility, sustenance, and the gift of life.⁶

It is beyond the scope of this thesis to try to explain the features of any particular Indigenous culture in Australia. Instead, some key features of the cultures of the First

peoples that will help understand the interaction of First peoples with non-Indigenous Australian law will be highlighted.⁷

Aboriginal people speak of ‘country’.⁸ This is not just a piece of dirt, but the whole package of areas of land, all its geographical and geological features, flora, fauna, people, stories, ceremonies, law, and so on. Country need not only be land, but can be parts of the sea too. Debbie Rose is helpful here:

In Aboriginal English, the word ‘country’ is both a common noun and a proper noun. People talk about country in the same way that they would talk about a person: they speak to country, sing to country, visit country, worry about country, grieve for country and long for country. People say that country knows, hears, smells, takes notice, takes care, is sorry or happy. Country is a living entity with a yesterday, today and tomorrow, with consciousness, action, and a will toward life. Because of this richness of meaning, country is home and peace; nourishment for body, mind and spirit; and heart’s ease.⁹

Connection to country is not just to an arbitrary piece of land, but to particular parcels of land. Nancy Daiyi, a member of the Mak Mak people, says,

[w]hen I travel around my country I won’t starve. I know I’ll find good tucker because I have the right sweat for my country. It’ll look after us, because we are one and the same. You only need to call out. Talk to the land, it gives us life.¹⁰

Indigenous peoples in Australia had, and continue to have, both a sophisticated understanding of their relationship to the land and a system of land tenure.¹¹ An Aboriginal person may have attachments of varying degrees to multiple countries. Attachments are formed in many ways, for example: through the place of conception, the birth place, through the lines of both mother and father, through marriage, and through living in a place for a significant amount of time.¹² A person has a whole package of responsibilities, and so there is some flexibility in the system for taking up responsibility for whichever land seems most appropriate according to various criteria.¹³ The country for which a person has primary attachment and responsibility depends on making choices amongst the various possibilities, and political issues come into play.¹⁴

A group can grow so that it needs to split, or a group may decline and so others may take over their land (and songs and ceremonies).¹⁵ Periods of ‘abandonment’ of areas of land were natural in Aboriginal cultures. When country was abandoned for a time, connection to the land was maintained by such things as carrying the objects for that

land, and remote ceremonial actions.¹⁶ Relationships to the land could also be shaped by times of scarcity.¹⁷

This natural process has been complicated since the occupation of Aboriginal land in a number of ways. The fact that people have moved or have been moved from their lands means that they begin to build up attachment to the land on which they are living, either through the normal inheritance systems, through the cycle of conception, birth and death, or just through the attachment of living there and getting to know the country. This is further complicated when there have been waves of settlement in a place, so that there are several different groups of First people who have built up land rights in a particular place, whilst maintaining rights to their own countries to a greater or lesser extent.¹⁸ This sometimes results in severe conflicts between people living in the same place,¹⁹ and also severe conflict in land title negotiations under various non-Indigenous laws.²⁰ It must be remembered that the descendants of the original owners of any country may have maintained their connection to their land, despite multiple disruptions, even in the most surprising circumstances,²¹ and that they may not recognise the claims on country by people who have built up their connections in other ways.²²

Alongside this understanding of land and tenure systems was a well-developed political system with ambassadorial protocols that governed movement over, and the use of land by other groups.²³

Women and men have different, overlapping, and interacting responsibilities for country: they may have different songs and stories, places which only women or men are allowed to visit, they share in the process of initiation, and so on. For many decades, half of Aboriginal culture was being overlooked without people really realising it, namely the place of women in Aboriginal society, and their responsibility for the land. The reason for this oversight is obvious: the anthropologists were largely men, who only had real access into 'men's business' as they could not talk about 'women's business', and who only pursued issues from a male perspective.²⁴ Often, female anthropologists were young, and so were not considered eligible for women's wisdom. With colonisation, European models of womanhood were forced onto Aboriginal women, who often became domestic slaves. When land issues were moved to the courts, the courts were largely dominated by men, again making it impossible for

women to be heard, because women could only speak about women's business to other women.²⁵

Because of this overlooking of the role of women in Aboriginal society, people were unaware of the complementary nature of the responsibilities of women and men for the land, responsibilities that were mutually respected. It was thought that ownership of country went down the male line, but, as was seen above, there is a much more complex system of the ways that responsibilities for particular countries can be inherited.

First peoples 'manage' country. For example, through the use of fire,²⁶ the introduction of new species, maintaining the stocks of food,²⁷ knowing when various foodstuffs are plentiful,²⁸ and modification of the environment, such as building dams to catch fish.²⁹ There is even archaeological evidence of settled Aboriginal communities, who farmed the land.³⁰ First peoples have changed the landscape and kept it fruitful. This does not mean that they are conservationists.³¹

With the multiple disruptions to the lives of many First peoples, it is no surprise that there are often conflicts over land claims. For example, the fact that whole groups of people were slaughtered by non-Indigenous people, means that the normal way of passing on country was disrupted, not to mention the deep trauma of surviving First people themselves. When First people were forced off their land and had to live on the land of other people, this introduced conflict, both because the people should not have been there, and because the newcomers built up some association with the country because of living there. Ironically, as was seen in Section 3.3, many First people were forced off the land when a law was passed in 1968 that made it mandatory to pay First people the same as other stock workers. An enforced sedentary existence and exclusion from country means that vital knowledge has been lost, ceremonies could not be performed, and initiation processes have dwindled in many cases. With many Aboriginal men now spending time in gaol or with drug and alcohol problems, women have taken an increasing responsibility in managing country and deciding who should have responsibility for country when the preferred patterns of passing on responsibility have become disordered.³² Bell notes that what were once safeguard mechanisms have become part of the everyday working of the system; what was once latent in the structure of land relations has become consciously articulated principles.³³ With multiple disruptions to their societies, it is possible that different descendents of the

same tribal groups may end up with differing knowledge of particular pieces of country.³⁴ All of these things make basing Australian law on the idea of a ‘traditional owner’ deeply problematic. Patrick Wolfe, historian, rightly observes ‘that to fall within Native Title criteria, it is necessary to fall outside history.’³⁵

Not only have First people been disrupted, but the environment also has been radically altered. For example, mining has dried up reliable water sources;³⁶ water sources have been damaged by cattle,³⁷ and introduced species, both flora and fauna, which have no natural predators, have explosively multiplied.³⁸ Some indigenous species have become extinct or are facing extinction, and so the claims of First people to be allowed to do what they want to with the flora and fauna in their country becomes problematic, and local knowledge is no longer sufficient for making these decisions.³⁹ ‘The colonisation resulted in a complex of power of external origin in charge of a new geopolitical space. New meanings became engraved upon the landscape and in its peoples’ consciousness.’⁴⁰

When European people first settled in Australia, there were some hundreds of nations and languages (and many First people spoke multiple languages). Today there is perhaps a wider spectrum of Aboriginal cultures. However, it would be a mistake to think that connections with the land and with kinship systems and knowledge has disappeared in even the longest settled and most urban of environments: Read, for example, makes a fascinating study of continuing Aboriginal attachment to land in the Sydney area.⁴¹

The presentation here is not meant to romanticise Aboriginal cultures. In particular, it is not saying that the cultures are just, nor that there was not and is not abuse of power. However, in closing this section, it must be remembered that First peoples have a much more communal understanding of personhood and their relationship to the land than that which has grown up in the Western Enlightenment tradition, and sometimes their notion of justice is the way of making it possible for an offender to be reintegrated into the community.⁴²

Armed with this knowledge, the reader may find the recounting of the story of court cases and legislation that is narrated in the next section rather bemusing: if all of this is true, then why did some cases so disastrously miss the point? Part of the reason is that

the understanding given here is now freely available to non-Indigenous people, but it has not always been so. This is due to a number of reasons, such as: knowledge only being available to properly initiated people; the predominance of male anthropologists or anthropologists working in a paradigm of male domination, so that women's voices were not heard; the failure to acknowledge the multiple varieties of Aboriginal cultures; the failure to understand the categories of Aboriginal culture; and so on. On top of this, there are questions about how to negotiate two conflicting cultures, and conflicting presumed rights that have built up over generations, in a land where one culture is much more powerful than the other. However, judgements such as this must await the drawing together of the threads in telling the story. For now it is enough to note that some of the knowledge in this section has only recently been available to non-Indigenous people, sometimes for good reasons, and sometimes because of the lack of attention that has been paid to Aboriginal cultures.

5.2 An Outline Narrative of Land in Recent Decades

So that the overall narrative is not lost in the details, the outline is as follows.⁴³ The place to begin is always a little arbitrary, but the modern Indigenous land-rights movement can certainly be traced back as far as some of the Yolngu people of the Gove Peninsula petitioning the Commonwealth government concerning the grant of a lease to mine bauxite on their land, a petition which was rejected by the government. In response, the Yolngu took the mining company and the government to court, in order to establish the ownership of their land, and to have the actions of the government declared illegal. The presiding judge recognised the existence of Aboriginal law, but was unable to see, in the evidence that was presented to him, an understanding of land ownership that could be recognised in non-Indigenous law.⁴⁴ Following the Gove Peninsula case, Woodward J was instructed to produce a more careful report on the relationship of Aboriginal people to the land, and the then Commonwealth Labour Government drew up legislation, which was followed through, in a slightly altered form, by the new Liberal-Country Party government in 1976, forming the *Aboriginal Land Rights (Northern Territory) Act 1976*. As its name implied, it only covered land in the Northern Territory. It introduced the notion of 'traditional owner' into government legislation. A quarter of a century later, most claims under this Act had been settled, and over forty percent of the land in the Northern Territory was in Aboriginal hands, with certain provisos, largely concerning mining rights. A later Labour Government backed away from an election pledge to make similar legislation that would be binding on the

rest of the Australian continent. In 1982, a Torres Strait Islander, Eddie Mabo, was instrumental in setting up a case against the Queensland government concerning the ownership of land on the Island of Mer in the Torres Strait. Through various twists and turns, the case was finally decided in 1992, with a majority in the High Court of Australia adjudging that a concept of 'native title' was consistent with Australian common law, and that some of the claimants still held this on the island. The *Mabo and Others v State of Queensland (No 2)* (1992) 175 CLR 1 ('*Mabo (2)*') judgement recognised that 'common law title' could, and had been, extinguished in some lands under non-Indigenous law, and indeed by virtue of some Australian and Parliamentary and Executive actions already taken. Nevertheless, the decision opened the way for other groups of Indigenous peoples to make similar claims about their own lands, which would be expected to be successful. In order to respond to this new situation, which would have led to protracted and expensive legal cases, the Keating (Labour) Commonwealth Government, in consultation with groups of Indigenous leaders, introduced the *Native Title Act 1993*, which ratified the extinguishment of native title on large tracts of Australia, as per the *Mabo (2)* judgement, and, at the same time, set up a procedure whereby Indigenous people could try to have their 'native title' recognised on land where it had not already been extinguished. This was the high-water mark of genuine collaborative dialogue between the First and Subsequent Peoples. The Act produced a way to fast-track judicial decision-making; it provided for mediation of disputes and legal funding for claims; and it established a 'legislative code' in relation to 'native title'. This complex, yet genuine framework aimed at reducing time and costs, and of course involved some compromise in relation to outcomes. In other words, it was clear to all that every 'Mabo-like' case would be successful, whilst also acknowledging that vast tracts of the continent would not be affected by the decision. Significantly, the preferred process included mediation between the claimants, with the results ratified by the courts. The Commonwealth government changed in 1995 to a coalition led by John Howard, who was distinctly cool about the reconciliation process in general, and land rights for Australia's First peoples in particular.⁴⁵ The following year, 1996, saw another major judgement in the High Court of Australia, in a case between the Wik people and the Queensland Government, where the court decided that the existence of a pastoral lease did not necessarily extinguish native title.⁴⁶ Famously, Howard appeared on national television holding up a map of Australia, on which he had marked in black ink what he described as the seventy percent of Australia that might fall into Aboriginal ownership because of 'judge-made law' in the Wik decision.⁴⁷ An orchestrated media

frenzy followed, with the Deputy Prime Minister, Tim Fischer, announcing that the government would be amending the *Native Title Act 1993* so as to achieve ‘bucket-loads of extinguishment’. Access to legal funding was restricted, and the benefits of a favourable judicial finding under the Act were watered down. The effect was a substantial unilateral rescission of the terms of the accord reached by the Keating government. Subsequent Federal court judgements gave effect to the clear intentions of Parliament in restricting access to, and the meaning of, the ‘title’ intended to be recognised by the revised *Native Title Act*.

In reading this story, it is clear that the key shifts in policy towards First peoples and land have often been led by Indigenous people themselves; they have not been passive observers, but it has been the dominant culture which has had to respond to Indigenous pressure brought within the system of the dominant culture itself. The struggle within the non-Indigenous legal system has not exhausted their political struggle, but it was a tactic which forced the non-Indigenous peoples of Australia to take note of their claims in a legally enforceable way.⁴⁸

Although this is a story about the dominant Australian legal system, it does not deny the existence of parallel Indigenous legal systems, which have, on the whole, never ceded ownership of Indigenous land to others. In fact, for many Indigenous peoples, the Australian legal system is ‘lawless’, and is not wholly assented to.⁴⁹

5.3 A Narrative About Land in Recent non-Indigenous Legislation and Law

5.3.1 The Bark Petition⁵⁰

In Australia, extensive exploration for bauxite resulted from the shortage of iron during the 1939-1945 war. Deposits were found in Arnhem Land in 1951, around Yirrkala Methodist Mission in particular. When the lease, held by the Methodist Overseas Mission Board,⁵¹ on two hundred square miles of land ran out in 1957, the Commonwealth Government replaced it with a ‘Special Purpose Lease’, which allowed mining. In 1958 the Mission board agreed to transfer the land from mission control for mining purposes.⁵² There was no consultation with the local Yolngu, and, whilst it was not a secret agreement, it was not publicised.

The Revd Edgar Wells and his wife Ann arrived soon after, in January, 1962. They had both studied anthropology under Elkin, and had been missionaries at Milingimbi from

1950-1960. Soon after their arrival, the local people, the Yolngu, expressed worries about mining activity. A survey peg appeared on Bremner Island. Wells wrote to Arthur Calwell, leader of opposition, in January 1963, asking for protection for the Yirrkala Yolngu. On 18th February, 1963, the Prime Minister, Robert Menzies, announced a \$50m mining project, and large excisions of land of the Aborigines' reserve to Grove Bauxite Corporation (GBC), representing overseas mining interests. On same day S B Dickinson of the GBC attended a meeting of the board of the Methodist Overseas Mission, and received rubber-stamp approval. There were no Yolngu at the meeting, and they were not informed afterwards.

Wells received a reply from Calwell, and was shocked to find that the mission land had been reduced to two square miles, and later to half a square mile. Under the old lease, the Methodists acted in control of mission village itself, but it was understood that the Yolngu controlled the rest of the land. Now they were to lose all control over their land.

All this was happening at height of Comalco dispute in Cape York, where the Mapoon people were refusing to leave their land, and GBC wanted no such problem in the Gove area.

Paul Hasluck, the minister for Territories, defended the mining initiatives on the principle of assimilation: he said that change was happening from as part of the move from 'protection' to 'assimilation'⁵³ and this would assist in the assimilation of the Yolngu.

In July, 1963, Kim Beazley and Gordon Bryant, two Commonwealth parliamentarians, visited Yirrkala. Letters from the Yolngu had received no response, and they wanted to petition the Prime Minister. When Beazley saw Aboriginal paintings in the church, he conceived of the idea of a petition being a bark painting. The bark petition drawn up by group of Aboriginal artists, and signed by representatives of various clans.⁵⁴ It contained a typescript written in both English and Gumatj.⁵⁵ Parliament received the petition on 14th August 1963, but Hasluck opposed its presence because it contained only twelve signatures, some of whom were minors, even though only literate young people's signatures had been used. So the Yolngu prepared a second petition overnight, with as many signatures as they could get in one night, about one hundred witnessed thumbprints. Photographs of the petitions can be found in Figure 5-1 below.⁵⁶

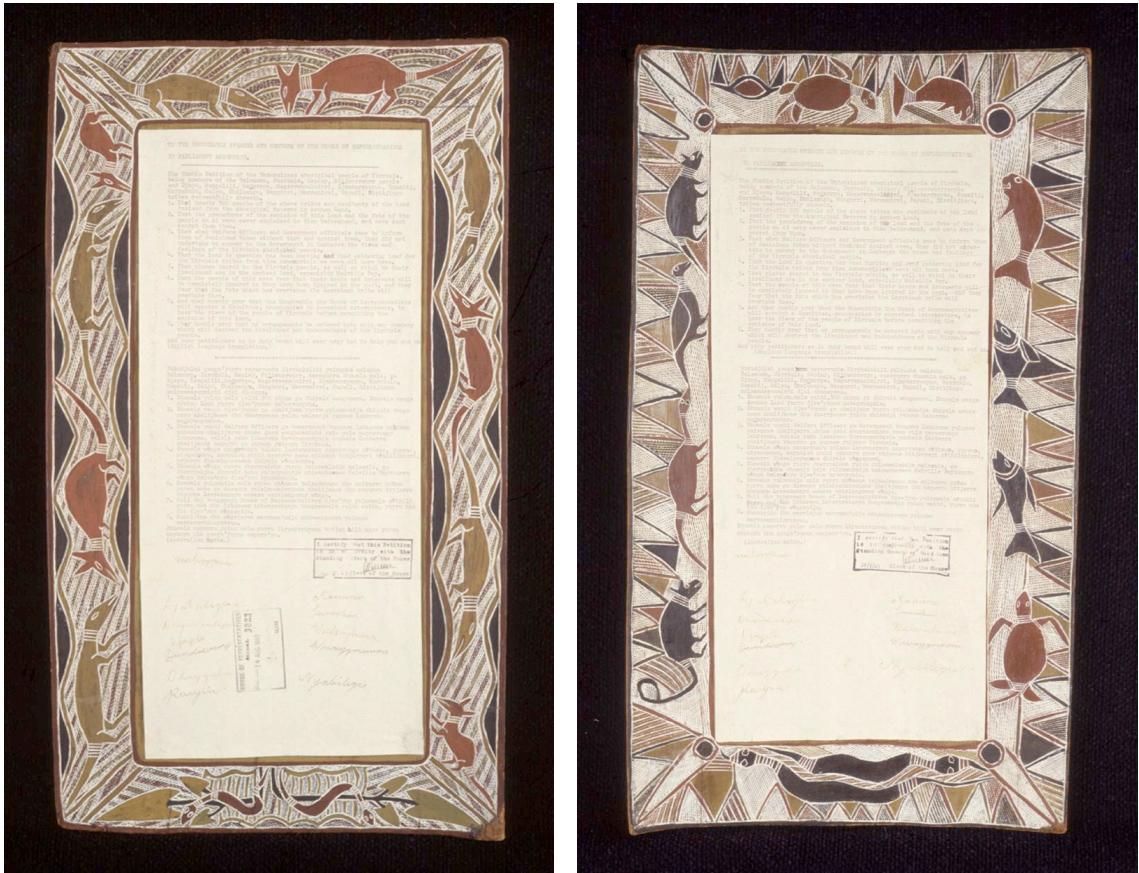


Figure 5-1: Yirrkala Bark Petitions, 1963, 1963, 1968, various artists of the Yirrkala Community.

Significantly, the images around the bark petition were a presentation of the Aboriginal ownership of the land. Morphy writes,

[t]he genius of the bark petition was that it introduced an Aboriginal symbol into Parliamentary discourse, making it harder for Europeans to respond in terms of their own cultural precedents. Petitions framed in parliamentary language can be dealt with through parliamentary procedures. Petitions framed with bark paintings add a new element. The bark petition emphasised the difference between ‘Aborigines’ and other petitioners, and it did so in such a way that the issue was likely to be taken up by the media.⁵⁷

Members of Parliament said that the petition was from Wells and other missionaries, that they were guilty of agitation. This was an old political ploy, dating back to at least 1870s, when no-one could believe the First peoples in Corranderrk, Victoria, were capable of writing letters.

Beazley moved that a Select Committee be established to investigate the case, and this was accepted on 12th September, 1963. It interviewed many witnesses, including Wells

and ten Yolngu, men and women. It accepted evidence in the Gumatj language, and the investigators were impressed by the intellectual competence of the Yolngu, and their grasp of the issues when giving evidence in their own language through an interpreter. Whilst accepting the inevitability of mining, the Standing Committee recommended: that the Yolngu be consulted as soon as possible about important sites; several types of compensation and royalties; and that there should be a House of Representatives Standing Committee to monitor events at Yirrkala for at least ten years.

Within a few days of the release of the report, the Board of the Methodist Overseas Mission sent notice to Wells to move him from 1st January, 1964. When he refused, it attracted media attention, and he was sacked immediately.⁵⁸ In November 1965, parliament said they would not set up the recommended Standing Committee.

This story has been told at some length because it has features that come up again and again in the story of land in the next decades: negotiations about Aboriginal land that exclude the First peoples themselves; creative responses by the First peoples; investigations whose recommendations are not acted upon; advocacy by some non-Indigenous people on behalf of First peoples; the overwhelming power of the non-Indigenous parliament and legal system; and the power of the system to destroy those who get in its way.⁵⁹

5.3.2 The Wave Hill Strike

Minimum wages existed for people working in certain industries, but First people were excluded. In 1965 the North Australian Workers' Union supported the Aboriginal cause in an application to the Conciliation and Arbitration Commission, claiming equal wages for them. The employers opposed it. The Commission awarded the wage, but said that employers would not be required to pay it to 'slow workers'.⁶⁰ Following this disappointment, the Gurindji people of Wave Hill, an immense British-owned cattle station owned by Lord Vesty, withdrew their labour. They held out for over a year. Then they 'took a step which was to have the most profound influence on the coming general Aboriginal struggle for land rights. They moved onto their traditional lands (part of the Vesty-owned station) and established a settlement there of their own which they renamed – as it had traditionally been known – Daguragu.'⁶¹

On 16th August, 1975, after much negotiation with the Vestey's, the Labour government was able to hand the title for part of their land to the Gurindji people. At Kalkaringi on that day, Gough Whitlam addressed Vincent Lingiari and the Gurindji people, saying:

On this great day, I, Prime Minister of Australia, speak to you on behalf of all Australian people – all those who honour and love this land we live in. For them I want to say to you: First, that we congratulate you and those who shared your struggle, on the victory you have achieved nine years after you walked off Wave Hill Station in protest. I want to acknowledge that we Australians have still much to do to redress the injustice and oppression that has for so long been the loss of Black Australians. I want to promise you that this act of restitution which we perform today will not stand alone – your fight was not for yourselves alone and we are determined that Aboriginal Australians everywhere will be helped by it. I want to promise that, through their Government, the people of Australia will help you in your plans to use this land fruitfully for the Gurindji. And I want to give back to you formally in Aboriginal and Australian Law ownership of this land of your fathers. Vincent Lingiari, I solemnly hand to you these deeds as proof, in Australian law, that these lands belong to the Gurindji people and I put into your hands part of the earth itself as a sign that this land will be the possession of you and your children forever.⁶²

The photograph of Gough Whitlam pouring a handful of sand into Vincent Lingiari's hand, has become an iconic image in Australian history.⁶³ This story of Vincent Lingiari and his people is also remembered by one of the slivers in Reconciliation Place in Canberra (Figure 5-2).⁶⁴



Figure 5-2: Two sides of the sliver in Reconciliation Place recalling the events leading up to Vincent Lingiari and his people being given title to their land

5.3.3 *Milirrpum and Others v Nabalco Pty. Ltd. and the Commonwealth of Australia* (1971) 17 FLR 141 (*'Milirrpum'*):⁶⁵ Aboriginal Law Recognised, but not Aboriginal Ownership

With the failure of their petition, the Yolngu took the company and the Commonwealth Government to court in 1968.

In order to comprehend this case, some rudimentary concepts from both non-Indigenous property law, and also the place of land in Indigenous life, must be understood. The latter was examined in Section 5.1, and the key ideas of non-Indigenous property law will be outlined in the following paragraph.⁶⁶

The foundation of non-Indigenous law in Australia, in its own eyes, depends on the nature of the occupation of the land by the non-Indigenous population. At the time of occupation of Australia, European law recognised three ways that a European nation could take over another land: through conquest; through cession; and through settlement of an unoccupied land. Moreover, settlement of an unoccupied land was extended to include the taking over of a land which was inhabited by people who were 'so primitive'⁶⁷ that they did not have a system of law which could be recognised by European law,⁶⁸ nor an obvious claim to sovereignty.⁶⁹ Critically, in the third case, it

was understood that the law that now held sway over the land was the law that was brought with the incomers.⁷⁰ The non-Indigenous legal system in Australia is based on this extended third case: that when the Crown proclaimed sovereignty over the eastern half of the landmass of Australia,⁷¹ it also established the legal system that was brought with the first incomers. As was discussed in Section 1.1, it quickly became clear that this was not the case, yet this ‘legal fiction’ was firmly established as the basis of non-Indigenous law, and in its eyes, binding on all the inhabitants of the land.⁷² With this legal system came an inherited system of property law, with its origins in the feudal system, where all land title was derived from the Crown. Property ‘ownership’ is a relationship, and includes the following rights: ‘the right to exclusive physical control of the property; the right to possess the property; the right to enjoy and use the property; and the right to alienate (that is, transmit, devise or bequeath) the property.’⁷³ Ownership is a bundle of rights, and it is possible for several people to have varying degrees of ownership over any particular piece of property at the same time.⁷⁴ Ownership is not absolute, but is subject to a relativity principle: any ownership claim has to be proved to be stronger than that of someone else who may assert a claim on ownership.⁷⁵ The legal cases and legislation that will be examined in the rest of this chapter arise from trying to work out the implications of this legal foundation, and its subsequent development, in the face of the fact that First cultures had, and retain, complex and sophisticated systems of land ‘ownership’.

In his judgement, Blackburn J recognised that the legal foundation of the non-Indigenous legal system was contrary to facts, at least as they were now understood, but his judgement had to be ‘not one of fact but of law’, and he was thus constrained to make a judgement within the legal system.⁷⁶

Despite the subsequent attacks on his judgement, Blackburn J comes across as very sympathetic to the Yolngu case in his judgement.⁷⁷ The case ultimately failed because Blackburn J could not find, in the evidence put before him, sufficient proof that the Yolngu ‘owned’ the land in a way that could be recognised in non-Indigenous law. Whilst the ability to alienate the land might be able to be waived when considering another system of ownership, in the end he could not find sufficient evidence that any of the plaintiffs had the exclusive right to use and enjoy the land in question, and the right to exclude others from it.⁷⁸ He thus famously concluded that the Yolngu association to the land was ‘spiritual’ rather than ‘economic’, by which he meant that it had been

clearly established that certain groups of people had (sometimes overlapping) responsibility for particular ceremonies and sacred sites, but that the same thing had not been demonstrated for ownership of the land.⁷⁹

He also rejected the notion that ‘native title’ could be recognised in common law:

I have examined carefully the laws of various jurisdictions which have been put before me in considerable detail by counsel in this case, and, as I have already shown, in my opinion no doctrine of communal native title has any place in any of them, except under express statutory provisions. I must inevitably therefore come to the conclusion that the doctrine does not form, and never has formed, part of the law of any part of Australia.⁸⁰

Some believe this to have been a misconception,⁸¹ although others understand that this was an invitation to the High Court to re-examine the issue.⁸²

Nevertheless, Blackburn J made a statement about the nature of the system of law the Yolngu people, which was significant for the later *Mabo (2)* judgement. He described the Yolngu system of law as being

a subtle and elaborate system highly adapted to the country in which the people led their lives, which provided a stable order or society and was remarkably free from the vagaries of personal whim or influence. If ever a system could be called ‘a government of laws, and not of men’, it is that shown in the evidence before me ... Great as they are, the difference between that system and our system are, for the purposes in hand, differences of degree. I hold that I must recognize the system revealed by the evidence as a system of law.⁸³

Stepping back from the judgement itself, there are several observations that need to be made. Firstly, there was a mismatch between what the Yolngu and the non-Indigenous legal system thought that they were doing, arising in part from differing conceptions of dispute resolution. In particular, the Yolngu thought that their primary task was to give knowledge, which would lead to respect and the recognition of their land rights. ‘They found it difficult to accommodate defence counsel’s mode of questioning, and of attempting to elicit from them inconsistent or contradictory responses. Having seen the court situation as analogous to traditional meetings where they expected explanation and persuasion to lead to the expression of consensus, the Yolngu leaders were unprepared for a situation in which Europeans explain only enough to “win”.’⁸⁴ Because

Yolngu ways of disputation seek consensus, this put them at a disadvantage in an alien cultural system that emphasised adversarial approaches to dispute.

Secondly, the Yolngu were taking a risk in revealing knowledge and sacred objects that would not normally be available to those who had not reached the recognised stage of maturity in their culture.⁸⁵ They therefore had to weigh up how much they were willing to break with their culture, which potentially had dire consequences for those who did so, and what bits they simply would not reveal.⁸⁶ So they were in a position where, culturally, they may not have been able to give the information that was needed for the court to make an adequate decision.

Thirdly, and consequently, the court was unable to ascertain that the Yolngu really did have a proprietary interest in the land, which could have been recognised in non-Indigenous law. This was partly because some important information was not presented: '[t]hey left largely implicit, for example, the procedures of seeking permission to use the resources of lands owned by other groups. They did make statements about permission, but, perhaps because of the form in which they expressed them, the court appeared to comprehend them imperfectly or to ignore them. They also left implicit or only partially interpreted the various categories of subsidiary rights in land, including those of "sister" clans linked by a common myth and those entailed in the alternative generation *māri-gutharra* relationship, in the interests of describing their relationship to land in terms they hoped would be comprehensible to English speakers.'⁸⁷ They were not helped by the fact that the expert witnesses sometimes contradicted the evidence of the Yolngu themselves,⁸⁸ and there were problems arising from the fact that the people translating for the Yolngu were not authorised to speak for some of the land in question.⁸⁹

Perhaps the clearest thing from the case and the judgement is that there was no-one who was sufficiently versed in both systems of law for there to have been a proper conversation.⁹⁰ This is an indictment particularly on the dominant system, which could have taken the time to understand things better, well before the First people had to bring a case like this to court.

As an afterword, McIntosh notes, in 2000, that the mine was earning Nabalco \$300 million per year, and yet they paid nothing to the Yolngu. Further, there has been

terrible damage to the environment: '[t]oxic waste ponds occupy hunting grounds; alumina dust pollutes the air, and a mining town of 4000 occupies land within view of the Yolngu communities. The processing plant expels chemicals in to Melville Bay, and in 1990 it was discovered that unacceptably high levels of heavy metals, such as cadmium, had been dumped into the harbour, and the Yolngu were warned not to eat shellfish.'⁹¹

5.3.4 The Aboriginal Land Rights (Northern Territory) Act 1976 (Cth) ('ALRA')

Following the *Milirrpum* judgement, it seemed that the only way to advance Aboriginal land claims was through explicit legislation. This was the purpose of the *Aboriginal Land Rights (Northern Territory) Act 1976*.

After twenty-three years in opposition, November 1972 saw the election of a Labour government under the leadership of Gough Whitlam. In their campaign they promised 'to legislate to establish for land in Commonwealth territories which is reserved for Aboriginal use and benefit, a system of Aboriginal tenure based on the traditional right of clans and other tribal groups and, under this legislation, vest such lands in Aboriginal communities.'⁹² On being elected, the government immediately began to legislate concerning Aboriginal Affairs. Within three months, Mr A.E. Woodward, who had acted for the plaintiffs in the *Milirrpum* case discussed above, and who was now a judge, was appointed to report on 'the appropriate means to recognize and establish the traditional rights and interests of the Aborigines in and in relation to land, and to satisfy in other ways the reasonable aspirations of the Aborigines to rights in or in relation to land'.⁹³

Woodward J reported back in 1974, and his recommendations were broadly taken up in the bill the Labour government presented to Parliament on 16th October, 1975 as the *Aboriginal Land Rights (Northern Territory) Bill 1975*. However, the bill was to lapse, for the Governor General, John Kerr, took the unprecedented step of dissolving both houses of the Federal Parliament on 11th November, 1975. Nevertheless, a modified bill was re-presented by the incoming conservative (Liberal-Country Party) government, and it became the *Aboriginal Land Rights (Northern Territory) Act 1976 (Commonwealth)*. The Act created a new form of land title, inalienable communal freehold, and gave the holders of this title some control over mining on their lands.⁹⁴

At the heart of the legislation was the definition in Section 3(1) of ‘traditional Aboriginal owners’.⁹⁵

“traditional Aboriginal owners”, in relation to land, means a local descent group of Aborigines who –

- (a) have common spiritual affiliations to a site on the land, being affiliations that place the group under a primary spiritual responsibility for that site and for the land; and
- (b) are entitled by Aboriginal tradition to forage as of right over that land.

The Act says that only ‘traditional aboriginal owners’ can make a claim, and then they will have rights in relation to the land that others cannot enjoy.⁹⁶

This Act has been susceptible to multiple criticisms: it further entrenches the idea in public consciousness, although maybe not in law, of First peoples having to be ‘traditional’, so making it harder for other groups to have their ownership of land recognised;⁹⁷ it was based on a wrong model of patrilineal descent of rights to land;⁹⁸ it ignored women’s business;⁹⁹ it set up a system of land management (land councils) based on male power;¹⁰⁰ these land councils were the mediation point between non-Indigenous power and Indigenous power, but in Aboriginal culture, only those associated with a particular piece of country could speak for it;¹⁰¹ and it took no account of disruption due to non-Indigenous activity since 1788.

Despite the shortcomings of the *ALRA*, the application of the Act was allowed to evolve over time so that it overcame some of these objections.¹⁰² For example, writing from a position of three years’ experience of working on land claims under the Act as an employee of the Central Land Council, Meredith Rowell saw how the role of women in land claims became increasingly important.¹⁰³ By describing several land cases, she was able to show that there was increasing participation by women,¹⁰⁴ with equal participation in the final case she considered, where the claim book was prepared by both male and female researchers (J Wafer and P Wafer), after many years of research. At one point during the hearing of the last case, at the insistence of Ms Wafer and Ms Bell, the court was cleared of all but the essential male participants so women could more freely give evidence. Women’s evidence was complete and in no way secondary to that of the men. Moreover, it was clear from the transcript, that the claim would have been sufficient on the women’s evidence alone. Observations such as these were enough to convince people that, although the definition in the original Act was not

accurate, because it did not correctly represent the varieties of forms of Aboriginal tenure, the way that the application of the Act had developed in practice, with considerable flexibility in the interpretation of ‘traditional Aboriginal owners’, meant that the definition did not have to be revised in subsequent revisions of the Act.¹⁰⁵

The Northern Territory Government opposed every land claim made under the Act, engaging in litigation that is estimated to have cost over ten million dollars.¹⁰⁶ Nevertheless, in 1998, about 44.3% of the Northern Territory (573 000 square kilometres) had been granted to Aboriginal Land Trusts for the benefit of Aboriginal people.¹⁰⁷ The Act was reviewed by Reeves in 1998,¹⁰⁸ and was followed by the *Aboriginal Land Rights (Northern Territory) Amendment Bill (No. 2) 1999*. Towards the end of 2005, proposals were being tabled, recommending a radical change in the Act in order to allow the mortgaging of land by groups and individuals. This represented a huge shift from the inalienable communal freehold that was established in the Act. As was stated in the introduction to this chapter, these developments have not been included here, for the sake of being able to bring the chapter to an end.

The curious reader may be wondering why such a large proportion of the land mass in the Northern Territory escaped having title to it being held by non-Indigenous people. The reason is that the land itself could not support any sort of agricultural industry, so it was useless to non-Indigenous peoples. However, it has been discovered that many parts of this land are rich in minerals, and, as has been noted earlier in this section, the title granted under the *ALRA* does not include ownership of the mineral resources. This means that ownership confers little in terms of participation in the non-Indigenous economy,¹⁰⁹ whilst exposing the title-holders to considerable disruption of their land.

It is worth noting at this point that a long journey had been made in a relatively short time: it was only after the referendum in 1967 that First peoples were counted as people in Australian population statistics, and that the Federal Government was given the power to legislate for the First peoples, and now, nine years later, it was possible for some First peoples in the Northern Territory to have their ownership of land recognised by non-Indigenous law.

5.3.5 *Mabo and Others v State of Queensland (No 2) (1992) 175 CLR 1 ('Mabo (2)')*:¹¹⁰ The Recognition of 'Native Title'

It is a terrible thing for us to have to go to this kind of court to prove what we have always known: that these islands are our homes, not something to be bought or sold. But we have no choice.¹¹¹

Henry Reynolds records Eddie Mabo's astonishment and horror when he learned in the late 1970s that, in Queensland law, Mer had been regarded as Crown land since 1879.¹¹² Like the Yolngu in Arnhem Land, who had been 'more or less free to have virtually complete enjoyment of their land rights as they understood them' until about 1969, when plans for a bauxite mine at Gove Peninsula were made,¹¹³ the Meriam had had the Murray Islands more or less to themselves. Again, like the Yolngu 'the possibility of their being ousted was unthinkable.'¹¹⁴ They were not bringing their case to the tribunal of the Crown in a state of mind in which failure was conceivable. The chairman of the Murray Island Council, Ron Day, made this clear both firmly and courteously before the cameras with Justice Moynihan alongside him outside the court at Mer in 1989: the Murray Islanders owned the land from which they grew, something that no judge, no lawyer, no politician – not even the Crown could take away.¹¹⁵

The Mabo judgement in fact was made in two stages, called *Mabo (1)* and *Mabo (2)*. The case went in two parts because the Queensland Government tried to short-circuit the land claim by retrospectively enacting the extinguishments of title from when it took over the administration of the islands in 1879 (*The Queensland Coast Islands Declaratory Act 1985*), and the Mabo defendants agreed that if this stood, then they would drop their case.¹¹⁶ The argument against the action of the Queensland Government that proved to be decisive was that it contravened the *Racial Discrimination Act*.¹¹⁷ It will be seen in subsequent sections below that, since this judgment, there have been many attempts, some of them successful, to dismantle the *Racial Discrimination Act*.

The second judgment, in a six to one majority, upheld the Meriam claim on their land, and so established the concept of 'native title' for the first time in non-Indigenous Australian common law. With the approval of the other members of the Court, Mason CJ and McHugh J, summarised the judgement in the following way:

In the result, six members of the Court (Dawson J dissenting) are in agreement that the common law of this country recognizes a form of native title which, in the cases where it has not been extinguished, reflects the entitlement of the indigenous inhabitants, in accordance with their laws or customs, to their traditional lands and that, subject to the effect of some particular Crown leases, the land entitlement of the Murray Islanders in accordance with their laws or customs is preserved, as native title, under the law of Queensland. The main difference between those members of the Court who constitute the majority is that, subject to the operation of the *Racial Discrimination Act 1975* (Cth), neither of us nor Brennan J agrees with the conclusion to be drawn from the judgments of Deane, Toohey and Gaudron JJ that, at least in the absence of clear and unambiguous statutory provision to the contrary, extinguishment of native title by the Crown by inconsistent grant is wrongful and gives rise to a claim for compensatory damages. We note that the judgment of Dawson J supports the conclusion of Brennan J and ourselves on that aspect of the case since his Honour considers that native title, where it exists, is a form of permissive occupancy at the will of the Crown.¹¹⁸

It is worth summarising the argument of Brennan J in making his judgement, as it will be important later in reflecting on this narrative of land from the point of view of the understanding of reconciliation that was developed in earlier chapters in this thesis. The heart of what Brennan J argued was that the High Court is charged with developing a truly Australian law,¹¹⁹ and it has the power to overturn previous judgements. This is particularly applicable where judgements had been made under a developing system of law that was based on treating Australia as if it was empty, without any systems of law, when it had been occupied by Europeans.¹²⁰ It was now known that this did not represent the truth of the situation, and the existence of Aboriginal systems of law had also been established in non-Indigenous law.¹²¹ Previous judgements had assumed that when the Crown took radical title for the land (that is, all ownership of land was legally derived from the Crown), it had also assumed full beneficial title (that is, it really owned the land, so extinguishing all the title of the First peoples). The question that Brennan asked was: is it possible to make a judgement that recognised the Crown's radical title, but denied that it held full beneficial title (so that the title of the First peoples had not been automatically extinguished in non-Indigenous law), without fracturing the skeleton of the non-Indigenous law?¹²² His opinion, and that of the majority of the judges in the case, was that it could.¹²³ Moreover, justice required such a judgement to be made if it could be.¹²⁴ Because the Crown still held radical title, wherever it had extinguished the title held by First peoples, that extinguishment remained sound under non-Indigenous law.¹²⁵ That is, 'native title' was a remnant title, and it only existed where it could be proved that it had not been extinguished. 'Native title', according to the judgement did not conform to traditional common law titles, but was unique, or *sui generis*.¹²⁶ It was

also adjudged that, apart from some small areas, which had been subject to leases, the native title to the Murray Islands had not been extinguished.¹²⁷

Clearly, the majority judgement opened up the possibility of bringing other cases concerning the continuing existence of native title. The *Native Title Act 1993*, discussed in the next section, was enacted in order to facilitate this process in such a way that claimants did not face costly legal battles. Also, the case brought by the Wik peoples of Queensland, discussed in Section 5.3.7, opened up the possibility that native title had not been extinguished in as many cases as had been thought. Before moving on to discuss the Act and the Wik case, it is worth considering some of the responses to the *Mabo (2)* judgement.

Any judgement is an interpretation of the material which is brought before the Court, and Dawson J, in dissenting from the majority of the bench, argued that the correct interpretation of what had happened in the past was that there was a clear political intention that the Crown held full beneficial title of the land, and so all title held by First peoples had been automatically extinguished at occupation by the British. Even though it was unpalatable to do so, the present Court must uphold this principle, until there was a political change, enacted by the government.¹²⁸

Although the majority judgement within the *Mabo (2)* was operating firmly within the remit of the law, the judgement by Dawson J rightly points out that the majority judgment had significant social and political consequences, although only over land where it could be proved that native title had not been extinguished. There was an inevitable political furor,¹²⁹ some of which was ill-founded because it missed the point that the judgement did not disturb the title of others over land where native title had been extinguished. The primary charge against the majority judgement was that it was an example of ‘judicial activism’, that the Court went beyond its remit, and made a *political* rather than a *legal* decision.¹³⁰ However, this misses the point that the Court was operating firmly within the legal framework, and *either* decision that the Court could have made was going to have political consequences: if the majority judgement had sided with Dawson J, then it would have had equally radical consequences, effectively ending the possibility for the First peoples to pursue their rights to land in the non-Indigenous legal system. It can be argued that the decision that the Court did

make was the more just of the two decisions that it could have made, given the present understanding of what has happened in Australia since occupation by the British.

It is important to recall that, although the *Mabo (2)* judgement had an effect on the land rights of all of Australia's First people, the concept of land tenure in the Torres Strait Islands is significantly different to that in Aboriginal cultures.

It was seen in Section 5.3.3 above, that the process in the *Milirrpum* case was criticised.¹³¹ In a similar way, the *Mabo (2)* case was criticised, both for the process, and also for how the judges understood the evidence. Nonie Sharp had worked in the Torres Strait Islands since 1978, and contributed to the case from its earliest days. Her book, *No Ordinary Judgment*, aims to show that the Meriam people were not heard properly at vital points in the case. She believes that: they were belittled; they were asked questions in a logic which was alien to them, and did not allow for subtle explanation; their metaphorical system of knowledge was not understood;¹³² their oral culture, in particular, the oral handing down of property rights, was classed as hearsay, and not properly admissible evidence, even though the written form of documentation that was required by white people, and kept to a certain extent, was understood by the Meriam people as being of less importance than oral instructions; they were constantly interrupted with objections to their evidence by the defence team (for example, Eddie Mabo gave evidence over ten days, which was recorded in 536 pages of transcript, and his evidence attracted 289 objections from Queensland¹³³),¹³⁴ the court would not recognise Malo's law as a valid system of law;¹³⁵ and there was incomprehension as to how it could function to solve land disputes, that is, that it could not be a real system of law.¹³⁶

Some people took a creative response to the *Mabo (2)* judgement. An outstanding example of this happened in the Cape York area. In 1994, the cattlemen's convention decided to try to reach a land use agreement with the Aboriginal people. Noel Pearson and some of his fellow First people accepted the invitation to attend the 1995 convention. In November 1995 a working party was established to produce an agreement. After eleven meetings between the Cattlemen's Union and the Cape York Land Council, with the Australian Conservation Foundation and the Wilderness Society joining part way through the discussions, an agreement was reached and signed within three months. It then faced a long delay because the Queensland government refused to

ratify it, even though it was supported by successive Commonwealth Governments. Finally, when a new Queensland Government was elected in 2001, the original signatories were still happy with it, so the government ratified it, and the agreement came into effect.¹³⁷

5.3.6 *The Native Title Act 1993 ('NTA'): Responding to Mabo (2)*

The Hawke Labour government was elected in 1983 in part on a platform of implementing national, uniform, Land Rights legislation. The idea was to create national legislation like that of the *ALRA* in the Northern Territory, but the government abandoned the idea in 1986 due to political pressure.¹³⁸ Seven years later, the *Mabo (2)* judgement meant that Indigenous ownership of land could be recognised under Australian common law, and the consequences of this judgement had to be worked out. It was now possible for First people to pursue the recognition of their ownership of land through the normal workings of the law, rather than needing special legislation, in the limited case that native title had not been extinguished by a superior grant by the Crown.¹³⁹

The Labour Prime Minister, Paul Keating, heralded the *Mabo (2)* decision as 'a large step towards reconciliation and away from the injustice dealt to Aborigines over 200 years',¹⁴⁰ when on 10th December, 1992, he launched the International Year for the World's Indigenous Peoples with a speech in Redfern.¹⁴¹ In this speech, he declared,

Mabo is an historic decision. We can make it an historic turning point, the basis of a new relationship between indigenous and non-Aboriginal Australians. The message should be that there is nothing to fear or to lose in the recognition of historical truth, or the extension of social justice, or the deepening of Australian social democracy to include indigenous Australians. There is everything to gain.¹⁴²

Because pursuing each claim through the courts would be very expensive, a three-staged process was planned as a response to the *Mabo (2)* judgement: land legislation; an Indigenous Land Fund to enable First people to purchase their land where they could not have their ownership recognised under the legislation; and social justice measures.¹⁴³ The land legislation materialised as the *Native Title Act 1993 (Cth)*, and the Indigenous Land Fund was set up,¹⁴⁴ but the social justice measures were not tackled before the Keating government was replaced by the Howard government.

Noel Pearson, and Aboriginal leader and the Director of the Cape York Land Council, explained the position of some First people in an article in *The Australian* newspaper on 8th June, 1993. It was not, he wrote, sufficient to treat native title as other interests.

Yet to compare Aboriginal rights to the rights of others not discriminated against in the past 200 years is not appropriate. So much has been lost that Aboriginal people are entitled to expect special protection for what remains. There needs to be positive acknowledgement of different treatment of Aboriginal title which reflects the fact that Aboriginal culture is inseparable from the land to which Aboriginal title attaches. The loss or impairment of that title is not simply a loss of real estate, it is a loss of culture. ... The IDC [Interdepartmental committee of officials, set up to prepare the legislation] has assumed that to treat Aboriginal equally and “no less favourably” than other titles means Aboriginal title must be treated like “normal” titles. The fallacy of this approach is that strict adherence to the notions of formal equality compounds inequality because it fails to acknowledge the legitimacy of difference, particularly of culturally distinct minorities.¹⁴⁵

The political process for reaching the *NTA 1993* was bloody, inflammatory and vitriolic.¹⁴⁶ Various points in the proposed Act were hotly contested by Aboriginal organisations,¹⁴⁷ and the Act was nearly scuppered by a change of Federal government, but the Labour Party won an unexpected victory on 13th March, 1993. As an example of the degree of hostility to the *Mabo (2)* judgement and the proposed legislation, the Premier of Western Australia, Richard Court, suggested that the *Racial Discrimination Act 1975* should be watered down (recall that it was crucial in establishing the *Mabo (1)* case), and he embarked on a campaign, falsely suggesting that suburban backyards throughout the state were under threat from *Mabo (2)*.¹⁴⁸ He argued that the ‘original *Mabo* ruling was flawed and discriminated against all Australians in the State’.¹⁴⁹ Playing on fear, and fostering the belief that non-Indigenous Australians are victims of policies that wrongly advantage Indigenous peoples has been a recurrent theme in Australian politics.¹⁵⁰ The race card would not be used unless it worked, which shows the awkwardness of many Australians in approaching reconciliation. The Mining industry also was particularly vociferous in its opposition to any legislation. ‘Under the heading *Mabo – Protect Your Children’s Future*, it urged that “all Australians must be equal”; rejected “special rights and privileges based on race”, and called for the restoration of the “principle of equality”.’¹⁵¹

The *NTA 1993* received royal assent on 24th December, 1993, and largely took effect from 1st January, 1994. The Act went through a bitter revision process and was

significantly revised by parliament in 1998 as a result of the Wik judgement. The Wik judgement will be discussed in the next section, and the revisions to the Act in the following one. Before doing this, there are some important observations to be made about the Act, and how it was interpreted.

The *NTA 1993* formally extinguished native title for Crown grants made before 1st January 1994, or through legislation before 1st July, 1993.¹⁵²

The Act encouraged agreements about land use by mediation and negotiation, rather than resorting to the time-consuming and expensive process of deciding claims through the courts. Under the act, the National Native Title Tribunal (NNTT)¹⁵³ was set up to help mediate claims to native title, agreements over the use of Indigenous lands, and future acts.¹⁵⁴ Claimants had to approach the NNTT in the first instance, to see if their claim met the conditions for it to be considered. If it did, then it would be registered with the Federal Court. A period of negotiation would then ensue, with the aim that as many claims as possible would be settled by the mediation offered by the NNTT. A handbook about the mediation process was produced for the NNTT.¹⁵⁵

Several shortcomings have become evident in the working of the NNTT. Firstly, the system is working very slowly.¹⁵⁶ In 2005, Fred Chaney, a Deputy President of the NNTT, estimated that it would take another thirty years to clear the backlog at the current rate of working.¹⁵⁷ Not only is this delay frustrating, but death and illness during this period may compromise the ability of some groups to establish native title.

Secondly, it was envisaged that contact between the claimants and other interested parties would be an important part of the process. However, the mediation manual for the NNTT notes that it is increasingly the case that parties are represented by legal or other representatives, and sometimes one person represents more than one party. They note that this goes against the spirit of the process:

Legal or other representatives may not have instructions or may not be suited to convey their clients' perspectives and emotions in the story telling part of the process. For Indigenous parties, mediation may be understood as an opportunity to explain and contextualise both their ongoing culture and their cultural loss. The concomitant opportunities for genuine cathartic and cross-cultural communication of indigenous experience may be compromised where the

parties are not participating directly in the mediation process. This can have a negative effect on mediation.¹⁵⁸

Thirdly, the Indigenous parties may be swamped by the number of other interested parties. The NNTT must notify all such parties, and their experience is that they have had to make as few as three notifications, typically between ten and two hundred, but in an extreme case in Victoria there were 4113, and in South Australia there was a case requiring 5409.¹⁵⁹

Fourthly, although the process is supposed to be designed to take into account power imbalances and to build the capacity of parties to take a full role in negotiations, it is not clear that this can be done effectively at the moment, especially as the international literature on mediation in situations of gross power imbalance is sparse.¹⁶⁰

In implementing the *NTA 1993*, the Australian government departed significantly from what was done both in the United States of America and Canada.¹⁶¹ There, the vulnerability of native title was seen to need special protection, and, initially, protection was provided by giving exclusive jurisdiction concerning native title to the federal governments in both countries. Treaties and agreements were to be made which fully respected native title and its equality before law, and the situation was allowed to develop in the natural way of common law (cf. the development of the interpretation of the *ALRA*, discussed in Section 5.3.4, above). In contrast, the hastily constructed *NTA 1993*, having explicitly rejected the north American approach,¹⁶² especially after the 1998 amendments, has led, in some cases, to great complexity and a very costly combative and litigious approach. Bartlett concludes, '[r]elying on the common law, without legislation, as in the United States of America and Canada, it now seems, would have been more beneficial to human rights, efficiency and productivity.'¹⁶³ This thesis notes these observations, but it is beyond the competence of this work to make an assessment of their validity.

5.3.7 *The Wik Peoples v Queensland and Others ; The Thayorre People v Queensland and Others (1996) 187 CLR 1 ('Wik') : Native Title is Not Necessarily Extinguished by the Granting of a Pastoral Lease*

The Wik judgment was made in the High Court, following the failure of a land claim that had started in 1993. In January 1996, Drummond J, of the Federal Court, had ruled that some pastoral leases had extinguished their native title. The appeal to the High

Court overruled the Federal Court decision, with a majority of four to three. In summary, the majority Wik judgement was:

- (1) that the leases did not confer rights to exclusive possession of the areas on the grantees.
- (2) that the grants of leases did not necessarily extinguish all incidents of native title in respect of the areas.¹⁶⁴

Recalling that ‘ownership’ in non-Indigenous law is a bundle of rights, and that several people may have conflicting rights,¹⁶⁵ the force of the Wik judgement is ‘that the granting of a pastoral lease, whether or not it has now expired (or has been otherwise terminated), did not *necessarily* extinguish *all* native title rights that *might* otherwise exist.’¹⁶⁶

The primary question that the Court had to answer was whether the granting of leases over the lands of the Wik and Thayorre Peoples extinguished any native title rights that might have existed before the granting of the leases. The basis of the dissenting judgement was that ‘in the absence of any contrary indication, the use in statute of a term [lease] that has acquired a technical legal meaning is taken *prima facie* to bear that meaning.’¹⁶⁷ Such a lease would normally be understood as including ‘the right of exclusive possession’¹⁶⁸ which would necessarily result in the extinguishment of any existing native title.

The majority judgements argued that the nature of the leases in question had to be examined in detail to see their legal implications, rather than relying on the expected legal implications of them being called ‘leases’, for they were a creature of statute, not common law.¹⁶⁹ What had to be determined was the nature of the possession conferred by the leases: in particular, if this possession excluded the Wik and Thayorre Peoples from continuing some forms of possession.¹⁷⁰ There were four principle reasons why the majority believed that the leases did not grant exclusive possession to the lessees, and hence that some of any existing native title interests will have survived the granting of the leases.¹⁷¹ Firstly, it was argued that the historical documentation proved that a special sort of leasehold was being set up in Australia, which acknowledged Aboriginal rights.¹⁷² Secondly, the leases were limited to ‘pastoral purposes’ only, and so did not cover all the rights over the land.¹⁷³ There was nothing in the leases which granted the lessees a form of possession which excluded the rights and interests of the Indigenous

inhabitants that derived from their traditional title.¹⁷⁴ Thirdly, there were a significant degree of reservation, restriction, and exceptions in the leases, such as: minerals, timber and other materials; access; and the depasturing of stock upon a stock route.¹⁷⁵ Fourthly, the leases concerned vast areas, and so it was unlikely that the intention was to exclude the Wik and Thayorre Peoples from the land.¹⁷⁶ In summary, the judgement was based on the *content* of the leases, rather than the *concept* of a lease,¹⁷⁷ and they thus concluded that the legal intention of the leases was not to extinguish all possible native title rights.

The judgement was clear that the legal rights of lessees were not affected by it: '[t]he holders of pastoral leases are left with precisely the legal rights which they enjoyed pursuant to the leases granted under the Land Acts "for pastoral purposes only". Those rights will prevail, to the extent of any inconsistency with native title.'¹⁷⁸ That is, any clash of rights is automatically resolved in favour of the lessee, against any native title claim.

There was considerable legal debate concerning the significance of the judgement.¹⁷⁹ Potentially, the *Wik* judgement affected large areas of Australia under pastoral tenure.¹⁸⁰

A practical result of *Wik* was that each lease over any parcel of land for which there was a native title claim would have to be carefully interpreted as to the extent that it restricted native title claims. Bartlett notes that at the end of 2002, the High Court decisions in *Wik* and *Ward* (see Section 5.3.9, below) indicated that most of the above leases did not extinguish all incidents of native title, and so came under the *Native Title Act*. The exceptions were the perpetual leases in New South Wales, as established in *Wilson v Anderson* (2002) 190 ALR 313.¹⁸¹

Wik opened way for negotiated co-existence, but sadly this option has not been explicitly explored in legislation.¹⁸²

5.3.8 The Native Title Amendment Act 1998: "Bucket Loads of Extinguishment"

On 2nd March, 1996, a Liberal-Country Party government was elected to the Federal parliament, led by John Howard. Part of its election platform had been the promise to reform the *NTA 1993*. Plans were prepared for this by 8th October of that year.

Following the *Wik* judgement on 23rd December, 1996, there was a huge political storm.

The furore was fanned by the Prime Minister, John Howard, showing a map of Australia with the areas coloured in where First peoples might claim land, playing the race fear card again.

The response of the Deputy Prime Minister was to promise ‘bucket loads of extinguishment’.¹⁸³ In order to do this, the government introduced its *Ten Point Plan*, outlining ten major changes to the *NTA 1993*.¹⁸⁴ The proposed changes to the *NTA 1993* were intended to achieve the following outcomes:¹⁸⁵

- the validation of non-Aboriginal grants from 1994 to *Wik* (1996) 187 CLR 1;
- certainty for pastoralists;
- ‘confirmation’ of extinguishment by freehold and most leases;
- removal of impediments to the development of municipal services;
- assurance of government powers over water;
- ‘workability, through removing impediments to development’;
- ‘devolution to the States and Territories’; and
- ‘speedy and sustainable resolution of concerns and uncertainty’.

The bill, re-introduced to the House of Representatives on 9th March, 1998, ran to 346 pages to supplement the 147 pages of the original Act. Part of the reason for this is that the High Court had ruled (*Western Australia v Commonwealth* (1995) 183 CLR 373) that the *Racial Discrimination Act 1975* took precedent over the *NTA 1993* where there was any ambiguity, and the government wanted to make it clear that the *Racial Discrimination Act 1975* was being specifically overruled at many points.¹⁸⁶

The changes will not be discussed in detail here. Rather, Section 5.3.9 below will examine how the interpretation of the revised Act has worked out in practice.

Such are the vagaries of parliamentary politics that the fate of the Bill was in the hands of an independent Senator, Brian Harradine, for neither party had a majority in the Senate. First peoples were not included in the political process in the preparation of the *Native Title Amendment Act 1998*. The Aboriginal and Torres Strait Islander Commission (ATSIC), the peak representative body of Indigenous peoples that was recognised by the government at that time, had no formal part in the process.¹⁸⁷ Mick Dodson said,

[w]hat I see now is the spectacle of two white men, John Howard and Brian Harradine, discussing our native title when we're not even in the room. How symbolically colonialist is that?¹⁸⁸

Many Aboriginal groups prepared responses to the proposed changes, even though they found it hard to have their voice heard by government.¹⁸⁹

The United Nations Committee on the Elimination of All Forms of Racial Discrimination expressed concern that the *Ten Point Plan* breached the International Convention on the Elimination of All Forms of Racial Discrimination, on four counts: (1) the validation of past acts which were otherwise invalid; (2) the confirmation of extinguishment provisions; (3) allowing primary producers to upgrade and change the nature of their land use without respect to native title interests; and (4) the restrictions on the right to negotiate. These provisions effect widespread extinguishment of native title, and allow further extinguishment without negotiation.¹⁹⁰ Australia thereby became the first Western nation to be subject of an 'early warning/urgent action' procedure by the United Nations.¹⁹¹

The Aboriginal and Torres Strait Islander Social Justice Commissioner argued that the changes were not only a lost opportunity to build on the co-existence envisaged by *Wik* (1996) 187 CLR 1, but were 'destructive of the most valuable resource ... trust.'¹⁹² Tehan concludes that '[t]he overall effect of the amendments was to significantly diminish the area of land and water over which native title might exist and the areas of land or water and types of activities over which indigenous people have meaningful rights in relation to future uses',¹⁹³ a conclusion that seems to have been born out in practice.

5.3.9 The *Western Australia v Ward* (2002) 213 CLR 1 ('Ward')¹⁹⁴ and *Members of the Yorta Yorta Aboriginal Community v Victoria and Others* (2002) 214 CLR 422 ('Yorta Yorta') Claims: Retreating from *Mabo* (2)

The Ten Point Plan and *Native Title Amendment Act 1998* entailed a substantial denial of equality before the law, and the tenor of these changes were carried over to the judicial system.¹⁹⁵

In order to understand the judgements in the High Court in these two cases, some preliminary observations need to be made. Firstly, the changes brought in by the *Native Title Amendment Act 1998* represented an explicit change in *political* will. Secondly, the government appoints the High Court judges, and so, as vacancies appear, it appoints people who it believes will support government policy. Kirby J made this point very strongly in a lecture in 2005, when he said that ‘[i]f the *Mabo* case on Aboriginal land rights ... [here he lists other trials] ... had come to the High Court in its present composition, the outcomes would probably have been very different. In the business of judging, much depends on the time of one's appointment and the values of one's colleagues.’¹⁹⁶ Thirdly, and as a consequence of this, the judgements turned on the interpretation of ‘native title’ and ‘native title rights and interests’ in s 223(1) of the *Native Title Act 1993*:

The expression *native title* or *native title rights and interests* means the communal, group or individual rights and interests of Aboriginal peoples or Torres Strait Islanders in relation to land or waters,¹⁹⁷ where:

- (a) the rights and interests are possessed under the traditional laws acknowledged, and the traditional customs observed, by the Aboriginal peoples or Torres Strait Islanders; and
- (b) the Aboriginal peoples or Torres Strait Islanders, by those laws and customs, have a connection with the land or waters; and
- (c) the rights and interests are recognised by the common law of Australia.

Although the clear intention of the Keating government when framing this Act was for this to refer to the developing common law concerning native title,¹⁹⁸ in the absence of explicit reference to this in the Act, the High Court was free to treat s 223(1) of the Act as being the *definition* of *new* concepts called ‘native title’ and ‘native title interests’ (which coincidentally, and confusingly, had the same name as some different concepts discussed in earlier judgements), the nature of which had to be determined by the Court, by close examination of the Act. This is how the High Court chose to read the Act,¹⁹⁹ and the way that the Court interpreted these ‘definitions’ in the Act in the *Ward* (2002) 213 CLR 1 and *Yorta Yorta* (2002) 214 CLR 422 cases resulted in a significant curtailment of the way that the common law had been developing.

It is worth spending a little time examining these two judgements.²⁰⁰

Ward (2002) 213 CLR 1 was the first contested mainland native title determination. It concerned an area of 7900 square kilometres in the eastern Kimberley, overlapping the

border between Western Australia and the Northern Territory. The case went before Lee J in the first instance, who made a determination of the existence of native title over most of the claim area. In making his judgement, Lee J continued the development of the common law concerning native title in a way that was sympathetic to the tenor of the *Mabo (2)* 175 CLR 1 and *Wik* 187 CLR 1 judgements, in particular allowing for the transformation of traditional practices.²⁰¹ This judgement was largely overturned in the full Federal Court on 3rd March, 2000. An appeal to the High Court was made in March 2001, and it delivered its judgement on 8th August, 2002. The effect of the judgement was to overturn many of the features of the *Wik* judgement. In summary, the key aspects of the judgement were:²⁰²

- *frozen rights*: native title was treated as a distinct sort of title. In particular: the customary rights given by traditional laws were not to be counted as equivalent to ownership under common law; it rejected Aboriginal rights over mineral and petroleum resources; it required the statement of which particular rights the people had over the area, rather than granting them a bundle of rights; and the rights are those which existed in 1788, so that the development of rights over time was ruled out.
- *principles of extinguishment*: the requirement to show that there was a clear and plain intention to extinguish native title in any leases was ignored, instead using an aspect of the *Native Title Act 1993* (Pt 2 Div 2B) to override this requirement; when there was inconsistency, extinguishment will be to the extent of the inconsistency; and temporary suspension was regarded as equivalent to extinguishment.
- *vesting of reserves*: the vesting of land in reserves was seen to lead to the extinguishment of title.
- *pastoral leases*: the Court ignored the requirement of the existence of a clear and plain intention for extinguishment in the granting of pastoral leases.
- *the NTA*: the judgment declared that the *NTA* was determinative in any native title claim, and in developing common law, rather than the common law judgements of *Mabo (2)* and *Wik* interpreting the *NTA*.

The claim in *Yorta Yorta Community v Victoria* was for various public lands and waters in northern Victoria and southern New South Wales, on either side of the Murray River. In summary, the judgement was that ‘tides of history’ had wiped away the claim.²⁰³

Like the *Ward* claim, the *Yorta Yorta* claim went through three levels of the court system,²⁰⁴ but, unlike the *Ward* claim, it was rejected at each level. The first hearing of the case was before Olney J. He was clear that there was no ‘warrant within the Native Title Act for the Court to play the role of social engineer, righting the wrongs of past centuries and dispensing justice according to contemporary notions of political correctness rather than according to law.’²⁰⁵ The High Court decision was largely in accord with the original judgement by Olney J. The key features of the High Court judgement are that:²⁰⁶

- ‘traditional’ in s 223(1) of the *Native Title Act 1993* was interpreted to mean the laws and customs that existed on or before the assertion of sovereignty by the British Crown;
- the society which had these laws and customs must have continued in existence, and that the laws and customs from before the occupation by the British must have continued undisturbed; and
- the onus on proving that the laws and customs had been maintained was placed firmly on the claimants, without any presumption of continuity.

A feature of the judgement was that it left undisturbed the preference shown by Olney J for the written evidence of Europeans over the oral tradition of the Yorta Yorta people, despite the precedent given in the Supreme Court in Canada,²⁰⁷ that oral historical evidence must be ‘accommodated and placed on an equal footing with the types of historical evidence that courts are familiar with, which largely consists of historical documents.’²⁰⁸ Critically, some written evidence, used in a way that was ignorant of the issues in interpreting historical documents, was crucial in establishing that the practices of the Yorta Yorta people had changed.²⁰⁹

In summary, ‘the combined effect of the three recent cases [*Ward* (2002) 213 CLR 1, *Yorta Yorta* (2002) 214 CLR 422, *Wilson v Anderson* (2002) 190 ALR 313] is to drastically reduce the numbers of indigenous people who will be able to successfully claim native title either because native title has been extinguished over land or because of the difficulties in proving the necessary elements said to be required under s 223 of the Act.’²¹⁰ Bartlett comments further that the end result of the *Yorta Yorta* (2002) 214 CLR 422 case ‘is that native title claimants in remote areas will find proof of native title

very difficult, but in the south they are likely to find it impossible.’²¹¹ Following *Ward* (2002) 213 CLR 1 and *Yorta Yorta* (2002) 214 CLR 422, there is the further possibility that previously successful native title applications will be revisited and have their rights diminished.²¹²

As a postscript to the legal debate, the Yorta Yorta people persisted in their negotiations and in 2004 signed the ‘Co-operative Management Agreement between the Yorta Yorta Nation Aboriginal Corporation and the State of Victoria.’

5.3.10 Further Developments

Howard’s vision was for everyone to own their own business and their own house. Reports began appearing from around May 2005 suggesting changes to the title held by the First peoples so that people could mortgage the land.²¹³ This risks further destruction of Aboriginal identity and communal title to land. Mick Dodson was right when he said that Howard was ‘trying to get rid of communal ownership ... He doesn’t like the idea of communal ownership. His religious and spiritual traditions don’t allow for this form of ownership.’²¹⁴

The reason why there has been little economic development with the granting of land has nothing to do with the type of title, but the reasons include: the majority of it is desert and is unsuitable for economic activities such as grazing and agriculture (which is often why the land was left to the First peoples and so is available for claim); high transport costs for remote communities; and limited markets, lack of skilled workforce, and infrastructure.²¹⁵ To this must be remembered that native title is only over the land, not over any mineral resources contained in it.

5.4 Theological Reflection: Reconciliation or Continuing the Sins of the Fathers?

In Section 1.4 it was claimed that the claim of the British Crown to sovereignty over, and ownership of, the land of Australia, without regard to its Indigenous inhabitants, was a foundational sin, part of its failure to engage with the First peoples in their full humanity. Chapters 2 to 4 developed the theology of reconciliation. Part of the claim made in those chapters was that the present generation needs to repent of the sins of the past, or else it will continue to sin in ways shaped by the sins of the past, even if it is doing what it thinks is right.

The issue that will be addressed in this section is whether what has happened with land over the past half century or so, as narrated in this chapter, has been reconciliatory, or if it has continued to sin in ways shaped by the past.

The place that this analysis will begin is with the granting of a mining lease on Yolngu land in the Gove Peninsula. The way that the lease was granted, and the response given by the Federal Government, was firmly in the mould of past actions. Things began to change when the Yolngu then took the government to court.²¹⁶ Although the Yolngu may have thought that they were having a conversation between two systems of law, the court had no option, under non-Indigenous law, other than to consider the case as a question of whether or not the Yolngu claims to ownership of the land in question could be recognised within non-Indigenous law.

It is thus immediately clear that trying to assert Indigenous ownership of land through the non-Indigenous legal system has already limited the possible range of outcomes,²¹⁷ and some believe that it was a political mistake to put so much resource into this process,²¹⁸ but such a judgement is beyond the purview of this work. However, the inherently limited nature of this process, and hence the limited possibilities of repentance, will be returned to later in this section.

It is certainly true that *Milirrpum* (1971) 17 FLR 141 was a partial repentance for what has been called the foundation sins, for it recognised for the first time that the Yolngu people had a system of law, which could be comprehended by non-Indigenous law. This was also important in forming the key *Mabo (2)* (1992) 175 CLR 1 judgement, which recognised a form of Indigenous ownership of land, which it called 'native title', in non-Indigenous law for the first time.

Again, this was a limited form of repentance, for the judgement, and the subsequent *Native Title Act 1993*, affirmed the extinguishment of native title over large tracts of Australia; Indigenous ownership of land was only recognised where it could be proved that it had not been extinguished. It must be understood that this was a political choice. Although it may have been the only politically possible action at the time which could preserve some of the Indigenous rights over land that had not been extinguished in non-Indigenous law, it also perpetuated the sins of the past, in confirming the legal rights of all those who were living off the inheritance of land which had been taken from its

Indigenous owners. Also, 'native title' was *sui generis*, that is, a new and unique form of title, the nature of which had still to be determined. It has proved to be a weak form of title.²¹⁹

Milirrpum (1971) 17 FLR 141 also led to the *Aboriginal Land Rights (Northern Territory) Act (1976)*. This Act also limited the areas of land for which First peoples could have their ownership of the land recognised in non-Indigenous law: only Crown land where there had been no interests in the land granted to non-First peoples could be claimed.²²⁰ This Act continued the sin of failing to properly engage with the First peoples, because it set up Land Councils to manage the land for which Aboriginal ownership had been recognised, organisations based on white, male, non-Indigenous power structures, and completely upsetting the fundamental principle in Aboriginal law that only the 'owners' of the land could speak for that land. That is, even when it the law was seeking to do good, and it did much good, what was done caused further problems for the Indigenous peoples.

One cannot help thinking that an opportunity was lost with *Wik* (1996) 187 CLR 1 judgement, to formally explore what the co-existence of rights of ownership might mean in Australia, rather than using it simply as a vehicle for allowing the determination of what native title rights have survived a less than complete extinguishment by some forms of Crown grant.²²¹

Before considering the way that subsequent events moved away from this understanding, it must be noted that the recognition of Aboriginal ownership of land has sometimes left First peoples in a more difficult place than before it was recognised. For example, native title has sometimes put administrative and insurance burdens on people, which they cannot meet, and so they cannot access their land.²²² This is an example of where trying to do the right thing has had the consequence of causing further problems for First peoples.

The second half of the last decade of the twentieth century in Australia was an extremely hostile one towards reconciliation and the rights of the First peoples. It saw the emergence of the One Nation party, which argued against what they saw as the unfair special treatment that was being given to First peoples. Campaigns which raised the fear about what land Aboriginal people might be able to claim manifested

‘themselves in antipathy towards local Indigenous groups. Indigenous communities were forced into a position of having to defend their rights against the attacks of the fearful and misinformed, rather than dealing with the issue at hand.’²²³ The Howard government was elected, and it rapidly deconstructed the *Native Title Act 1993*, and the High Court then began a process of interpreting the Act in a way that restricted the rights conferred by the recognition of native title, and, at the same time, considerably raised the bar for the recognition of native title. This was clearly unjust, and against the spirit of *Mabo (2)* (1992) 175 CLR 1, and the intentions of the framers of the *Native Title Act 1993*,²²⁴ as discussed in Section 5.3.9 above. As such, this was an explicit and intentional continuation of the sins of the past generations; there was not even any pretence of trying to do what was best for the First peoples. However, even though the interpretation of the law has gradually narrowed, the law is susceptible to change, and so it is possible that the interpretation could open out again.²²⁵

Pursuing land rights through the courts was always going to be a limited exercise: ‘native title is all about what is left over. And land rights have never been about the dispossession of the colonisers and their descendents. Whether it be statutory land rights or common law land rights – these land rights have always focused on remnant lands.’²²⁶ Graeme Neate, during his office as President of the Native Title Tribunal, rightly said, ‘[i]t is my view that far too great a weight of expectation has been put on native title to deliver what it was not capable of delivering. There are areas of Australia where native title will deliver little or nothing.’²²⁷ Who knows what progress might have been made if resources had not been put into a battle against land claims, and a different attitude had prevailed?²²⁸

Pursuing the recognition of the ownership by First peoples through the non-Indigenous legal system is a limited exercise, because non-Indigenous law was based on the non-recognition of Indigenous systems of law. Gillian Cowlshaw rightly puts her finger on part of the problem when she highlights the approach of Nancy Williams in her book following the failure of the *Milirrpum* case:

Perhaps the strongest defence of liberal humanist anthropology still comes from the appeal to knowledge as the source of liberation from oppressive relations. For instance, when Williams alluded to the difficulty of ‘explaining the concepts of one culture in the language of another’²²⁹ she was trying to improve the chances of the Yolngu in their struggle to gain control over land. Their chances in the original Blackburn case were inhibited, she argues, by the Court’s

ignorance of their system of land tenure, and Williams's book is intended to overcome this nescience. The good intentions behind such authors' work are clear, but they are vitiated by lack of attention to the context in which their endeavours are situated. Much intellectual energy is expended in explaining and defending Aboriginal culture and little on who it is being explained to and defended from.

It is the humane but naïve face of liberal egalitarianism which assumes that discrimination, domination and exploitation flow from the limited information about the 'Other' in the colonial world.²³⁰

That is, the law is not neutral, but it is part of the dominant culture, and was based on an untruth about Indigenous relationship to the land, and so pursuing rights through the legal system will only allow a limited repentance. In the words of Atkinson, '[i]n the final analysis, it seems that it is not so much a question of the law providing justice for Indigenous people but one of how justice can be achieved against existing barriers. ...[the law] becomes the instrument of power that is used to serve the vested interests of settler society and to maintain the status quo. Under these conditions, it is the power dynamics between the dominator and the controlled, and notions of racial superiority that continue.'²³¹

Furthermore in terms of process, there has not been a level playing field.²³² Whether in mediation²³³ or court, Indigenous peoples are working in an alien environment for settling disputes. They tend to have less resources than others,²³⁴ their evidence has often not been understood properly, and there is a difference in cultures – one largely written and one largely oral – so there continues to be a problem about what constitutes admissible evidence.²³⁵

A constant theme of all the legislation and court cases has been to leave non-Indigenous title undisturbed, and so the question of what to do about the people who cannot have the title over their land recognised, has not been addressed; all the legislation has perpetuated this sin from the past. This is not a trivial matter; the easy answer, that it would be unjust to take land away from those who have held it for generations, ducks the question of what repentance might look like. In his study of the theology of property ownership, including the ownership of land, in the early centuries of the church, commonly called the 'Patristic' period, Charles Avila showed that some theologians argued that the present generation of people who 'owned' property that had been taken

from someone else by previous generations of people, were continuing that theft, and remained guilty of the theft until the property was returned.

Avila's study of Patristic material on ownership provides some interesting insights into the issue of land.²³⁶ Of course, Avila was looking for material which would help in the movement for land rights in the Philippines, but what he has gathered together from Clement of Alexandria, Basil the Great, Ambrose, John Chrysostom and Augustine, is quite extraordinary.²³⁷ Of particular interest to this work is the observation that individual ownership of the land, a gift of God that is something that should be common to all, is robbery:

Tell me, then, how did you become rich? From whom did you receive it, and from whom he who transmitted it to you? From his father and grandfather. But can you, ascending through many generations, show the acquisition just? It cannot be. The root and origin of it must have been injustice. Why? Because God in the beginning did not make one man rich and another poor. Nor did he afterwards take and show to anyone treasures of gold, and deny to the others the right of searching for it: rather He left the earth free to all alike. ...

Why then, if it is common, have you so many acres of land, while your neighbour has not a portion of it ...? But I will not urge this point too closely. Let us grant that your riches are justly gained, and not from robbery. For you are not responsible for the covetous acts of your father ... or granting that he did not obtain it by robbery, that his gold was cast up somewhere out of the earth. ...

What then? Is wealth, therefore, good? By no means. At the same time it is not bad, you say, if its possessor be not covetous; it is bad; it is ensnaring. "But if he does no evil, though he does no good, it is not bad," you argue. True. However, is this not an evil, that you alone should enjoy what is common? Is not "the earth God's and the fullness thereof"? If then our possessions belong to one common Lord, they also belong to our fellow-servants. The possessions of one Lord are all common.²³⁸

Mark the wise dispensation of God. ... He has made certain things common, as the sun, air, earth, and water, the sky, the sea, the light, the stars, whose benefits are dispensed equally to all as brethren. ... And mark, that concerning things that remain common there is no contention but all is peaceable. But when one attempts to possess himself of anything, to make it his own, then contention is introduced, as if nature herself were indignant.²³⁹

Avila notes that the logic of the first quotation is that '[i]f restitution is not made, then indeed, property is nothing but a continuing and fresh robbery.'²⁴⁰

Further, Patristic thought did not have the concept of compensation for those who owned the lands, rather, they had to give them back to the poor; it was a matter of simple justice. Ambrose wrote, ‘Not from your own do you bestow upon the poor man, but you make return from what is his. For what has been given as common for the use of all, you appropriate for yourself alone. The earth belongs to all, not to the rich. ... Therefore you are paying a debt.’²⁴¹ Chrysostom was of like mind: ‘Do you give to the poor? What you give is not yours, but your Master’s, common to you and your fellow-servants.’²⁴² Augustine of Hippo wrote, ‘God gives the world to the poor as well as the rich. ... Those who offer something to the poor should not think that they are doing so from what is their own.’²⁴³ So, from all corners of the Roman Empire – Milan, the Eastern Roman Empire, and Africa, there is the resounding voice that what has been stolen must be returned as an act of justice.

Whilst Avila’s research opens up alternative vistas of how the ownership of land could be understood, the passages highlighted here have a predetermined notion of justice, namely returning to some mythical ‘original state’ where there were no problems. Of course, there is such a baseline in the case of Australia, but this thesis has argued that justice is achieved through the process of reconciliation, not attempting an impossible return to the past.

A fuller repentance, a genuine seeking of reconciliation, must face up to this issue, and work with the First peoples to see what must be done about the land which has been alienated. This cannot be done within the non-Indigenous legal system, for this system of laws is itself a creature of the foundational sins of the British Crown; addressing the issue is a political act, and it requires the sort of conversation which the Yolngu were hoping to have in the *Milirrpum* case, not only with people who still obviously have a connection to their land because they are living on it, but also with those who were dispossessed long ago. Without doing this, the present generation of non-Indigenous peoples will continue to pursue policies which are detrimental to the First peoples.

There are two further observations that need to be made in order to bring this section to a close. The first is that some First people are pushing for a treaty, or recognition of the rights of First peoples to be enshrined in the Australian Constitution, in order for their rights to be protected from the vagaries of the political and legal process. The dangers inherent in this approach will be discussed in Section 6.7. Secondly, and more

positively, although the process of pursuing land rights through the courts has had limited legal results, it could be argued that these long arguments have led to a significant change in non-Indigenous culture, which is a further repentance, and an indication of a desire for a deeper repentance by the non-Indigenous peoples. For example, in his role as Deputy President of the National Native Title Tribunal, Fred Chaney has noticed that groups are working outside the statutory structures to create new agreements and relationships that work for them. He has seen a change to a culture of negotiation and agreement making, and even some mining companies have made it corporate policy to negotiate agreements with Indigenous groups, focusing on relationships rather than a narrow interpretation of the legislation.²⁴⁴ Langton and Palmer note that '[b]ecause of the *NTA* administrative regime, governments are being forced to treat with Aboriginal people in a variety of ways. We thus find that by default Aboriginal people are, through the cumulative effect of native title determinations both by Tribunal and by the Federal Court, being treated as peoples.'²⁴⁵ There have also been some real advances in Indigenous and non-Indigenous people working together on managing land.²⁴⁶ Noting that, in June 2005, there were 170 Indigenous Land Use Agreements registered under the *Native Title Act 1993*, with 100 of them in Queensland,²⁴⁷ Aden Ridgeway said that '[p]ractical flexible agreements like these are signs of communities moving forward.'²⁴⁸ No systematic study has been made of such agreements as yet.²⁴⁹ It is too early to assess how far-reaching these promising developments will prove to be.

Because the discussion in legislation and in the courts has focused almost exclusively on 'ownership' as understood in non-Indigenous law, the deeper questions about human relationships to the land have been largely unaddressed. It could be argued that some of the damaging changes wrought on the Australian landscape, through various economic practices, have arisen precisely because of the land being seen in an economic rather than spiritual way.²⁵⁰ Without addressing these issues, the silent conquest of the land continues.²⁵¹ The Aboriginal assertion that the non-Indigenous legal system is 'lawless' can, in part, be understood in this way. It is beyond the scope of this thesis to explore a theology of the land itself, although the next chapter will give some pointers in this direction. For the moment, it is sufficient to note that any process of reconciliation – with the Indigenous peoples of Australia and with the land itself – must include grappling with this part of Indigenous cultures, which has been significantly overlooked in legislative and legal history in Australia.

5.5 Conclusion

This chapter has shown that there was a significant degree of repentance within the non-Indigenous legal system, with regards to the foundational sin of not recognising Indigenous law systems, and the concomitant ownership of land by Indigenous peoples: the *Milirrpum* (1971) 17 FLR 141 judgement recognised for the first time in non-Indigenous law that a group of First people, the Yolngu, had a recognisable system of law, and *Mabo (2)* 175 CLR 1 recognised for the first time that the sort of ownership that was part of this law could also be recognised in non-Indigenous law. However, the power of the legal system to do much with this is limited: the legal system is firmly bound by what this thesis has called a foundational sin, namely the failure to recognise Indigenous legal systems and their implications for Indigenous ownership of the land. With this constraint, the legal system has done as much as it can, by highlighting the possibility of Indigenous people having their ownership of the land being recognised within the non-Indigenous legal system, *as long as the Crown has not alienated the land to someone else*; any other provable ownership claim on the land, by anyone else, trumps whatever rights the Indigenous people may have otherwise had in non-Indigenous law. The law is simply not the right vehicle for the larger problem of what must be done concerning the history of dispossession of the rest of the land, for it does not have the power to do this in and of itself. Nor can it properly explore what must be done more generally by the Subsequent peoples to repent of the wider consequences of what has flowed from this foundational sin.

This chapter has also shown that, even when legislation has been brought to enable the securing of Indigenous ownership of land within the non-Indigenous legal system, that this has sometimes created structures that are antithetical to the Indigenous way of managing land, and so, even when the legislative system has been trying to do what is right, it has continued to sin against the First peoples, so confirming, in practice, what was argued in Chapter 4. Even when legislation has tried to protect the remaining Indigenous rights within the non-Indigenous legal system, this chapter has shown how this is subject to the political whims of subsequent governments and courts. Clearly something else must be done in order for the Subsequent peoples to properly repent of their sins towards the First peoples.

When the Yolngu brought their ownership of the land in the Gove Peninsula to the non-Indigenous court, they may have believed that they were going to have a conversation

between two different legal systems. However, the non-Indigenous court system does not have this power, and it is constrained to work in a way that is consistent with its sinful foundation, until it is changed through the political system.²⁵² In order for a fuller repentance to take place, in order truly to pursue reconciliation in Australia, there needs to be a proper engagement with the Indigenous systems of law, which may lead to the need to radically reformulate non-Indigenous law.

However, amongst the ups and downs of politics, this long legal battle still seems to have played an important part in causing a change in the attitudes of Subsequent peoples towards First peoples. This chapter has noted what has been more generally true, that the Subsequent peoples have failed again and again to pay proper attention to what the First peoples have been saying to them. Any process of repentance must include listening properly to what the First peoples are saying, and so the next chapter looks at some of the things that they have been saying to the incomers.

¹ I am grateful to Joe McIntyre for helping me think about this angle on the struggle.

² For some pointers into the literature on this, see Maddison, *Black* pp. 88-95.

³ These include such things as objects that demonstrate relationships to the land, and paintings which tell the sacred stories (Mophy, Howard, *Aboriginal Art* (London: Phaidon Press Ltd, 1998), especially chapters 3-5; Mophy, Howard, “‘Now You Understand’: An Analysis of the Way Yolngu Have Used Sacred Knowledge to Retain Their Autonomy” in Peterson, Nicolas and Langton, Marcia, eds., *Aborigines, Land and Land Rights* (Canberra: Australian Institute of Aboriginal Studies, 1983), 110-133).

⁴ Williams, *The Yolngu*, pp. 62-72, 96f.

⁵ ‘Law’ in Aboriginal English is much closer to the idea of ‘torah’ than to understanding law as a set of rules. Thus, Debbie Rose (*Dingo*, p. 56), writes:

Doug Campbell, one of the senior Yarrali men, explained to me early on in my time there that I must observe Aboriginal rules because there could be no exceptions under the Law:

You see that hill over there? Blackfellow Law like that hill. It never changes. Whitefellow law goes this way, that way, all the time changing. Blackfellow law different. It never changes. Blackfellow Law hard – like a stone, like that hill. The Law is the ground.

Law is often expressed as rules about behaviour. But what Law seems most fundamentally to be about is relationships. Dreamings determined sets of moral relationships – country to country, country to plant and animal species, people to country, people to species, people to people. Individuals of any species come and go, but the underlying relationships persist. Law is a serious life and death business for individuals and for the world; it tells how the world hangs together. To disregard the Law would be to disregard the source of life and thus to allow the cosmos to fall apart.

⁶ See, e.g., Memmott, Peter, “Social Structure and Use of Space Amongst the Lardil” in Peterson, Nicolas and Langton, Marcia, eds., *Aborigines, Land and Land Rights*

(Canberra: Australian Institute of Aboriginal Studies, 1983), 33-65, p. 40; Myers, Fred R., "Always Ask: Resource Use and Land Ownership Among Pintupi Aborigines of the Australian Western Desert." in Williams, Nancy M, and Hunn, Eugene S, eds., *Resource Managers: North American and Australian Hunter-Gatherers* (Colorado: Westview Press Ltd, 1982, American Association for the Advancement of Science Selected Symposium 67), 173-195, p. 184f. Cf. Larry Lanley, *The Advertiser*, Adelaide, 12 September, 1978, quoted in Memmott, "Social", p. 61f: 'It all goes back to the land, that is why land rights are so important to us. We need the land to be Aboriginal in our minds ... Take away our land like the Queensland Government is trying to do and we're nobody, we will die out, finish. The land gives the true meaning to Aboriginal life. ... At the heart of everything is land – it is the way we feel and think about the land that makes us Aborigines ... It is the only way to keep our culture, and without it we are scattered into a country that is not ours, where we feel hunted, like wild kangaroos and dingoes. ... There are the things we need to help us keep the head and body alive until we are given back our land, and the land can make us whole again.'

⁷ Torres Strait Islander cultures are quite different from Aboriginal ones, and some information about these can be found in: Beckett, Jeremy, *Torres Strait Islanders: Custom and Colonialism* (Cambridge: Cambridge University Press, 1987), and Sharp, Nonie, "Malo's Law in Court: The Religious Background to the Mabo Case" in Charlesworth, Max, ed., *Religious Business: Essays on Australian Aboriginal Spirituality* (Cambridge: Cambridge University Press, 1998), 176-202.

⁸ Moyle, Richard, "Songs, Ceremonies, and Sites: The Agharringa Case" in Peterson, Nicolas and Langton, Marcia, eds., *Aborigines, Land and Land Rights* (Canberra: Australian Institute of Aboriginal Studies, 1983), 66-93, p. 68, records that the use of term 'country' has been necessitated by conversing with whites: there is no equivalent word in the Alayawarra language, and the Agharringa men say they cannot conceive of a situation requiring it.

⁹ Rose, Deborah, in collaboration with Sharon D'Amico, Nancy Daiyi, Kathy Deveraux, Margaret Daiyi, Linda Ford and April Bright, *Country of the Heart: An Indigenous Australian Homeland* (Canberra: Aboriginal Studies Press, 2002) p. 14. Cf. McIntosh, *Aboriginal*, p. 2: 'Land to the Aborigines is treated as an entity with feelings. Its happiness is reliant upon the attention it gets. It needs to be worried about for it gets lonely. It longs to feel the pounding of feet when a ceremony is performed and delights in the sound of children playing, although this must be in "safe" areas, far from the sacred places. In July or August of each year, the men set the long grass ablaze and the land emits an audible "aaaahh" sound, for it recognizes the presence of law keepers.'

¹⁰ Rose et al, *Country*, p. 41

¹¹ Strictly speaking, the understanding of land and tenure systems is not uniform across the country, but is shaped by the terrain. For example, the country owned by the Yolngu is organised in a chequerboard fashion, according to the two moieties of the people, whilst in the Pitjantjatjara country, the sacred sites are more point spaces and the presence of water and how far one can walk in a day from the main watering places in one's country shape the mental map of space (Layton, Richard, "Pitjantjatjara Processes and The Structure of the Land Rights Act" in Peterson, Nicolas and Langton, Marcia, eds., *Aborigines, Land and Land Rights* (Canberra: Australian Institute of Aboriginal Studies, 1983), 226-237). Even the concept of a boundary varies from culture to culture (Moyle, "Songs", p. 71).

¹² Choo, Christine and O'Connell, Margaret, "Historical Narrative and Proof of Native Title" in Gray, Geoffrey and Paul, Mandy, *Through a Smoky Mirror: History and Native Title* (Canberra: AIATSIS, 2002), 11-21, p. 16, n. 10, gives ten ways that Aboriginal people can have responsibility for a particular piece of land. Similar points

are made in McKenna *Looking*, p. 67; and Williams, Nancy M, "A Boundary Is to Cross: Observations on Yolngu Boundaries and Permission" in Williams, Nancy M, and Hunn, Eugene S, eds., *Resource Managers: North American and Australian Hunter-Gatherers* (Colorado: Westview Press Ltd, 1982, American Association for the Advancement of Science Selected Symposium 67), 131-153, pp. 128-141.

¹³ Sutton, Peter and Rigsby, Bruce, "People with "Politicks": Management of Land and Personnel on Australia's Cape York Peninsula" in in Williams, Nancy M, and Hunn, Eugene S, eds., *Resource Managers: North American and Australian Hunter-Gatherers* (Colorado: Westview Press Ltd, 1982, American Association for the Advancement of Science Selected Symposium 67), 155-171, p. 161. Some authors speak of 'primary' and 'secondary' ways of inheriting responsibility for country, but Williams, Nancy, "Yolngu Concepts of Land Ownership" in Peterson, Nicolas and Langton, Marcia, eds., *Aborigines, Land and Land Rights* (Canberra: Australian Institute of Aboriginal Studies, 1983), 94-109, p. 103, when writing of the Yolngu, prefers the terminology of 'presumptive' rights of succession, which are patrilineal, and 'subsidiary' rights. Cf. chapter 5 of Gumbert, M, *Neither Justice Nor Reason: A Legal and Anthropological Analysis of Aboriginal Land Rights* (St Lucia, Queensland: University of Queensland Press, 1984).

¹⁴ For example, Sutton and Rigsby, "People", pp. 167-9, write: 'An important point that emerges from these and other case studies is that many Aboriginal people, including adult women, have a *choice* as to their territorial attachments. Their forbears may have willed land (and other property) to them, but they need not accept it in all cases and they may be able to invoke or create a range of "facts" to establish new attachments to other land. ... The changing political interests of individuals having different sets of paternal and maternal kinsmen, birth places, and the like, may also account for some of the variety in previous accounts of who has what attachments to which lands.' See also Williams, *The Yolngu*, pp. 184f.

¹⁵ Layton, Robert, "Ambilineal Descent and Traditional Pitjantjatjara Rights to Land" in Peterson, Nicolas and Langton, Marcia, eds., *Aborigines, Land and Land Rights* (Canberra: Australian Institute of Aboriginal Studies, 1983), 15-32, p. 24; Myers, "Always", p. 190; Williams, "Yolngu", p. 104; Williams, *The Yolngu*, pp. 181-185.

¹⁶ Veth, "'Abandonment' or Maintenance of Country? A Critical Examination of Mobility Patterns and Implications for Native Title", *Land, Rights, Laws: Issues in Native Title* 2/22 (April 2003), available on web page (as at 17.4.06): <http://ntru.aiatsis.gov.au/ntpapers/IPv2n22.pdf>.

¹⁷ Gould, Richard A., "To Have and Have Not: The Ecology of Sharing Among Hunter-Gatherers in Williams, Nancy M, and Hunn, Eugene S, eds., *Resource Managers: North American and Australian Hunter-Gatherers* (Colorado: Westview Press Ltd, 1982, American Association for the Advancement of Science Selected Symposium 67), 69-91, p. 72, writes, '[s]ince rainfall is scarce and unpredictable throughout the Western Desert, the key to overcoming or mitigating this particular constraint is long-distance social networks that permit families to move from their own foraging areas during periods of extreme drought to other, better favored areas. Elaborate social institutions foster this kind of contact and movement, including second-cross-cousin marriage and subsections. Each of these mechanisms operates to restrict the number of eligible spouses a person will find within his or her local area, compelling him to look farther afield for potential marriage partners. This tendency is increased by the widespread occurrence of polygyny, which results in multiple in-law relationships over long distances in all directions. These long-distance kin ties involve obligatory sharing of food, material goods, and access to key resources.'

¹⁸ Peterson, Nicolas and Langton, Marcia, eds., *Aborigines, Land and Land Rights* (Canberra: Australian Institute of Aboriginal Studies, 1983. Land tenure systems are discussed at length in Parts One, “Traditional Principles” (Layton, “Ambilineal”; Memmott, “Social”; Moyle, “Songs”; Williams, “Yolngu”; Morphy, “ ‘Now’ ”; and Peterson, Nicolas “Rights, Residence and Process in Australian Territorial Organisation”, 134-145) and Two, “Interactions and Adjustments: Aborigines, law and anthropology” (Brandl, Maria and Walsh, Michael, “Roots and Branches, or the Far-Flung Net of Aboriginal Relationships”, 149-159; Stanton, John, “Old Business, New Owners: Succession and ‘the Law’ on the Fringe of the Western Desert”, 160-171; Palmer, Kingsley, “Migration and Rights to Land in the Pilbara”, 172-180; Dagmar, Hans, “Land and a Fringe-Dwelling Community: A Case Study from Western Australia”, 180-191; Trigger, David S., “Land Rights Legislation in Queensland: The Historical Issue of Association”, 192-201; Maddock, Kenneth, “Owners’, ‘Managers’ and The Choice of Statutory Traditional Owners by Anthropologists and Lawyers”, 211-225; and Layton, “Pitjantjatjara”). Land tenure systems are also discussed in Sutton, Peter, *Native Title in Australia: An Ethnographic Perspective* (Cambridge: Cambridge University Press, 2003). Langton, Marcia, “Grandmothers’ Law, Company Business and Succession in Changing Aboriginal Land Tenure Systems”, in Yunupingu, Galarrwuy (ed.), *Our Land is Our Life: Land Rights – Past, Present and Future* (St Lucia, Queensland: University of Queensland Press, 1997), pp. 84-116, also discusses changes in responsibilities.

¹⁹ As a concrete example, Maddison, *Black*, pp. 151-153, cites Wadeye, four hundred kilometres south-west of Darwin, where the Kardu Diminin people share the town with members of nineteen other clan groups, and, where the Kardu Diminin people would have traditionally spoken for the country, they now find themselves a minority in the organisation being set up by the government, where all clans have a say on issues concerning the township. This conflict has its roots in people being brought together from off their own lands, and is exacerbated by the government trying to treat the disparate clans as one ‘community’.

²⁰ Pearson, Noel, “Where We’ve Come From and Where We’re at with the Opportunity that is Koiki Mabo’s Legacy to Australia”, *Mabo Lecture, Native Title Representative Bodies Conference*, Alice Springs, 3rd June, 2003, available on the web page (as at 17.4.06): <http://www.capecyorkpartnerships.com/team/noelpearson/papers.htm>, pp. 7-9; Neate, Graeme, “Turning Back the Tide? Issues in the Legal Recognition of Continuity and Change in Traditional Laws and Customs”, *Native Title Conference, 3rd September 2002*, Geraldton, Western Australia, available on the web page (at 16.4.06): http://ntru.aiatsis.gov.au/ntconf2002/ntconf_neatepaper.pdf, p. 57; Edmunds, M, “Conflict in native title claims”, *Land Rights, Laws: Issues of Native title*, 1995, Issues Paper No 7, AIATSIS (available as at 6.4.09: http://ntru.aiatsis.gov.au/publications/issue_papers.html); McIntosh, *Aboriginal*, p. 20.

²¹ Maddison, *Black*, p 162; Read, *Belonging*.

²² E.g., see some the debate recorded in Maddison, *Black*, pp. 154-156.

²³ Williams, “A Boundary”; Reynolds, Henry, *Fate of a Free People: The Classic Account of the Tasmanian Wars* (Camberwell: Penguin, 2nd edn 2004), pp. 140-57; Myers, “Always”, pp. 188f.

²⁴ Bell, Diane, *Daughters of the Dreaming* (Melbourne: Spinifex Press, 2002, 3rd edn.) pp. 25-9. A significant early exception to this is the anthropologist Catherine Berndt, who worked with her husband Ronald Berndt. Also other women: Phyllis Kaberry (“The Life and secret ritual of Aboriginal women in the Kimberley’s”, *Mankind* 2/7 (1939)); Olive Pink, “Land Ownership among the Aborigines”, *Mankind* 1/11 (1935)).

²⁵ Bell, Diane, "Aboriginal Women and the Religious Experience (1980)" in Charlesworth, Max, ed., *Religious Business: Essays on Australian Aboriginal Spirituality* (Cambridge: Cambridge University Press, 1998), 46-71; Keely, A., "Women and the Land: The Problems Aboriginal Women Face in Providing Gender Restricted Evidence", *Aboriginal Law Bulletin* 87(1996), 4-7, (also as at 6.4.09: <http://www.austlii.edu.au/au/journals/AboriginalLB/1996/89.html>)

²⁶ Jones, R., "Fire Stick Farming", *Australian Natural History* 16 (1969), 224-228; Lewis, Henry T., "Fire Technology and Resource Management in Aboriginal North America and Australia" in Williams, Nancy M, and Hunn, Eugene S, eds., *Resource Managers: North American and Australian Hunter-Gatherers* (Colorado: Westview Press Ltd, 1982, American Association for the Advancement of Science Selected Symposium 67), 45-67

²⁷ Rose, Deborah, "Sacred Site, Ancestral Clearing, and Environmental Ethics", in Rumsey, Alan and Weiner, James (eds.), *Emplaced Myth: Space, Narrative and Knowledge in Aboriginal Australia and Papua New Guinea* (Honolulu: University of Hawaii Press, 2001), 99-119, pp. 101-103, cites a number of studies, largely from the final twenty years of the last century, that show that First peoples were responsible for the use of fire in a land management, for maintaining the open grasslands that covered much of the continent, for the preservation of specific stands of fire-sensitive vegetation, for the protection of refugia including breeding sanctuaries, the preservation of sources of permanent water in arid environments, the distribution of many plants, and probably for some fauna, such as freshwater crayfish. Since this is a new area of research, it is likely that further examples of Aboriginal land management will be uncovered.

²⁸ Broome, *Aboriginal*, p. 15, writes, 'Lazarus Lamilami recalled that his people, the Maung of Goulburn Island, would go to various place to gather turtles, bandicoots, goannas, geese, wild honey or yams, depending on the season. They knew that when the peewee birds returned after the wet season, the water lily roots were ready to eat; when a brown scum came on the sea young sharks could be caught off the beach. The tribes around southern alps in Victoria knew exactly when to climb the mountains to eat the Bogong moth. Those around southern Queensland knew precisely when the Bunya nut feasting could begin.' See also Rose, *Dingo*, pp. 97-99; Walsh et al., *Planning for Country*, "Seasonal Calendar", pp. 60f, who make similar points.

²⁹ Maddison, *Black*, p.64.

³⁰ McLoughlin, Annie, "Fire Unearths forgotten Aboriginal Settlement", *The Australian*, 3rd February, 2006. A fire on 24th January 2006 near Tyrendarra in the far south-west of Victoria uncovered remains of Aboriginal settlements. Stone dwellings up to five metres wide were laid out in a village-style arrangement. Eel traps were found near some of the houses. Discarded flints from around the houses are from rocks not found in the area. A similar site was earlier found at the nearby Lake Condah, where there is evidence of stone houses built by First people, one hundred square kilometres of swamp had been modified to act as an eel trap, and trees were shaped as smoke houses. Budden, *Following*, pp. 49f reminds readers that there was a wide variety of Aboriginal cultures, with those in southern areas living in houses, cultivating and harvesting the land and the sea. However, these settlements were over-run by early incomers, and so the idea of First people as being nomadic has held sway.

³¹ Adams, Michael, and English, Anthony, "Biodiversity is a whitefellas word': Changing Relationships Between Aborigines and the New South Wales National Parks and Wildlife Service" in Taylor, Luke; Ward, Graeme K.; Henderson, Graham; Davis, Richard; and Wallis, Lynley A., eds., *The Power of Knowledge, The Resonance of Tradition* (Canberra: Aboriginal Studies Press, 2005), 86-97, p. 87; Herbert, Eileen,

“Reconciliation in Cape York Peninsula”, *Chain Reaction* 75 (Kuly 1996), 34-36; Horstman, Mark, “Black Shadows, White Shadows, Grey Shadows: Does the Cape York Regional Agreement Provide a Model for the Reconciliation Process?”, *Arena Magazine* 22 (April-May 1996), 26-31.

³² Langton, “Grandmothers”, p. 86, writes:

It is increasingly acknowledged by anthropologists that amongst Aboriginal groups which have endured rapid population loss as a result of frontier violence and disease, forced removals or other impacts of colonialisation, the senior women of the relevant land tenure corporations take on a special role in succession arrangements to land where the original land-holding corporation has not survived.

and (ibid., p. 92):

The paradigm in which men’s evidence is the cornerstone in proving the existence and rules of customary land corporation will be less efficacious in native title claims in those areas where the massacres, epidemics, forced removals and impact of alcohol abuse, imprisonment, employment in the pastoral industry and itinerant labouring have resulted in a female gerontocracy of the remnant clans and of amalgamated customary land corporations such as “tribes”.

Langton claims that senior Aboriginal women had power over marriage arrangements, which were essentially about distributing kin across various “countries”, and that this role has come increasingly to the fore because of the problems mentioned in the above-quoted paragraphs. The women tend to out-live the men, and so they become increasingly important in their preservation of knowledge (Langton, “Grandmothers”, p. 107).

³³ Bell, *Daughters*, pp. 140f.

³⁴ A situation such as this arose with the Hindmarsh Bridge development. At the heart of the dispute were two groups of Ngarrindjeri women, one of which claimed that a sacred area to do with women’s fertility would be destroyed by the development, and the other which said that there was no such area. For a narrative of the events, ‘which had more legal turns than a lawyers’ car rally’, and many underhand tactics, see Broome, *Aboriginal*, pp. 249-253. Bell made an analysis of the case in her *Ngarrindjeri Wurruwarrin: A World That Is, Was and Will Be* (Melbourne: Spinifex Press, 1998) (see also her “The Word of a Woman: Ngarrindjeri Stories and a Bridge to Hindmarsh Island” in Brock, Peggy, ed., *Words and Silences: Aboriginal Women, Politics and Land* (Crows Nest: Allen & Unwin, 2001), 117-138, 181-183). Bell’s analysis is contested in Kimber, Richard, “Diane Bell, the Ngarrindjeri and the Hindmarsh Island Affair: ‘Value-free’ ethnography”, *Aboriginal History* 21 (1997), 202-232, who finds the book ‘severely flawed’ (p. 232). Kimber makes lots of detailed criticisms, but he is also concerned that Bell’s feminist stance is not value-free, to the point of ignoring difficult evidence (e.g. pp. 217; 227); of importing concepts from native Americans (e.g. pp. 206; 213; 231); and even been instrumental in telling the women some things they did not know (e.g. pp. 220f), to the point that reasonably knowledgeable readers will ‘be likely to feel ... that they’ve occasionally been misled’ (p. 217). The final twist and turns of the case happened after the publication of the book. Justice John von Doussa of the Federal court ruled that the women’s knowledge was not fabricated, although by then, the bridge had been built. Broome, *Aboriginal*, p. 253, writes,

[w]hat is clear is that this disagreement was manipulated in a battle over the development at Goolwa and those who wished to discredit Aboriginal custodial claims in native title deliberations. This affair also revealed the continuing gap

between European and Aboriginal systems of knowledge and belief, and the politics and manipulations that flourish in that gap. The media gave the issue plenty of space. The public, who were bewildered by the conflicting claims of the women, anthropologists, politicians and inquiries, probably followed their existing prejudices. Those sympathetic to the Aboriginal cause believed the secrets were true, while those who were unsympathetic believed it was a case of mere fabrications preventing legitimate development. Despite the recent vindication of von Doussa's decision in the compensation case, Aboriginal cultural claims across the country have been harmed by the case.

³⁵ Quoted in Atkinson, "Reflections", p. 6.

³⁶ E.g. Olive, *Karijini*, p. 77, records an account by Peter Stevens:

At Bimbanha Springs, between the pipeline between Tom Price and Marandoo, you can see that the water is just about finished. There have been a lot of cattle there. It is now dirty when once it was always running. It has stopped running now. This is on Hammersley Station. And Bimbanha never used to go dry, that was the old people's main camp. Now it's dry, finished. There's lots of carvings there, too. It is an important place. You can see where they used to grind them seeds all over the place.

Those carvings can tell you many stories. They can tell you what food is in that area, and what you can eat in that land. The same things happened down not far from the Channar mine near Paraburdoo. The mud springs there was a permanent source of water. It is now finished, all dry. There was also a night spring there which would run every night; it's finished, too.

These two springs have gone dry since the Channar mine started operations. The mining is sucking all of the water from these natural springs. The springs were never properly protected from the cattle and this made the springs dirty. But the cattle will be finished now it's dry, because there is no water.

³⁷ Olive, *Karijini*, p. 77. Also, Rose recalls stopping at the side of a road in 1986 to film some of the most spectacular erosion in the Victoria River District. She asked her Aboriginal teacher/friend, Daly Pulkara, what he called that country. He said, "It's the wild. Just the wild." "He then went on to speak of quiet country – the country in which all the care of generations of his people is evident to those who know how to see it. Quiet country stands in contrast to the wild: we were looking at a wilderness, man-made and cattle-made. This wild was a place where the life of the country was falling down into the gullies and washing away with the rain" (Rose, "Sacred", p.117). Quiet country was the result of the organisational 'management' of the land by his ancestors. Daly said that the damage in wild country was killing both life and time, "We'll run out of history," he said, "because *kartiya* [Europeans] fuck the Law up and [they're] knocking all the power out of this country" (Rose, "Sacred", p. 118). See further Rose, Deborah, *Reports from a Wild Country: Ethics for Decolonisation* (Sydney: University of New South Wales Press, 2004), especially chapter 4, "Cattle Kings and Sacred Cows".

³⁸ Besides sheep and cattle, some famous examples include rabbits, cane toads, water buffalo, and mimosa pigra (Rose, *Country*, pp. 127-132).

³⁹ Nesbitt, Brad; Baker, Lynn; Copley, Peter; Young, Frank; and Anangu Pitjantjatjara Land Management, "Cooperative Cross-cultural Biological Surveys in Resource Management: Experiences in the Anangu Pitjantjatjara Lands" in Baker, Richard; Davies, Jocelyn; and Young, Elspeth, eds., *Working on Country: Contemporary Indigenous Management of Australia's Lands and Coastal Regions* (Melbourne: Oxford University Press, 2001), 187-198; and "The Role of Traditional Ecological Knowledge

and Skills in ‘Modern’ Aboriginal Land Management and Education” in Walsh, Fiona and Mitchell, Paul, eds., *Planning for Country: Cross-Cultural Approaches to Decision-Making on Aboriginal Lands* (Alice Springs: Jukurrpa Press, 2002), 142-147, give examples of the importance of using of both Aboriginal and non-Aboriginal knowledge in wildlife management.

⁴⁰ Tehan, Maureen, “A Hope Disillusioned, An Opportunity Lost? Reflections on Common Law Native Title and Ten Years of the *Native Title Act*”, *Melbourne University Law Review* 27/2 (2003), 523-571, p. 524.

⁴¹ Read, *Belonging*. See also Hinkson, Melinda, “Exploring ‘Aboriginal’ Sites in Sydney: A Shifting Politics of Place?”, *Aboriginal History* 26 (2002), 62-77, which makes a similar observation. Baker, Richard; Davies, Jocelyn; and Young, Elspeth, “Managing Country: An Overview of the Prime Issues” in Baker, Richard; Davies, Jocelyn; and Young, Elspeth, eds., *Working on Country: Contemporary Indigenous Management of Australia’s Lands and Coastal Regions* (Melbourne: Oxford University Press, 2001), 3-23, p. 14, write, ‘for a high proportion of indigenous people, the opportunities to look after country are very limited – their country has largely been alienated and it is likely that they have been physically excluded even from visiting it. Under such circumstances it is astonishing that indigenous residents of major cities like Sydney or Melbourne have retained so much knowledge of where their country is and strong feelings about the need to look after it.’ Related to this is the long memory of genealogies (Feary, Sue, “Moving Towards Joint Management in New South Wales: A Jervis Bay Case Study” in Baker, Richard; Davies, Jocelyn; and Young, Elspeth, eds., *Working on Country: Contemporary Indigenous Management of Australia’s Lands and Coastal Regions* (Melbourne: Oxford University Press, 2001), 276-294, p. 288).

⁴² Section 6.3 will discuss the Mawul Rom project, teaching people about reconciliation from a Yolngu perspective.

⁴³ This narrative bears the marks of heavy revision by Pat McIntyre, for which I am extremely grateful.

⁴⁴ *Milirrpum and Others v Nabalco Pty. Ltd. and the Commonwealth of Australia* (1971) 17 FLR 141, 167, 168, 170, 171, 272, 273.

⁴⁵ He had opposed the *Aboriginal Land Rights (Northern Territory) Act 1976* when a member of the Frazer government.

⁴⁶ *The Wik Peoples v Queensland and Others ; The Thayorre People v Queensland and Others* (1996) 187 CLR 1

⁴⁷ This event has entered Australian folklore, but I have yet to track down a definitive reference to it.

⁴⁸ Joe McIntyre, personal communication.

⁴⁹ Langton, Marcia, “Medicine Square” in Keen, Ian, ed., *Being Black: Aboriginal Cultures in ‘Settled’ Australia* (Canberra: Aboriginal Studies Press, 1988), 201-225, p. 218. Scott, *Domination*, is interesting on the existence of lived counter-narratives in the face of dominant systems.

⁵⁰ This section is largely taken Harris, John, *One Blood: Two Hundred Years of Aboriginal Encounter with Christianity: A Story of Hope* (Sutherland: Albatross Books, 1990), which has a fuller discussion of the history, as compared with other sources, such as Perkins and Langton, *First*, p. 349, and the webpage (as at 22.12.09): <http://www.foundingdocs.gov.au/item.asp?did=104>, which has images of the petition and some discussion of the history and significance of the document.

⁵¹ Note that the ‘Overseas’ mission board was operating in Australia.

⁵² The agreement was made between Roger Nott on behalf of the government, and the Revd. Cecil Gribble, General Secretary of the Methodist Overseas Mission, and the

Revd Gordon Symons, chairman of northern Australia district, previously superintendent of Yirrkala.

⁵³ Recall the Geoff Pryor cartoon (Figure 1-2).

⁵⁴ This was not the first petition from First peoples. For example, the First peoples on Flinders Island petitioned Queen Victoria in February 1846, the petition arriving in March 1847 (Reynolds, *Fate*, pp. 7-14).

⁵⁵ The English version of the text is as follows:

TO THE HONOURABLE THE SPEAKER AND MEMBERS OF THE HOUSE OF REPRESENTATIVES IN PARLIAMENT ASSEMBLED:

The Humble Petition of the Undersigned Aboriginal people of Yirrkala, being members of the Balamumu, Narrkala, Gapiny, and Miliwurrwurr people and Djapu, Mangalili, Madarra, Magarrwanalinirri, Gumaitj, Djambarrpuynu, Marrakulu, Galpu, Dhalnayu, Wangurri, Warramirri, Maymil, Rirritjinu, tribes, respectfully showeth –

1. That nearly 500 people of the above tribes are residents of the land excised from the Aboriginal Reserve in Arnhem Land.
2. That the procedures of the excision of this land and the fate of the people on it were never explained to them beforehand, and were kept secret from them.
3. That when Welfare Officers and Government officials came to inform them of decisions taken without them and against them, they did not undertake to convey to the Government in Canberra the views and feelings of the Yirrkala Aboriginal people.
4. That the land in question has been hunting and food gathering land for the Yirrkala tribes from time immemorial; we were all born here.
5. That places sacred to the Yirrkala people, as well as vital to their livelihood are in the excised land, especially Melville Bay.
6. That the people of this area fear that their needs and interests will be completely ignored as they have been ignored in the past, and they fear that the fate which has overtaken the Larrakkia tribe will overtake them.
7. And they humbly pray that the Honourable the House of Representatives will appoint a Committee, accompanied by competent interpreters, to hear the views of the Yirrkala people before permitting the excision of this land.
8. They humbly pray that no arrangements be entered into with any company which will destroy the livelihood and independence of the Yirrkala people.

And your petitioners as in duty bound will ever pray God to help you and us.

⁵⁶ These images © the Yirrkala Community and the House of Representatives of the Australian Commonwealth Government. Original document of the House of Representatives, Australian Parliament House. These images are subject Copyright and may not be used or reproduced without permission from the Parliament House Art Collection. Used here with permission. When I visited in May 2005, the original petition was on display in a glass case in the Parliament building in Canberra.

⁵⁷ Morphy “Now”, p. 115.

⁵⁸ In contrast, Gribble was awarded an OBE for work for the advancement of Aboriginal people of Australia, and later Symons received the same award.

⁵⁹ Not all Mission Societies behaved like the Methodist Overseas Mission did in this case. For example, Church of England CMS missionaries were wise in working in the system when they negotiated a mineral exploration licence for Groote Eylandt on behalf of its Aboriginal owners. When BHP wanted to mine the island, they were forced to

negotiate with the Aboriginal inhabitants. See Harris, *One*, pp. 848-850 for further details.

⁶⁰ This is also discussed earlier, in Section 3.3.

⁶¹ Gumbert, *Neither*, p. 22; Broome, *Aboriginal*, p. 145.

⁶² As at 22.12.09, the text of this speech can be found on the web page:

<http://www.abc.net.au/rural/content/2007/s1883613.htm>.

⁶³ It can be seen, for example, in Perkins and Langton, *First*, p. 355, or on the web (as at 22.12.09):

<http://www.powerhousemuseum.com/collection/database/?irn=344580&img=1092>.

This web page records that the photograph was taken by Mervyn Bishop, the first Koori press photographer.

⁶⁴ See Section 1.3.2.2.4 for a discussion of Reconciliation Place.

⁶⁵ I am using the conventions for citing legal material as set out in the Second Edition of the *Australian Guide to Legal Citation* (Melbourne: Melbourne University Law Review Association Inc, 2002).

⁶⁶ I have been greatly helped in understanding these principles through my discussions with Pat McIntyre and Joe McIntyre, and in reading Chapters 1-3 and 6 of Hepburn, Samantha, *Principles of Property Law* (Coogee: Routledge Cavendish, 2006, 3rd edition), not to mention reading the judgements themselves.

⁶⁷ Quotation marks are used here to emphasise that this is the value-judgement of those who made it, rather than a statement of fact. It is hard to think of any society that deserves the pejorative adjective, 'primitive'.

⁶⁸ See, e.g., *Milirrpum* (1971) 17 FLR 141, 201.

⁶⁹ In fact, the thinking was turned on its head, so that the European nations not only had a *right* but also an *obligation* to occupy such countries, because the indigenous populations had failed in their responsibility to make the land productive (Duchrow, Ulrich and Hinkelammert, Franz J, *Property for People, Not for Profit: Alternatives to the Global Tyranny of Capital* (Geneva: World Council of Churches, 2004), chapter 3).

⁷⁰ *Milirrpum* (1971) 17 FLR 141, 200.

⁷¹ There is some debate about exactly when this happened – with the proclamation made by Captain Cook, or with the decision to send people to Australia, or when Captain Phillip read the proclamation after he landed – but this has had no effect on the development of non-Indigenous law (see, e.g. *Mabo and Others v State of Queensland (No 2)* (1992) 175 CLR 1, 77, 78 (Deane and Gaudron JJ)).

⁷² This was established in *Cooper v Stuart* (1880) 14 App. Cas. 286 (*Milirrpum* (1971) 17 FLR 141, 242).

⁷³ Hepburn, *Property*, p. 3. Cf. *Milirrpum* (1971) 17 FLR 141, 272.

⁷⁴ Hepburn, *Property*, chapter 2.

⁷⁵ Hepburn, *Property*, p. 34.

⁷⁶ *Milirrpum* (1971) 17 FLR 141, 244.

⁷⁷ I recognise that this is a value judgement by a legal lay person, but it seems to me that Brennan J was willing the plaintiffs to convince him that the Yolngu had a proprietary interest in the land in question.

⁷⁸ *Milirrpum* (1971) 17 FLR 141, 167, 168, 170, 171, 272, 273.

⁷⁹ *Milirrpum* (1971) 17 FLR 141, 167.

⁸⁰ *Milirrpum* (1971) 17 FLR 141, 244, 245. See further, e.g., Merlan, Francesca, "The Regimentation of Customary Practice: From Northern Territory Land Claims to Mabo", *The Australian Journal of Anthropology* 6/1&2 (1995), 64-82, p. 65; Ritter, David, "The "Rejection of Terra Nullius" in *Mabo*: A Critical Analysis", *Sydney Law Review* 18/1 (1996), 5-33, p. 14.

⁸¹ Bartlett, *Native*, pp. 10-13; Chaney, Fred, “Developments in Australia: Native Title and Reconciliation”, Paper delivered to the Canadian Aboriginal Minerals Association Conference: *Certainty Through Partnership: Aboriginal Community and Resource Sector Development*, Yellowknife, Canada, 26th October, 2004, available on web page (as at 17.4.06):

<http://www.nntt.gov.au/metacard/files/Developments/Developments%20in%20Australia%20Native%20Title%20and%20Reconciliation.pdf>, p. 8.

⁸² Pat McIntyre, personal communication.

⁸³ *Milirrpum* (1971) 17 FLR 141, 267, 268.

⁸⁴ Williams, *The Yolngu*, p. 159. The Yolngu believed that if they showed the court the emblems of their ownership, then the court would understand that the land was theirs (Sharp, Nonie, *No Ordinary Judgment* (Canberra: Aboriginal Studies Press, 1996), p. 71), but Stanner had already warned them that this was unlikely to be the case (Stanner, W E H, Sharp, Nonie, *No Ordinary Judgment* (Canberra: Aboriginal Studies Press, 1996), pp. 278f).

⁸⁵ Brennan J acknowledged the privilege of being shown these objects (*Milirrpum* (1971) 17 FLR 141, 167).

⁸⁶ McIntosh, *Aboriginal*, pp. 67-71.

⁸⁷ Williams, *The Yolngu*, p. 159. On p. 7 of her book, she states that ‘I also argue that the facts I set out, which include some unknown or incompletely understood by non-Aborigines at the time of the Yirrkala land case, and a reinterpretation of certain others demonstrate that the Yolngu system of land tenure both defines and regulates proprietary interests in land and that the Yolngu clans’ claim of continuous occupancy in that case was correct, although not as stated.’ See also her “Yolngu”.

⁸⁸ Gumbert, *Neither*, pp. 78-81, 93-95.

⁸⁹ Pat McIntyre, personal communication.

⁹⁰ Pat McIntyre, personal communication.

⁹¹ McIntosh, *Aboriginal*, p. 126.

⁹² Gumbert, *Neither*, p. 93.

⁹³ Quoted in Gumbert, *Neither*, p. 93.

⁹⁴ Under non-Indigenous law, the Crown holds all mineral rights, whereas under Aboriginal law, ownership included rights over mineral use. It is beyond the scope of this thesis to make a detailed examination of the consequences of the legislation concerning the mining on land for which First people were granted title under the *ALRA*, beyond noting that it often placed a large burden on the Aboriginal communities. For those interested in reading further on this important subject, McIntosh, *Aboriginal*, pp. 111-121, has an exploration of some of the pressures put on Indigenous communities in dealing with approaches from mining companies under provisions of the Act. For a deeper analysis of what happened, see Kauffman, Paul, *Wik, Mining and Aborigines* (Sydney: Allen & Unwin, 1998), pp. 13-27; Langton, Marcia, “A National Strategy to Deal with Exploration and Mining In or Near Aboriginal Land” in Peterson, Nicolas and Langton, Marcia, eds., *Aborigines, Land and Land Rights* (Canberra: Australian Institute of Aboriginal Studies, 1983), 385-402; O’Faircheallaigh, Ciaran, *A New Approach to Policy Evaluation: Mining and Indigenous Peoples* (Aldershot: Ashgate, 2002); O’Faircheallaigh, Ciaran, “Evaluating Agreements between Indigenous Peoples and Resource Developers” in Langton, Marcia; Tehan, Maureen; Palmer, Lisa; and Shain, Kathryn, eds., *Honour Among Nations?: Treaties and Agreements with Indigenous People* (Melbourne: Melbourne University Press, 2004), 303-328; and Vachon, Daniel, and Toyne, Phillip, “Mining and the Challenge of Land Rights” in Peterson, Nicolas and Langton, Marcia, eds., *Aborigines, Land and Land Rights* (Canberra: Australian Institute of Aboriginal Studies, 1983), 307-326.

⁹⁵ Williams, *The Yolngu*, p. 7, says that this definition was a result of the Yolngu simplification of their land tenure system in the *Milirrpum* case, whilst Gumbert, *Neither*, p. 95, claims that it was because Woodward based his definition on the anthropological advice of Berndt, rather than the Yolngu themselves.

⁹⁶ Gumbert, *Neither*, p. 95

⁹⁷ McKenna, *Looking*, p. 67, gives the following example of the injustice of focusing on 'traditional Aboriginal owners': The strategy of settlers was to say that Aboriginals were disappearing, only counting full-blooded Aboriginals. Moreover, they only counted those who were from that area originally, ignoring those who had moved in from elsewhere. This continues today, only allowing land claims to descendents of (local) 'traditional' people. 'This strategy is unjust because of the way in which Aboriginal people were removed from their lands, and because it ignores the various ways in which they have belonged to 'country' – through their mother, father, conception, birth, death, burial, totemic connection, succession and conquest. Aboriginal people in Eden-Monaro in the mid-nineteenth century lost their land to the squatters, and many lost their indigeneity as well, at least in the eyes of settler culture. In 1903, the only newspaper in Eden explained the disappearance of Aboriginal people from Twofold Bay:

[Long ago] a strong race of Aboriginals lived and fought and hunted along and around the shores of Twofold Bay. They exist no longer, not one of them; for with the exception of a few of a newer race who visit Eden during the whaling season, all are dead and gone. The last buried here was poor old Brierly, called, probably after Mr. Brierly the painter; and it is quite pathetic to hear of the old man's last request to be placed alongside his father in the Aboriginal burial ground at East Boyd.

Despite the fact that Aboriginal people were in 1903 living and working around Eden, they were now described as a 'newer race' who had forfeited any claim to being indigenous. Instead, 'old Brierly' became Eden's Truganini, the last of his 'race', and the presence of Aboriginal people could be erased.'

⁹⁸ This is the primary criticism raised by Gumbert, *Neither*, who argues, rightly, that land tenure organisation is much more complex. See the discussion of land tenure in Section 5.1 above.

⁹⁹ Jones, Jilpia Nappaljari, "We may have the Spirit, but do men have all the land? Women and Native Title", *National Native Title Conference*, Coffs Harbour, 1st-3rd June, 2005, available on the web page (as at 17.4.06):

<http://ntru.aiatsis.gov.au/conf2005/papers/JonesJ.pdf>; Rose, Deborah, "Women and Land Claims", *Land Rights, Laws: Issues of Native title*, 1995, Issues Paper No 6, AIATSIS (available as at 6.3.09:

http://ntru.aiatsis.gov.au/publications/issue_papers.html).

¹⁰⁰ Land councils organised within European male paradigms and inevitably privileged men's knowledge and participation. 'Aboriginal women were, and continue to be, active in meetings about community affairs, but the Land Council's agenda was about ceremonial and often sacred knowledge about land which, in Aboriginal society, is sex-segregated knowledge' (Johnson, Louise with Huggins, Jackie and Jacobs, Jane, *Placebound: Australian Feminist Geographies* (Melbourne: Oxford University Press, 2000), especially chapter 5, "Postcolonial Feminist Geographies", p. 172).

¹⁰¹ Edmunds, "Conflict", p. 3.

¹⁰² E.g., see Merlan, "The Regimentation", for a discussion of a claim for land around Katherine.

¹⁰³ Rowell, Meredith, “Women and Land Claims in the Northern Territory” in Peterson, Nicolas and Langton, Marcia, eds., *Aborigines, Land and Land Rights* (Canberra: Australian Institute of Aboriginal Studies, 1983), 256-267.

¹⁰⁴ Warlpiri and Kartangarurru-Kurintji, Alyawarra and Katitja, Uluru National Park and Lake Amadeus/Luritja, Yingawunarri (Old Top Springs) Mudbara, Anmatjirra and Alyawarra claim to the Utopia Pastoral Lease, Lander Warlpiri and Anmagjirra claim to Willowra Pastoral Lease.

¹⁰⁵ Neate, Graeme, *Aboriginal Land Rights Law in the Northern Territory Volume 1* (Chipendale: Alternative Publishing Co-operative Ltd, 1989), pp. 82, 87, 89-91.

¹⁰⁶ Maddison, *Black*, p. 65.

¹⁰⁷ Neate, Graeme, “Review of the Northern Territory Land Rights Act”, *Indigenous Law Bulletin* 4/15 (1988), available on the web page (as at 17.4.06):

<http://www.austlii.edu.au/au/journals/ILB/1998/71.html>.

¹⁰⁸ Reeves, J, *Building on Land Rights for the Next Generation: Report of the Review of the Aboriginal Land Rights (Northern Territory) Act 1976* (Canberra: Australian Government Publishing Service, 1998), summarised in Neate, “Review”. See also Altman, Jon, “Economic Development of the Indigenous Economy and the Potential Leverage of Native Title” in Keon-Cohen, Bryan, ed., *Native Title in the New Millennium* (Canberra: Aboriginal Studies Press, 2001), 105-115, p. 107.

¹⁰⁹ Maddison, *Black*, pp. 65f, quotes Mick Dodson as saying, ‘I mean, it’s enormously important to people in terms of acknowledgement and recognition, the spiritual and cultural aspects of it. But as a commercial vehicle, it’s virtually useless because the traditional owners, the native title holders, don’t have any real property rights. There is no property in the natural resources, all the property in that is held by the government who flog it off to developers of all sorts, particularly the mining industry. And the original owners of that property, they get very little from it.’

¹¹⁰ *The Mabo (2)* 175 CLR 1 judgement can also be found on-line (as at 20.4.10): <http://www.austlii.edu.au/au/cases/cth/HCA/1992/23.html>.

¹¹¹ Flo Kennedy, quoted in Sharp, *No*, p. 29

¹¹² Reynolds, *The Law*, pp. 185f

¹¹³ Stanner, “The Yirrkala”, p. 11

¹¹⁴ Stanner, “The Yirrkala”, p. 12

¹¹⁵ Sharp, *No*, p. 38. Sharp has paraphrased Daly’s words from Yarra Bank Films, 1990.

¹¹⁶ Bartlett, *Native*, pp. 15-21; Sharp, *No*, pp. 46-48; Young, “Into”

¹¹⁷ Young, Doug, Briggs, John, and Denholder, Anthony, “Into the Fray Again: Native Title and the Racial Discrimination Act” in Hiley QC, Graham, ed., *The Wik Case: Issues and Implications* (Sydney: Butterworths, 1997), 57-62, gives the key reason for this. State legislation which conflicts with the *Racial Discrimination Act 1975 (RDA)* will be invalid to the extent of any inconsistency by virtue of s 109 of the Australian Constitution. The key provision of the *RDA* that came into operation on 31st October, 1975, for this case was s 10(1):

If, by reason of, or of a provision of, a law of the Commonwealth or of a State or Territory, persons of a particular race, colour or national or ethnic origin do not enjoy a right that is enjoyed by persons of another race, colour or national or ethnic origin, or enjoy a right to a more limited extent than persons of another race, colour or national or ethnic origin, then, notwithstanding anything in that law, persons of the first-mentioned race, colour or national or ethnic origin shall, by force of this section, enjoy that right to the same extent as persons of that other race, colour or national or ethnic origin.

The section guarantees equality before the law when that right is otherwise denied by the Commonwealth or States or Territory. Rights included the 'right to own property alone as well as in association with others' and the 'right to inherit'. (*International Convention on the Elimination of All Forms of Racial Discrimination*, Articles 5(d) (v), (vii)). The High Court said that this right to own and inherit property includes immunity from the arbitrary deprivation of property. *Mabo (1)* therefore said that Queensland Act was inconsistent with the *RDA* because it discriminated on the basis of race in respect to the human right to own and inherit property because the native title rights which it sought to extinguish were only held by indigenous people. (Cf. Bartlett, *Native*, p. 17.)

¹¹⁸ *Mabo (2)* (1992) 175 CLR 1, 15.

¹¹⁹ *Mabo (2)* 175 CLR 1, 29 (Brennan J):

Australian law is not only the historical successor of, but is an organic development from, the law of England. Although our law is the prisoner of its history, it is not now bound by decisions of courts in the hierarchy of an Empire then concerned with the development of its colonies. It is not immaterial to the resolution of the present problem that, since the *Australia Act 1986* (Cth) came into operation, the law of this country is entirely free of Imperial control. The law which governs Australia is Australian law. ... Increasingly since 1968 ... the common law of Australia has been substantially in the hands of this Court. Here rests the ultimate responsibility of declaring the law of the nation.

¹²⁰ *Mabo (2)* 175 CLR 1, 58 (Brennan J).

¹²¹ This was recognised by Blackburn J in *Milirrpum* (1971) 17 FLR 141, 267, 268, as discussed in Section 5.3.3, above.

¹²² *Mabo (2)* 175 CLR 1, 29 (Brennan J):

In discharging its duty to declare the common law of Australia, this Court is not free to adopt rules that accord with contemporary notions of justice and human rights if their adoption would fracture the skeleton of principle which gives the body of our law its shape and internal consistency.

Mabo (2) 175 CLR 1, 43 (Brennan J):

However, recognition by our common law of the rights and interests in land of the indigenous inhabitants of a settled colony would be precluded if the recognition were to fracture a skeletal principle of our legal system. The proposition that the Crown became the beneficial owner of all colonial land on first settlement has been supported by more than a disregard of indigenous rights and interests. It is necessary to consider these other reasons for past disregard of indigenous rights and interests and then to return to a consideration of the question whether and in what way our contemporary common law recognizes such rights and interests in land.

¹²³ *Mabo (2)* 175 CLR 1, 48 (Brennan J):

By attributing to the Crown a radical title to all land within a territory over which the Crown has assumed sovereignty, the common law enabled the Crown, in exercise of its sovereign power, to grant an interest in land to be held of the Crown or to acquire land for the Crown's demesne. The notion of radical title enabled the Crown to become Paramount Lord of all who hold a tenure granted by the Crown and to become absolute beneficial owner of unalienated land required for the Crown's purposes. But it is not a corollary of the Crown's acquisition of a radical title to land in an occupied territory that the Crown acquired absolute beneficial ownership of that land to the exclusion of the indigenous inhabitants. If the land were desert and uninhabited, truly a terra nullius, the Crown would take an absolute beneficial title (an allodial title) to the land ... there would be no other proprietor. But if the land were occupied by the

indigenous inhabitants and their rights and interests in the land are recognized by the common law, the radical title which is acquired with the acquisition of sovereignty cannot itself be taken to confer an absolute beneficial title to the occupied land. Nor is it necessary to the structure of our legal system to refuse recognition to the rights and interests in land of the indigenous inhabitants. The doctrine of tenure applies to every Crown grant of an interest in land, but not to rights and interests which do not owe their existence to a Crown grant. The English legal system accommodated the recognition of rights and interests derived from occupation of land in a territory over which sovereignty was acquired by conquest without the necessity of a Crown grant.

Mabo (2) 175 CLR 1, 50,51 (Brennan J):

Recognition of the radical title of the Crown is quite consistent with recognition of native title to land, for the radical title, without more, is merely a logical postulate required to support the doctrine of tenure (when the Crown has exercised its sovereign power to grant an interest in land) and to support the plenary title of the Crown (when the Crown has exercised its sovereign power to appropriate to itself ownership of parcels of land within the Crown's territory). Unless the sovereign power is exercised in one or other of those ways, there is no reason why land within the Crown's territory should not continue to be subject to native title. It is only the fallacy of equating sovereignty and beneficial ownership of land that gives rise to the notion that native title is extinguished by the acquisition of sovereignty.

¹²⁴ *Mabo (2)* 175 CLR 1, 40, 42 (Brennan J):

The theory that the indigenous inhabitants of a “settled” colony had no proprietary interest in the land thus depended on a discriminatory denigration of indigenous inhabitants, their social organization and customs. As the basis of the theory is false in fact and unacceptable in our society, there is a choice of legal principle to be made in the present case. This Court can either apply the existing authorities and proceed to inquire whether the Meriam people are higher “in the scale of social organization” than the Australian Aborigines whose claims were “utterly disregarded” by the existing authorities or the Court can overrule the existing authorities, discarding the distinction between inhabited colonies that were terra nullius and those which were not. . . . The fiction by which the rights and interests of indigenous inhabitants in land were treated as non-existent was justified by a policy which has no place in the contemporary law of this country. . . . Whatever the justification advanced in earlier days for refusing to recognize the rights and interests in land of the indigenous inhabitants of settled colonies, an unjust and discriminatory doctrine of that kind can no longer be accepted. The expectations of the international community accord in this respect with the contemporary values of the Australian people.

(Cf. *Mabo (2)* 175 CLR 1, 58 (Brennan J).)

¹²⁵ *Mabo (2)* 175 CLR 1, 58 (Brennan J):

The dispossession of the indigenous inhabitants of Australia was not worked by a transfer of beneficial ownership when sovereignty was acquired by the Crown, but by the recurrent exercise of a paramount power to exclude the indigenous inhabitants from their traditional lands as colonial settlement expanded and land was granted to the colonists. Dispossession is attributable not to a failure of native title to survive the acquisition of sovereignty, but to its subsequent extinction by a paramount power.

Mabo (2) 175 CLR 1, 69. (Brennan J):

Where the Crown has validly alienated land by granting an interest that is wholly or partially inconsistent with a continuing right to enjoy native title, native title is extinguished to the extent of the inconsistency. Thus native title has been extinguished by grants of estates of freehold or of leases but not necessarily by the grant of lesser interests (e.g., authorities to prospect for minerals).

The extinguishment of native title is discussed further in *Mabo (2)* 175 CLR 1, 63-69 (Brennan J).

¹²⁶ *Mabo (No 2)* (1992) 175 CLR 1, 89 (Deane and Gaudron JJ) (Cf. *Mabo (2)* 175 CLR 1, 63-133 (Dawson J)); Neate “Turning”, p. 8. Tehan, “A Hope”, pp. 534f, writes, [t]he title was outside the common law’s tenurial system, but it encompassed rights that were recognised and protected by the common law, although those rights were not part of the common law itself. In fact, the title was said to be *sui generis* and the precise nature of the title and where it sat within the broader property system was unclear. Was it proprietary or was it merely a usufructuary right? Was it a right to exclusive occupation or was it a lesser right and, if so, what did that right conceptually entail?

These were resolved in a particular way by the *Native Title Act 1993*, and several key decisions, including *Ward* and *Yorta Yorta*, discussed below (Sections 5.3.6-5.3.9).

¹²⁷ *Mabo (2)* 175 CLR 1, 76 (Brennan J).

¹²⁸ *Mabo (2)* 175 CLR 1, 142, 145 (Dawson J):

Therefore the policy of the Imperial Government during this period is clear: whilst the aboriginal inhabitants were not to be ill-treated, settlement was not to be impeded by any claim which those inhabitants might seek to exert over the land. Settlement expanded rapidly, and the selection and occupation of the land by settlers were regulated by the Governors in a way that was intended to be comprehensive and complete and was simply inconsistent with the existence of any native interests in the land. ... There may not be a great deal to be proud of in this history of events. But a dispassionate appraisal of what occurred is essential to the determination of the legal consequences. ... The policy which lay behind the legal regime was determined politically and, however insensitive the politics may now seem to have been, a change in view does not of itself mean a change in the law. It requires the implementation of a new policy to do that and that is a matter for government rather than the courts. In the meantime, it would be wrong to attempt to revise history or to fail to recognize its legal impact, however unpalatable it may now seem. To do so would be to impugn the foundations of the very legal system under which this case must be decided.

¹²⁹ Tehan, “A Hope”, pp. 526f, has a helpful discussion of the types of response, and further pointers into the literature.

¹³⁰ Gibbs, in his Foreword to Stephenson, M.A. and Ratnapala, Suri, eds., *Mabo: A Judicial Revolution* (St Lucia: University of Queensland Press, 1993), p. xiii, summarises well the sorts of questions that were being asked:

Did the Court carry judicial activism too far in departing from principles that were thought to have been settled for well over a century, on the ground that those principles were contrary to international standards and the fundamental values of the common law? In doing so, the Court applied what some of its members perceived to be current values and the further question arises whether in fact those values are widely accepted in the community and whether, assuming they are, it is right to apply contemporary standards to overturn rules formulated at a time when community values were not necessarily the same.

¹³¹ See Section 5.3.3, above. Cf. Goodall, Heather, “‘The Whole Truth and Nothing But ...’: Some Interactions of Western Law, Aboriginal History and Community Memory” in Attwood, Bain and Arnold, John, eds, *Power, Knowledge and Aborigines* (Victoria: La Trobe University Press, 1992), 104-119, which discusses how the legal system failed to hear the truth of what the First peoples were saying in the inquiry into atomic tests in Australia.

¹³² Sharp, *No*, p. 74, writes that ‘evidence was not always presented in a form which the judge could understand, and this was not primarily a problem of language. For example, the mythical-religious idiom of many fundamental truths for the Meriam is one of metaphor and analogy, and hence not readily accessible to the literal mind.’

¹³³ Keon-Cohen, B.A., “Some Problems of Proof: The Admissibility of Traditional Evidence” in Stephenson, M.A. and Ratnapala, Suri, eds., *Mabo: A Judicial Revolution* (St Lucia: University of Queensland Press, 1993), 185-205, p. 200, n. 34.

¹³⁴ Sharp, *No*, pp. 76, 105-108, 112-114.

¹³⁵ Sharp, *No*, pp. 94f. See also her “Malo’s”.

¹³⁶ Sharp, *No*, pp. 139-144, 154.

¹³⁷ Broome, *Aboriginal*, p. 256; Foley et al, *A People’s*, pp. 101-105; Herbert, “Reconciliation”; Horstman, “Black”.

¹³⁸ Gunstone, Andrew, “The Responses of Australian Governments to Indigenous Challenges to the Australian State: 1967-2003”, *Journal of Australian Indigenous Issues* 6/2 (June, 2003), 3-25, p. 11; Jennett, Christine, “Aboriginal Affairs Policy” in Jennet, C, and Stewart, Randal G, *Hawke and Australian Public Policy: Consensus and Restructuring* (Melbourne: The Macmillian Company of Australia, 1990), 245-283, pp. 254-257.

¹³⁹ Merlan, “The Regimentation”, p. 65.

¹⁴⁰ *The Australian*, 17th October, 1992, p. 4.

¹⁴¹ Redfern is an inner-city area of Sydney, with a large population of First peoples.

¹⁴² Keating, Paul, “The Redfern Park Speech” in Grattan, Michelle, *Essays on Australian Reconciliation* (Melbourne: Black Inc, 2000), 60-64, p. 64.

¹⁴³ Tickner, *Taking*, p. 221; Bartlett, *Native*, p. 34; Ridgeway, Aden, “Mabo Ten Years On – Small Steps or Giant Leap” in McGlade, Hannah, ed., *Treaty: Let’s Get It Right! A Collection of Essays from ATSIC’s Treaty Think Tank and Authors Commissioned by AIATSIS on Treaty Issues* (Canberra: Aboriginal Studies Press, 2003), 185-197, 200-216, p. 186; Dodson, Mick, “Unfinished Business: A Shadow Across Our Relationships” in McGlade, Hannah, ed., *Treaty: Let’s Get It Right! A Collection of Essays from ATSIC’s Treaty Think Tank and Authors Commissioned by AIATSIS on Treaty Issues* (Canberra: Aboriginal Studies Press, 2003), 30-40, 200-216, pp. 39f.

¹⁴⁴ Robert Tickner was the Federal Minister for Aboriginal and Torres Strait Islander Affairs during this period, and he gives his personal account of this process, *Taking*, pp. 191-220 for the Act, and pp. 221-236 for the land fund. See also chapter 3, “Political and Legislative Responses to Mabo”, of Bartlett, *Native*, pp. 33-44.

¹⁴⁵ *The Australian*, 8th June, 1993.

¹⁴⁶ Bartlett, *Native*, pp. 35-39, summarises some of the types of opposition from the States, mining companies, and pastoralists, including saying that First people were ‘too primitive’ for it to be possible to make a treaty with them, calling them ‘stone-age’ people, and saying that unless *Mabo (2)* 175 CLR 1 was rescinded, Australians would revert to the Stone Age.

¹⁴⁷ Bartlett *Native*, p.39.

¹⁴⁸ *The West Australian*, 19th June, 1993; 21st June, 2003, p. 4; 24th June, 1993, p. 4. Bartlett, *Native*, p. 35, notes that ‘Western Australia is the principle jurisdiction in

Australia which has made no provision for rights to land for Aboriginal people. It is undoubtedly the jurisdiction in Australia most affected by *Mabo*.¹⁴⁹

¹⁴⁹ *The West Australian*, 20th July, 1993, p. 3.

¹⁵⁰ Cf. the perceptive observation of Ann Curthoys, “Mythologies” in Nile, Richard, ed., *The Australian Legend and Its Discontents* (Brisbane: University of Queensland Press, 2000), 11-41, pp. 13, 37:

Many non-indigenous Australians have difficulty in seeing themselves as the beneficiaries of the colonisation process because they, like so many others, from the United States to Canada to Israel and elsewhere, see themselves as victims, not oppressors ... [For the victim], the legacy of the colonial past is a continuing fear of illegitimacy.

¹⁵¹ Bartlett, *Native*, p. 39, quoting an October 1993 advertising leaflet from the Association of Mining and Exploration Companies.

¹⁵² *NTA 1993*, ss 11, 15; Bartlett, *Native Title*, p. 40.

¹⁵³ The National Native Title Tribunal has an excellent website, <http://www.nntt.gov.au>. It contains, for example, information about the process of making a native title claim, or making an indigenous land use agreement, or an agreement about a future act, the current status of negotiations about these issues, maps, and so on. They have also produced a video/DVD *Native Title Stories*.

¹⁵⁴ The provision for future acts allowed registered native title claimants and holders the ‘right to negotiate’ about use of the land for which they were claiming, or held native title.

¹⁵⁵ *Mediating Native Title Applications: A Guide to National Native Title Tribunal Practice*.

¹⁵⁶ As at 14.4.06, data about determinations of native title can be obtained from the web page: <http://www.nntt.gov.au/applications/determinations.html>.

¹⁵⁷ Personal communication in an interview on 28.5.05. This was confirmed in an interview with Jenny Macklin, the Federal Indigenous Affairs Minister, on 21st May, 2008: ‘Ms Macklin says it would take at least 30 years to resolve the backlog of outstanding claims under the current system and some of the burden should be removed from the courts’ (ABC Online, as at 2.4.09): <http://www.abc.net.au/news/stories/2008/05/21/2251850.htm>).

¹⁵⁸ National Native Title Tribunal, *Mediating*, p. 179.

¹⁵⁹ National Native Title Tribunal, *Mediating*, p. 73.

¹⁶⁰ Cf. Dodson, Mick, “Power and Cultural Difference in Native Title Mediation”, *Aboriginal Law Bulletin* 3/84 (September 1996), 8-11. A study of the experience of mediation from the perspective of mediators can be found in Williams, Rhiân, “Native Title Mediation Practice: The Commonalities, the Challenges, the Contradictions – A Survey of Native Title Mediators”, *AIATSIS Indigenous Facilitation and Mediation Project 3*, 2004. Available on web page (as at 6.4.09): <http://ntru.aiatsis.gov.au/ifamp/research/pdfs/report3ntmediationpractice.pdf>.

¹⁶¹ Bartlett, *Native*, p. 39.

¹⁶² Draft report of the Interdepartmental Committee of Officials, paragraph 33.

¹⁶³ Bartlett, *Native*, p. 39.

¹⁶⁴ *Wik* (1996) 187 CLR 1, 3. This was the judgement of Toohey, Gaudron, Gummow and Kirby JJ, with Brennan CJ, Dawson and McHugh JJ dissenting.

¹⁶⁵ See Section 5.3.3, above.

¹⁶⁶ Hiley, Graham, “Introduction” in Hiley QC, Graham, ed., *The Wik Case: Issues and Implications* (Sydney: Butterworths, 1997), 1-5, p. 1.

¹⁶⁷ *Wik* (1996) 187 CLR 1, 76 (Brennan CJ).

¹⁶⁸ *Wik* (1996) 187 CLR 1, 78 (Brennan CJ).

¹⁶⁹ *Wik* (1996) 187 CLR 1, 115-116 (Toohey J). *Wik* (1996) 187 CLR 1, 116 (Toohey J):

The point is that the rights and obligations of a person holding an interest under the legislation involved in the present appeals are not disposed of by nomenclature. A closer examination is required.

¹⁷⁰ *Wik* (1996) 187 CLR 1, 120 (Toohey J) notes that

it is unlikely that the intention of the legislature in authorising the grant of pastoral leases was to confer possession on the lessees to the exclusion of Aboriginal people even for their traditional rights of hunting and gathering. Nevertheless, "intention" in this context is not a reference to the state of mind of the Crown or of the Crown's officers who, for instance, made a grant of land. What is to be ascertained is the operation of the statute and the "intention" to be discerned from it

¹⁷¹ Bartlett, *Native*, pp. 46f; 49.

¹⁷² The research of Reynolds and others (Reynolds, Henry and Dalziel, Jamie, "Aborigines and Pastoral Leases – Imperial and Colonial Policy 1826-1855", *University of New South Wales Law Journal* 19/2 (1996), 315-377) was critical here, arguing that the instructions from Lord Grey concerning leases at the foundation of the colony of South Australia led to this interpretation. For example, *Wik* (1996) 187 CLR 1, 119 (Toohey J) quotes from Despatch No 24 Earl Grey to the Governor Sir Charles FitzRoy, 11 February 1848:

I think it essential that it should be generally understood that leases granted for this purpose give the grantees only an exclusive right of pasturage for their cattle, and of cultivating such Land as they may require within the large limits thus assigned to them, but that these Leases are not intended to deprive the Natives of their former right to hunt over these Districts, or to wander over them in search of subsistence, in the manner to which they have been heretofore accustomed, from the spontaneous produce of the soil except over land actually cultivated [or] fenced in for that purpose.

and in Despatch No 134 Earl Grey to Sir Charles FitzRoy, 6 August 1849, he reiterates that the intention was 'to give only the exclusive right of pasturage in the runs, not the exclusive occupation of the Land, as against Natives using it for the ordinary purposes.'

Reynolds' interpretation is not without its challengers, such as Fulcher, Jonathan, "Sui Generis History?: The Use of History in *Wik*" in Hiley QC, Graham, ed., *The Wik Case: Issues and Implications* (Sydney: Butterworths, 1997), 51-56, who argues, amongst other things, that Reynolds has misinterpreted the documents by reading them in the context of today rather than the context in which they were written.

¹⁷³ *Wik* (1996) 187 CLR 1, 122 (Toohey J).

¹⁷⁴ *Wik* (1996) 187 CLR 1, 122 (Toohey J).

¹⁷⁵ *Wik* (1996) 187 CLR 1, 154 (Gaudron J):

The strongest indication that a pastoral lease granted under the 1910 Act did not confer a right of exclusive possession is to be found in those provisions of the Act conferring rights on persons authorised in that behalf to enter upon land the subject of a pastoral lease to remove timber, stone, gravel, clay, guano or other material (s 199) denying the lessee the right to ringbark, cut or destroy trees (s 198) and also denying the lessee power to restrict authorised persons from cutting or removing timber or material within the holding (s 200). There is a similar indication in the provision permitting others to depasture stock if a stock

route or road passed through the holding (s 205). And, of course, there were the reservations in the Leases as required by the prescribed form of lease. In particular, there were the identical reservations in both Leases of "the right of any person duly authorised in that behalf ... *at all times* to go upon the said Land, or any part thereof, *for any purpose whatsoever*, or to make any survey, inspection, or examination of the same" (emphasis added).

¹⁷⁶ *Wik* (1996) 187 CLR 1, 130 (Toohey J). Cf. *Wik* (1996) 187 CLR 1, 154 (Gaudron J).

Moreover, the vastness of the areas which might be made the subject of pastoral leases and the fact that, inevitably, some of them would be remote from settled areas militate against any intention that they should confer a right of exclusive possession entitling pastoralists to drive native title holders from their traditional lands. Particularly is that so in a context where, in conformity with the prescribed form, the grants were expressed to be made "for pastoral purposes only".

¹⁷⁷ Bartlett, p. 47. *Wik* (1996) 187 CLR 1, 2-3 (Toohey, Gaudron, Gummow, Kirby JJ): The rights and obligations of the grantees of the pastoral leases in question depend upon the terms of the grant of the pastoral lease and upon the statute which authorised it. There was no necessary extinguishment of native title rights by reason of the grant of those pastoral leases. Whether there was extinguishment can only be determined by reference to such particular rights and interests as may be asserted and established. If inconsistency is held to exist between the rights and interests conferred by native title and the rights conferred under statutory grants, those rights and interests must yield, to that extent, to the rights of the grantees.

¹⁷⁸ *Wik* (1996) 187 CLR 1, 250 (Kirby J); cf. *Wik* (1996) 187 CLR 1, 132 (Toohey J).

¹⁷⁹ See, for example, Brennan, Frank, *The Wik Debate: Its Impact on Aborigines, Pastoralists and Miners* (Sydney: University of New South Wales Press, 1998); Byrne, David, "Sharing Country" in Research Institute for Humanities and Social Sciences, *Sharing Country: Land Rights, Human Rights, and Reconciliation After Wik – Proceedings of a Public Forum held at the University of Sydney on February 28, 1997* (The Research Institute for Humanities and Social Sciences, The University of Sydney, 1997), 101-114 the papers in Hiley QC, Graham, ed., *The Wik Case: Issues and Implications* (Sydney: Butterworths, 1997) (Hunter, Philip, "The Wik Decision: Unnecessary Extinguishment", 6-18; Bottoms, John, "Thayorre People v Queensland", 19-22; Smith, Paul Anthony, "Pastoral Leases and Native Title", 23-26; McIntyre, Greg, "How Wik Applies to Western Australia", 27-29; McDermott, Peter M, "Wik and Doctrine of Tenures: A Synopsis", 35-39; Love, Mark, "The Farmgate Effect", 40-44; Williamson, Simon, "Implications of the Wik Decision for the Minerals Industry", 45-50; Fulcher, "Sui"; Young et al, "Into").

¹⁸⁰ Bartlett, *Native*, p. 50 records that in 1994, the area of pastoral tenure was:

State or Territory	Per cent of state or territory	Area (square kilometres)
Western Australia	38	951 006
South Australia	42	413 210
New South Wales (perpetual)	41	325 880
Queensland	Term 54	927 844
	Perpetual 14	241 855
Northern Territory	51	682 205

Victoria, Tasmania, Australian Capital Territory	0	0
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¹⁸¹ Bartlett, *Native*, p. 50.

¹⁸² Spindler, Sid, “A Program for Practical Reconciliation”, *Dissent* 15 (Spring 2004), 55-57, p. 55; Tehan, Maureen, “Co-Existence of Interests in Land: A Dominant Feature of the Common Law”, *Land, Rights, Laws: Issues of Native Title* 1/12 (January, 1997), available on web page (as at 17.4.06): <http://ntru.aiatsis.gov.au/ntpapers/ntip12.pdf>. Cf. *Wik* (1996) 187 CLR 1, 102 (Toohey J):

In effect the Wik Peoples and the Thayorre People each argued for native title or aboriginal title, “co-existing” with the interests of the lessees. In the event of an inconsistency between the rights exercisable by a lessee and rights exercisable by the holders of native or aboriginal title, the appellants accepted that the former would prevail. While accepting the language of extinguishment, the appellants were disposed to argue in terms of restrictions on the enforceability of their rights.

¹⁸³ This phrase was used by the then Deputy Prime Minister, Tim Fischer, to describe the effect of the plan (ABC Television, ‘Interview with Tim Fischer by John Highfield on *Native Title Act Amendments*’, *World At Noon*, 4th September, 1997).

¹⁸⁴ Senator N. Minchin, *The Ten Point Plan: The Federal Government’s Response to the Wik Decision*, 1997; Bartlett, *Native*, pp. 52-64; Broome, *Aboriginal*, pp. 255-262, Butt, Peter and Eagleson, Robert, *Mabo, Wik & Native Title* (Sydney: The Federation Press, 2001, 4th edition), pp. 109-113; Tehan, “A Hope”, pp. 554f; Viner, Ian, “The Wik 10-Point Plan: A Plan for Racial Discrimination”, *Australian Rationalist* no. 45 (1997), 63-70.

¹⁸⁵ *The Ten Point Plan Explained*, Senator N Minchin, 1997, as summarised by Bartlett, *Native*, p. 54.

¹⁸⁶ Bartlett, *Native*, p. 55, writes, ‘[e]xamination of the substance of the *Native Title Amendment Act 1998* reveals that it is a substantial, complex, and *specific* disapplication of the protection of the *Racial Discrimination Act 1975* (Cth).’

¹⁸⁷ McGlade, Hannah, “‘Not Invited to the Negotiating Table’: The Native Title Amendment Act 1998 (Cth) and Indigenous Peoples Right to Political Participation and Self-Determination Under International Law”, *Balayi: Culture, Law and Colonialism* 1/1 (January 2000), 97-113, pp. 97-100. ATSIC collected some responses to native title developments. With the disbanding of ATSIC in 2005, its website has been archived, and the relevant web pages can be accessed through (at 15.4.06): http://pandora.nla.gov.au/pan/41037/20050516/www.atsic.gov.au/issues/land/native_title/Default.html.

¹⁸⁸ Brearly, David, and Nason, David, “The Long Division, What can Black and White Australia Expect to be Reconciled?”, *Weekend Australian* (24-25 October, 1998), p. 25, quoted in McGlade, “‘Not’”, p. 100.

¹⁸⁹ For example, Native Title Representative Bodies, the Aboriginal and Torres Strait Islander Commission, the Indigenous Land Corporation, the Aboriginal and Torres Strait Islander Social Justice Commissioner and the National Aboriginal and Islander Legal Services Secretariat met together for a series of workshops and formed the National Indigenous Working Group on Native Title (NIWG) to represent the wider group, with the mandate to develop a position on proposed amendments to the *NTA* and present this to government. During 1996, members of the NIWG attended meetings with industry groups convened by the Council for Aboriginal Reconciliation to seek an agreed position on the governments proposed amendments to the *NTA*. Unfortunately, no agreement was reached. Their position paper, *Coexistence - Negotiation and*

Certainty, can be found on the web page (as at 16.4.06):

<http://www.faira.org.au/niwg/coexistence.html>.

¹⁹⁰ Decision of the Committee on the Elimination of Racial Discrimination, 54th Session, CERD/C/54/Misc.40/Rev.2, which can be found on the web page (as at 14.4.06): <http://www.faira.org.au/cerd/cerd-decision-on-australia.html>. Point 8 of the report states, '[t]hese provisions raise concerns that the amended Act appears to wind back the protections of indigenous title offered in the *Mabo* decision of the High Court of Australia and the 1993 *Native Title Act*. As such, the amended Act cannot be considered to be a special measure within the meaning of Articles 1(4) and 2(2) of the Convention and raises concerns about the State Party's compliance with Articles 2 and 5 of the Convention.' See also CERD/C/55/Misc.31/Rev.3, 16th August, 1999, found (as at 14.14.06) on the web page:

<http://www.austlii.edu.au/au/journals/AILR/1999/55.html>. See also: McGlade, "Not", p. 101. See the web page (at 15.4.06) <http://faira.org.au/cerd/decisions.html> for details of CERD decisions regarding Australia, and Dick et al, "The Compatibility".

¹⁹¹ McGlade, "Not", p. 100.

¹⁹² Aboriginal and Torres Strait Islander Social Justice Commissioner, *Native Title Report 1998*, p. 9, quoted in Tehan, "A Hope", p. 556.

¹⁹³ Tehan, "A Hope", p. 555.

¹⁹⁴ The case is variously known by two short titles: *Mirriuwung Gajerrong and Ward*. It will be referred to by *Ward* hereafter. The full text of the High Court judgement can be found on the web page (as at 29.04.10):

http://www.austlii.edu.au/au/cases/cth/high_ct/2002/28.html.

¹⁹⁵ I am particularly grateful to Michael O'Donnell who first explained to me the implications of these various decisions. The following have also been helpful: Tehan, "A Hope", pp. 558-563, and Bartlett, *Native*, chapter 6 for *Ward* and chapter 7 for *Yorta Yorta*.

¹⁹⁶ Kirby, Michael, "Judicial Dissent is an Appeal to the Future", Speech to the Law Students' Society of James Cook University at Cairns, 26th February, 2005 (available <http://webdiary.smh.com.au/archives/000735.html>).

¹⁹⁷ Native title in water as a right recognised by the common law was confirmed in *Yarmirr* (2001) 208 CLR 1. See Bartlett, *Native*, chapter 26, for a discussion of water under the *Native Title Act*.

¹⁹⁸ The *Explanatory Memorandum* to the *Native Title Bill 1993*, Part A at page 1 stated as follows:

The Commonwealth's major purpose in enacting this legislation is to recognize and protect native title (see clauses 3 and 9). Native title is defined as the rights and interests that are possessed under the traditional laws and customs of Aboriginal peoples and Torres Strait Islanders in land and waters and that are recognized by the common law (clause 208). The Commonwealth has sought to adopt the common law definition.

¹⁹⁹ E.g., *Ward* (2002) 213 CLR 1, 69:

Yet again it must be emphasised that it is to the terms of the *NTA* that primary regard must be had, and not the decisions in *Mabo [No 2]* or *Wik*. The only present relevance of those decisions is for whatever light they cast on the *NTA*. and *Yorta Yorta* (2002) 214 CLR 422, 453:

To speak of the "common law requirements" of native title is to invite fundamental error. Native title is not a creature of the common law, whether the Imperial common law as that existed at the time of sovereignty and first settlement, or the Australian common law as it exists today. Native title, for

present purposes, is what is defined and described in s. 223(1) of the *Native Title Act*.²⁰⁰

²⁰⁰ These two judgements are extremely technically complicated for the legal lay person, and so I am having to rely on secondary material for the discussion of these two cases.

²⁰¹ Hepburn, *Principles*, pp. 143-145.

²⁰² This is a summary of Bartlett, *Native*, pp. 66-73.

²⁰³ *Yorta Yorta* (2002) 214 CLR 422, 461, 465, 466, 483, 485. Cf. *Yorta Yorta* (2002) 214 CLR 422, 423:

That s 223(1) [of the *NTA*] required the normative system under which native title rights and interests were said to be possessed, and the society from which that system derived, to have had a substantially continuous existence since the assertion of sovereignty by the Crown.

Hence, where findings were made that claimants had ceased to occupy lands in accordance with traditional laws and customs and there was no evidence that they continued to acknowledge and observe those laws and customs, their claim failed.

²⁰⁴ The case went in three phases, first heard in the Federal Court by Justice Olney, and then appeals were rejected first in the full Federal Court, and then in the High Court.

Links to the details of the judgement can be found on (as at

14.4.06): http://www.nntt.gov.au/ntdetermination/1023423272_24647.html. The judgements are (web pages as at 14.4.06):

- *Members of the Yorta Yorta Aboriginal Community v Victoria* (1998) FCA 1606 (http://www.austlii.edu.au/au/cases/cth/federal_ct/1998/1606.html);
- *Members of the Yorta Yorta Aboriginal Community v Victoria* (2001) 110 FCR 244; and
- *Members of the Yorta Yorta Aboriginal Community v Victoria and Others* (2002) 214 CLR 422 (http://www.austlii.edu.au/au/cases/cth/high_ct/2002/58.html).

²⁰⁵ *Yorta Yorta Aboriginal Community v Victoria* (1998) FCA 1606 at [17], quoted Bartlett, *Native*, p. 75.

²⁰⁶ I am largely reliant on Bartlett, *Native*, pp. 74-82, for highlighting the key points of the judgement.

²⁰⁷ *Delgamuukw v British Columbia* (1998) 1 CNLR 14, available (at 29.4.10): <http://csc.lexum.umontreal.ca/en/1997/1997scr3-1010/1997scr3-1010.html>.

²⁰⁸ *Delgamuukw v British Columbia* (1998) 1 CNLR 14 at [87].

²⁰⁹ The particular example comes from the writings of Edward Curr. Curr was one of the first squatters to occupy land in the claim area in the vicinity of Echuca. He lived there from 1841 to 1851 and some years later he wrote extensively about his experiences in two books: *Recollections of Squatting in Victoria*, first published in 1883, and a much more ambitious work in four volumes, *The Australian Race: its origin, languages, customs, place of landing in Australia, and the routes by which it spread itself over that continent*, published in 1886. Clearly a long time passed between when Curr lived in the area, and when he wrote his books. The particular example cited in the judgement by Olney J was that Curr had noticed that Yorta Yorta people had abandoned some fish by the river, but the Yorta Yorta people emphasised their conservation of the environment, so Olney J adjudged a change in tradition here: 'It is said by a number of witnesses that consistent with traditional laws and customs it is their practice to take from the land and waters only such food as is necessary for immediate consumption. This practice, commendable as it is, is not one which, according to Curr's observations, was adopted by the Yorta Yorta people with whom he

came into contact and cannot be regarded as the continuation of a traditional custom' (*Yorta Yorta Aboriginal Community v Victoria (1998)* FCA 1606 at [123]). There is no consideration of the fact that Curr may not have correctly observed or understood, nor remembered correctly what happened, nor that he was making his observations through the prevailing cultural biases of the time, when he was personally involved in dispossessing the First peoples (Atkinson, "Reflections", p. 6; Buchan, Bruce, "The 'Tides of History': The Yorta Yorta, Native Title, and Colonial Attitudes to Indigenous Sovereignty", *Journal of Australian Indigenous Issues* 7/2 (June, 2004), 3-23, p. 10). Although the approach taken by Olney J may be legally defensible – he can only be expected to understand those things which are presented to him – there are problems that this was not properly resolved by the time that it was brought to the court system for the third time. Choo, et al, "Historical", p. 18, write, '[a] historian could have assisted the court in the interpretation of particular historical documents the use of which became problematic for the applicants. It appears that the legal profession has much to learn about history as a profession and the value of the processes, methodologies and analysis of professional historians who are not simply "gatherers of facts".'

²¹⁰ Tehan, "A Hope", p. 563.

²¹¹ Bartlett, *Native*, p. 84.

²¹² Tehan, "A Hope", p. 563. Neate, "Turning", pp. 54-56, discusses when this is possible according to the *Native Title Act 1993*. An appeal can be made to revoke or vary a native title determination in the case that either events have taken place since the determination that have caused the determination no longer to be correct, or that the interests of justice require the variation or revocation of the determination. So far there have been no cases based on these, so it remains untested.

²¹³ E.g. Hughes, Helen and Warin, Jenness, "A New Deal for Aborigines and Torres Strait Islanders in Remote Communities" (Centre for Independent Studies, Issue Analysis No. 54, 1st March, 2005) (Available on the website www.cis.org.au.); Howson, Peter, "Land Rights – The Next Battleground", *Quadrant* (June 2005), 24-29; McDonnell, John, "Land Rights and Aboriginal Development", *Quadrant* (June 2005), 30-33.

²¹⁴ *The Australian*, 7th April, 2005, p. 1, quoted in Bradfield, "Communal", p. 3.

²¹⁵ Bradfield, Stuart, "Communal Ownership of Indigenous Land and Individual Wealth Creation: The Debate So Far, Identifying Key Questions", *National Native Title Conference*, Coffs Harbour, 1st-3rd June, 2005, available on web page (as at 17.4.06): <http://ntru.aiatsis.gov.au/conf2005/papers/BradfieldS.pdf>, p. 5.

²¹⁶ It will be argued in Section 6.1 that the weaker, and offended-against, party has the right to call on the other party to repent. Cf. the discussion in Section 2.4.

²¹⁷ Cf. the observation about the problems for Chile in it being governed under a Constitution which had been put in place by the Pinochet military dictatorship (Section 1.2.1), and the more general problem of making a transition of power where all the bureaucratic structures, including the legal system were in place to serve the previous regime (see the introductory comments to Section 1.2).

²¹⁸ E.g. Patrick Dodson in Keefe, *Paddy's*, pp. 313f. Wryker Milloo ("Native Title is Not Land Rights: An Alternative Indigenous Perspective", *Journal of Australian Indigenous Issues* 1/1 (April, 1998), 25-34), p. 27, writes, not entirely accurately, for the pursuing land rights through the courts was a form of political activity:

What was until 1992 an intense and successful five decade political struggle on the part of Aboriginal peoples, was suddenly transformed into legal struggle where Aboriginal people were at the mercy of astronomically-priced QC's and Barristers, and a type of land title defined by the inheritors of colonial power.

This shift in focus exists to this day and has put Aboriginal people at a disadvantage in their on-going struggle for justice.

Borrows, John, "Practical Reconciliation, Practical Re-Colonisation?", *Land, Rights, Laws: Issues of Native Title*, 2/27 (May 2004), available on web page (as at 18.4.06): <http://ntru.aiatsis.gov.au/ntpapers/ipv2n27.pdf>, p. 7, is caustically critical, in an insightful, but not entirely accurate, way in his assessment of what has happened:

- Since 1992, courts have justified the extinguishment of land rights from 1788 until 1975, the year of the *Racial Discrimination Act*.
- In 1993, the *Native Title Act* confirmed the extinguishment of Indigenous land rights from 1975 until 1994.
- In 1998, the amendments to the *Native Title Act* confirmed extinguishments made between 1994 and 1998.
- *Ward, Yorta Yorta*, and *Wilson* raised the barrier so high for the proving of native title that they effectively implemented further extinguishment.

²¹⁹ Chaney, "Developments", p. 10; Neate, "Turning", p. 34.

²²⁰ Pat McIntyre, private communication, said that Aboriginal organisations were sometimes able to purchase cattle stations, and then make a claim under the Act on that land.

²²¹ Tehan, "Co-existence"; Spindler, "A Program", p. 55.

²²² Riley, Michelle, "'Winning' Native Title: The Experience of the Nharnuwangga, Wajarri and Ngarla People", *Land, Rights, Laws: Issues of Native Title* 2/19 (November, 2002), available on web page (as at 17.4.06):

<http://ntru.aiatsis.gov.au/ntpapers/IP19v2.pdf>; Flanagan, Frances, "Pastoral Access Protocols: The Corrosion of Native Title by Contract", *Land, Rights, Laws: Issues of Native Title* 2/19 (November, 2002), available on web page (as at 17.4.06): <http://ntru.aiatsis.gov.au/ntpapers/IP19v2.pdf>.

²²³ Atkinson, "Reflections", p. 7.

²²⁴ This was the substance of Noel Pearson's criticism in his "The Fifth Annual Hawke Lecture", Bob Hawke Prime Ministerial Centre, University of South Australia, 3rd November, 2002, available on the web page (at 15.4.06):

<http://www.capeyorkpartnerships.com/team/noelpearson/papers.htm>, and "The High Court's Abandonment of 'the Time-Honoured Methodology of the Common Law' in Its Interpretation of Native Title in *Mirriuwung Gajerrong* and *Yorta Yorta*", Sir Ninian Stephen Annual Lecture 2003, Law School, University of Newcastle, available on the web page (at 15.4.06): <http://www.capeyorkpartnerships.com/team/noelpearson/papers.htm>.

²²⁵ Tehan, "A Hope", p. 571 writes, '[a]s the common law of native title lies dormant, waiting for the common law to revive and reinvigorate it as a set of fuller rights, the promise and process of change and the search for a fair and just relationship will continue.'

²²⁶ Pearson, Noel, "Where we've come from and where we're at with the opportunity that is Koiki Mabo's legacy to Australia", Mabo lecture, AIATSIS Native Title Conference 2003, "Native Title on the Ground", Alice Springs, 3-5 June 2003.

²²⁷ Neate "The 'Tidal Wave' of Justice and the 'Tide of History'", Address to 5th World Summit of Nobel Peace Laureates, Rome, 10 November 2004, p. 27.

²²⁸ Maddison, *Black*, p. 65.

²²⁹ Williams, Nancy, *The Yolngu*, p. xii.

²³⁰ Cowlshaw, "Helping", p. 19.

²³¹ Atkinson, Wayne, "Reflections on the Yorta Yorta Native Title Claim, 1994-2003", *Journal of Australian Indigenous Issues* 6/1 (March, 2003), 3-11, p. 8.

²³² Tehan, "A Hope", pp. 569f.

²³³ Williams, Rhiân, “Native Title”; and French, Robert S, “A Moment of Change – Personal Reflections on the National Native Title Tribunal 1994-98”, *Melbourne University Law Review* 27/2(2003), 488-522, pp. 511-515.

²³⁴ For example, Atkinson, “Reflections”, p. 7., states that \$20 million of public money was spent opposing the Yorta Yorta claim. He writes, ‘Non-indigenous professionals have become richer, while Indigenous claimants, on whose rights the [Native Title] industry is dependent, have had to sit it out impoverished on the periphery of the Native Title process.’

²³⁵ Keon-Cohen, “Some”. The Canadian precedent in *Delgamuukw v British Columbia* (1998) 1 CNLR 14 is discussed in Section 5.3.9 above. The problem of admissible evidence is a subject of research. There are problems too with losing key evidence because people die whilst waiting for claims to be processed. Recording the evidence on tape or videos not only raises questions in the non-Indigenous legal system, but also causes problems in Indigenous cultures, where the names of deceased people may not be mentioned, and photographs of them may not be displayed.

²³⁶ Avila, Charles, *Ownership: Early Christian Teaching* (Maryknoll: Orbis Books, 1983). Avila’s study was motivated by seeing how land in the Philippines passed from common collective ownership by villages into being owned by a few who claimed the authority of Spanish law on individual title to land. Deeply distressed by the church’s collusion with this system, he searched the patristic writings to see if they said anything about ownership, and he was surprised by what he found. This information was given to those who were trying to get land reform, and also written up as a dissertation. The book was written during a time when he had to go underground ‘this time because of the combined persecution machines of both the Philippine and U.S. governments’ (p. xx).

²³⁷ He summarises his findings under a number of heads in Chapter 8, “The Patristic Response: Attack on an Ideology, and an Alternative Program”.

²³⁸ John Chrysostom, *Epistolam I ad Timotheum*, 12, 4, PG 62:562-63 (in Schaff, *Nicene Fathers*, pp. 447-48), quoted in Avila, *Ownership*, pp. 94f. Although this is part of a homily on 1 Timothy, the material comes from an excursus on Lk. 16.1-9.

²³⁹ John Chrysostom, *Epistolam I ad Timotheum*, 12, 4, PG 62:563-64 (in Schaff, *Nicene Fathers*, pp. 447-48), quoted in Avila, *Ownership*, p. 95.

²⁴⁰ Avila, *Ownership*, p. 97.

²⁴¹ Ambrose, *Commentarium in Epistolam II ad Corinthos* 9, 9, PL 17:313-14, quoted in Avila, *Ownership*, p. 135.

²⁴² *In Ioannem*, 23, PG 59:192 (in Schaff, *Nicene Fathers*, pp. 447-48), quoted in Avila, *Ownership*, p. 135.

²⁴³ *Sermon L*, 1, PL 38:327, quoted in Avila, *Ownership*, p. 135.

²⁴⁴ Chaney, “Developments”, pp. 22-27; 31-3. Tehan, “A Hope”, pp. 569f, makes a similar point.

²⁴⁵ Langton, Marcia; Tehan, Maureen; and Palmer, Lisa, “Introduction” in Langton, Marcia; Tehan, Maureen; Palmer, Lisa; and Shain, Kathryn, eds., *Honour Among Nations?: Treaties and Agreements with Indigenous People* (Melbourne: Melbourne University Press, 2004), 1-26, p. 21.

²⁴⁶ See the papers in Baker, Richard; Davies, Jocelyn; and Young, Elspeth, eds., *Working on Country: Contemporary Indigenous Management of Australia’s Lands and Coastal Regions* (Melbourne: Oxford University Press, 2001), and Walsh, Fiona and Mitchell, Paul, eds., *Planning for Country: Cross-Cultural Approaches to Decision-Making on Aboriginal Lands* (Alice Springs: Jukurrpa Press, 2002), for example, and Foster, David, *Gurig National Park: The First Ten Years of Joint Management*

(Canberra: AIATSIS, 1997), for a study of then years of joint management of a national park.

²⁴⁷ As at 31st December 2009, there were three hundred and seventy Registered Area Agreements, and thirty-one Registered Body Corporate Agreements. Details of the current Indigenous Land Use Agreements can be found on web page (as at 29.4.10): <http://www.nntt.gov.au/Indigenous-Land-Use-Agreements/Pages/default.aspx>.

²⁴⁸ Ridgeway, Aden, "Addressing the Economic Exclusion of Indigenous Australians through Native Title", *The Mabo Lecture, National Native Title Conference*, Coffs Harbour, 3rd June, 2005, available on web page (as at 17.4.06): http://www.democrats.org.au/speeches/index.htm?speech_id=1616&display=1 and <http://ntru.aiatsis.gov.au/conf2005/papers/RidgewayA.pdf>, p. 13. Ridgeway was only the second person from Australia's First Peoples to hold a seat in the Senate of the Federal Parliament.

²⁴⁹ O'Fairchaellaigh, "Evaluating", p. 304, raises the following questions: 'But what are the outcomes or results of agreement making in practice? Is a negotiation-based approach actually offering win-win situations and an equitable distribution of costs and benefits between Indigenous and non-Indigenous interests? What benefits are being delivered to Indigenous Australians by agreements, and are those benefits being experienced equally by different Indigenous groups? Does agreement making represent an equitable and sustainable basis upon which to address native title issues? Or are agreements essentially a rhetorical and ideological device designed by non-Indigenous interests to create the impression that Indigenous concerns are being addressed, while in reality they constitute a vehicle for continuing dispossession of Indigenous peoples?' Following his preliminary study, he concludes that the outcome for Indigenous groups is highly variable, with some Indigenous groups 'achieving substantial economic benefits and innovative provisions to minimise the impact of commercial activities on their traditional lands. In other cases the benefits gained by Indigenous groups are negligible, impact minimisation provisions are similar to those already provided in general legislation, while in some cases restrictions are placed on the exercise of rights that Indigenous parties possess under general legislation' ("Evaluating", p. 304). Tehan, "A Hope", pp. 569f, also highlights problems.

²⁵⁰ Perhaps this too explains in part why non-Indigenous people are variously awed, don't know what to do with, and do not see the fecundity of large tracts of Australia. The following account by Diane Bell (*Daughters*, pp. 23f) is worth pondering, and considering the extent to which it might be described as a 'conversion' experience:

When I first drove along the Stuart Highway north of Taylor Crossing to Warrabri, I heartily agreed with those who said it was the most barren stretch of country they had encountered. I couldn't cover the distance fast enough. Now I can drive barely a mile without seeing something worthy of comment. In what was once open spinifex plains broken only by the odd acacia stand, I now see highly differentiated foraging grounds, rich in small fruits and goanna; in burnt-out plains, I now see prime hunting grounds and I wonder, 'Whose fire burnt through here?' Local people always know who has lit a fire because only persons in the correct relationship to a particular tract of land may do so. In the wide, dry creek beds, I now find the wild potato runners, I recognize the potential water sources, the places where frogs may be hidden deep in the cool, damp sand. I scan the horizon for smoke; I see a red tinge in the rock and I look for ochres.

In the vast grandeur of the rolling sandhills I now recognize the body shape of certain ancestors, but in the finer details of clustering rocks, the overhanging

wild figs and the patination on leave, I have also learnt to see signs of ‘intent towards man’. At one point on the northward-bound track to Warrabri we crane our necks and look for a particular tree – its name would be called by somebody in our party and soft singing would accompany the telling of the story associated with the dreaming which that tree represented. At other points we would drive quietly, so as not to disturb the dreamings who had passed through this area. Women knew every inch of the country and always impressed upon me that I must travel with others, that there must be somebody with me who knew the country. It was their country, their *yawulyu*: I was never afraid we might lose our way and indeed we never did!

²⁵¹ Cf. the observation of Debbie Rose (*Dingo*, p. 191):

Hobbles and other story tellers are concerned to show that invasion is not a process of the past which is now finished. Rather, they go to considerable effort to explain that the process is on-going and is continuing to destroy people and land. The other integral point, which is rarely stated explicitly, is that conquest is based on desire and on the illusion of winners and losers. One wins by disabling not only the opposition but the very life systems in which the opposition is embedded. This is a fatal error, for there are no other life systems. As Riley Young said, ‘I know government say he can change him rule. But he’ll never get out of this ground.’

²⁵² I am grateful to Joe McIntyre for helping me to understand the relationship between the law and government.

6 Pursuing Reconciliation in Australia

The previous chapter has explored the history of relationships between the peoples of Australia through the vehicle of investigating how land has been treated in legislation and in the courts over the past half century. It showed that there has been limited repentance within the system for what has happened in the past, and that a much more radical approach must be taken in order to achieve a deeper reconciliation between the peoples of Australia.

This chapter will argue that the Subsequent peoples of Australia need to ponder what it means to be ‘Subsequent’, not ‘First’, and so the process of reconciliation needs to be approached from a place of humility, a place of decentring the dominant culture. Decentring is essential for being able to listen properly to what First peoples have been, and are continuing to say to the Subsequent peoples. Whilst some reports, such as *Bringing Them Home*,¹ have been significant pieces of listening, which led to widespread acts of apology and, eventually, an apology from the Prime Minister, this process of listening needs to be developed much more extensively. The rest of this chapter is devoted then to listening to some of the things that First peoples have been saying to Subsequent peoples. In fact, it is probably not too strong to say that in listening properly to the First peoples, the Subsequent peoples will find that they have been offered reconciliation all along, and that the First peoples have been saying what must happen in order for it to be achieved; they have been telling Subsequent peoples what must be done in order to achieve the healing of all the peoples of Australia, and the land itself.

The primary metaphor that Volf develops for reconciliation is embrace.² This is a particularly potent metaphor for the conflict situations he is addressing, because he is writing of reconciliation in a situation where there has been long-standing, and recent, violent atrocities committed by communities against each other. For Australia, this metaphor is a reminder to Subsequent peoples that the aim is to become friends with the First peoples of Australia, and so to work for the welfare of all the peoples occupying this land, not to solve ‘the Aboriginal problem’.

It cannot be stressed too strongly that the failure to listen properly to what Indigenous people are saying fuels the continuing problems for Indigenous people in Australia. All government programmes aimed at dealing with Indigenous disadvantage will fail until time is taken to listen properly to the people themselves, as part of a larger process of reconciliation. John Paul Lederach has shown that difficult short-term measures only work in a culture where there is trust that they are part of a long-term strategy for reconciliation with which all the parties are happy,³ and there is, understandably, little trust of non-Indigenous peoples by the Indigenous communities.⁴

This chapter is shaped as follows. The first section will consider the implications of being ‘First’ and ‘Subsequent’. Following that, two sections will explore the general approach that some First peoples have had towards the Subsequent peoples, that they have not been submissive to the dominant system, but they have stood their ground, critiquing the peculiar and destructive nature of the way of life of the incomers. This will then lead to two sections that briefly explore what can be learnt about history, and how human relationships with the land can be better understood, when properly attending to what First peoples are saying. Finally, the penultimate section briefly outlines what some First peoples are telling the Subsequent peoples remains as ‘unfinished business’, and the last section considers the inherent dangers for First peoples in pursuing a treaty in order to establish their security, unless this is undertaken as part of the process of repentance by the Subsequent peoples.

6.1 On Being ‘First’ and ‘Subsequent’⁵

In recent years there has been a move towards calling the Aboriginal people in Australia ‘First peoples’ or ‘First Australians’, and others ‘Second’. However, as was argued in the first endnote of Chapter 1, this terminology is not sufficiently fine-grained to reflect the rather more complex history of immigration into Australia since the first Europeans took up residence in 1788. This thesis has preferred the term ‘Subsequent’ peoples, to emphasise that more recent immigrants, who were not ‘second’, and who might want to excuse themselves from any responsibility for the plight of the First peoples,⁶ cannot do so, for, as Chapter 4 has argued, they too share the responsibility with everyone else in the current generation of non-Indigenous people for repentance, both for the sins of the past, and the sins of the present generation. So, all subsequent peoples are being addressed here.

This way of speaking of the people groups opens up important questions about the priority of Indigenous peoples in Australia, and the way that relationships between the various people groups should be approached.

It has proved very difficult for Subsequent peoples in Australia to see the First peoples in their full humanity. From early on, First peoples were thought of as barely human.⁷ Social Darwinism was strong.⁸ The fact that Indigenous peoples were the subjects of anthropological studies stressed their otherness and difference from the unquestioned norms of the cultures of Subsequent peoples, that they were people to be studied as curiosities, rather than people to be engaged with, people who might teach the Subsequent peoples about what it means to be human, and how to live in the land called Australia. These anthropological studies imported hierarchical, patriarchal and other cultural assumptions into their work,⁹ and tended to focus on ‘traditional Aboriginals’ rather than the majority of the Aboriginal population, which had multiple other cultures.¹⁰ Subsequent peoples valued being settled, and saw cultivation of the land as more ‘civilised’ than cultures where people moved around, and yet they conveniently overlooked both settled Aboriginal communities, and the way in which First peoples managed crops and land.¹¹ After incomers arrived, some Aboriginal communities successfully farmed European-style crops, only to be forced off the land by their incoming neighbours.¹² Subsequent peoples have struggled either to understand or to acknowledge the complex political and economic systems and the relationship to the land of First peoples. There was a time when First people were written out of Australian history, and now there is a powerful debate amongst historians from the Subsequent peoples both about the nature of the responsibility of the Subsequent peoples for the historical and current plight of the First peoples, and about the nature of history.¹³

Budden¹⁴ argues that the primary identity that Subsequent peoples have given First peoples is invisibility,¹⁵ which has a sting in its tail: ‘[i]n all cultures, invisibility always has the possibility of visibility, a forced visibility whose purpose is shame and the use of people for political ends.’¹⁶ Furthermore, Nicholas Thomas notes that the construction of Aboriginal identity is an essential part of the construction of non-Indigenous identity, when he writes, ‘[i]n settler societies, cultural colonization proceeds ... through forging national narratives that situate indigenous people firmly in the past, or in the process of waning, while settlers are identified with what is new and

flourishing and promising. In this way, the potential paradox arising from the use of natives to affirm the native status of settlers is mediated by a narrative of succession: future is to past as settler is to savages.¹⁷

It is helpful here to return to the New Testament, because the nature of the relationship of First to Subsequent is at the heart of Paul's theological struggle. Two of the important underlying themes in Paul's letters are: firstly, the priority of God's covenant with the Jews; and secondly, the relationship between Jewish and Gentile Christians. Both of these themes are prominent in Romans, where Paul explores both the relationship between the covenant that God made with the people of Israel, and how people can now be related to God through the work of Jesus,¹⁸ and also the relationship in Rome of the larger Gentile Christian community to the smaller Jewish Christian community. The problem for larger communities is that there is always a tendency to regard the larger community as the norm, and to ignore the smaller community. There is also, in this case, the forgetfulness by the Gentile Christians that the Christian faith did not come to them first, but second; it was the Jewish Christians who brought the good news of Jesus as a gift to them.

In his argument with the non-Jewish Christians in Rome, Paul stresses that they are like a wild olive shoot that has been grafted onto a cultivated olive tree, and now shares in the nourishment of that tree. They must remember that it is the root of the tree that supports them, not the other way around. Moreover, they have been grafted in *contrary to nature* (cf. Rom. 1.26; italics mine).¹⁹ Christians today continue this tendency, even to the point of imagining that they are the ones who are entitled, rather than receiving a gift.²⁰

There are analogies here concerning the European (and subsequent) colonisation of Australia. At the very least, Paul's admonition of the Gentile Christians should engender humility of the incoming peoples towards the First peoples and their lands. The fact that the first incomers nearly died of starvation, as they struggled to produce food, and the dominant narrative is of battlers who have overcome hardship, even the land itself, struggling *against nature* (cf. Rom. 11.24) in order to establish a European lifestyle on a different land, should cause us to stand back and look at the cost of this to the land and its peoples. The Subsequent peoples have not behaved as if they are the

wild olive shoot that has been grafted onto the cultivated tree, but as if they are supporting the root.

The penultimate use of ‘reconciliation’ in the New Testament occurs in the context of the relationships between Jewish and non-Jewish Christians, First and Subsequent Christians (Eph. 2.11-21). Here, the writer to the church in Ephesus says that God has removed the dividing wall of hostility between the Jews and non-Jews, reconciling them to one another, making peace between them.

This drives us back to what Paul wrote in 2 Cor. 5 in his build-up to his statements about reconciliation. In v. 16, Paul writes, ‘from now on, therefore, we regard no one from according to the flesh.’ Exactly what Paul means by this is not entirely clear,²¹ but he must mean at least that it is not adequate to look at people from our own cultural perspective, but we must allow ourselves to be changed by an encounter with the other, who was, and remains, First.

In Chapter 2, it was noted that Paul was arguing with people who saw the dominant social system (patron-client relations) as compatible with Christianity, so much so that they could not comprehend the way that Paul exercised his leadership of the Christian community. In calling the Corinthian community to be reconciled to God, he was, as the weaker party in the socio-economic system of his day, calling on the dominant party to be reconciled by changing their relationship with him, and the system of relationships within their community. The First peoples of Australia have the right to call on the Subsequent peoples to be reconciled to them. An important part of this process is the Subsequent peoples coming in humility to listen to the First peoples.

Moreover, the Subsequent peoples in Australia need the ministry of the First peoples for their healing. In the narrative of Paul’s encounter with the crucified-risen Jesus in Acts 9, Paul is in the position of power (he is in the dominant party within the Jewish people), and he requires the ministry of Ananias, who is part of the part of the persecuted minority of Jewish followers of Jesus, part of the group of people who Paul has been persecuting, to come and pray for him so that he might be healed. It is not so much that there is an ‘Aboriginal problem’ in Australia, but that there is a problem in Australia, regarding which the Subsequent peoples need to be open to receiving the ministry of the First peoples in order for it to be resolved.

6.2 Beginning to Listen to the First Peoples

At this point, it is important to recall that First peoples have not been passive in the face of the occupation of their lands by the incomers. There has been bemusement and pity at the strange ways of the incomers.²² They have refused to accept the hierarchy of relationships that the incomers so often tried to impose upon them. There are echoes of the way that Paul stood out against the patronage system in Corinth in the way that First people have responded to incomers. For example, in his work with the Miriwung people in Kununurra in the late 1960s, Peter Willis found that First people refused to become clients. Instead, they attempted to achieve their own objectives under the cover of the patron's initiative, sponsorship and protection. He writes,

[a]boriginal conversion to Christianity in this context can then be defined as a specific reciprocal act by which an Aboriginal group or individual displayed formally and solemnly their affection for and support of the missionaries, without becoming their clients and accepting their attempted patronage in any strict sense. ... The difference is of course that they refused to internalise the role of subordinate clients, to become grateful and obedient and to seek to become like their masters. They offered a lot in return but as quasi kin and allies, not as servants.²³

In a similar vein, Debbie Rose writes,

... there is also our failure to attend to what Aborigines have been saying to us, with words and deeds, in art and ritual, for many years. I believe that the greatest impediment to our understanding has been our expectations of what a conquered people could be thought to say to us. Cargo cults made it easy. From a position of mastery it is not difficult to hear from those less wealthy and powerful that they feel inadequate. And as Koepping suggests, we are equally well prepared to hear expressions of resentment, even hatred. Overt resistance, abuse, emulation – we expect these responses, and are mystified by their absence. I will suggest that at least some Aboriginal responses have gone unnoticed because they offer us what, from a position of power, is virtually unthinkable.²⁴

Kenelm Burridge studied the encounters of First peoples with anthropologists and concluded 'that Aboriginal life has become a field in which many of the intellectual structures of the west have been reflected, examined, tested, and evaluated, and in which many a personal and intellectual battle has been fought. Throughout this history of encounter, Aboriginal life has remained elusive. From the European viewpoint, according to Burridge, Aboriginal life constitutes a paradox: it is both "primitive" and at the same time "perhaps the most complicated representative of human life."²⁵

In fact, in many parts of Australia, First people have not judged themselves as inferior to the incomers, but see the incomers as 'ignorant, at best, and grossly immoral at worst.'²⁶ Harris records the bemusement of some missionaries at how the First peoples did not obey the missionaries, but instead were kind to them, treating them as equals, whilst also considering them odd and to be pitied.²⁷

First people have worked the system. For example, where missionaries tried to make them settle in one place, sometimes they would use these camps as a base, or returned to them according to the seasons. One example of this is,

[f]rom a Kuku-Yalanji perspective, the mission did have its uses – primarily in providing food and other resources, and in offering protection and refuge for young women and the ill. The missionaries also acted in some instances as useful third parties in disputes. The mission was based on the assumption that everything had to be centralized and that *all* Bloomfield Aborigines would come and stay there. Yet, as with other Aboriginal groups at the tin mines in the area, Kuku-Yalanji at Bloomfield treated the mission as a *camp* which was on a particular estate belonging to particular individuals and their group who had significant primary rights there.²⁸

The introduction of poor quality alien foodstuffs (flour, sugar, tea) to First people has had a long-term detrimental affect on their welfare, but it also provided relief from the problems of finding food in difficult seasons, especially when many foods were taboo. Cattle began to be incorporated into the dreamtime, showing the adaptability of Aboriginal tradition, but also bringing them into the system of taboos.²⁹ Although cattle stations were established on Aboriginal land, First peoples were able to maintain their connection to the land by working on it, and they were able to return to do their ceremonial work during certain seasons when there was no work on the cattle stations. Important Aboriginal business, such as arranging marriages, could be transacted when communities came together, such as at race meetings.³⁰ Perhaps surprisingly, considering how much damage cattle have done to the environment,³¹ some Aboriginal groups have continued to keep cattle. Sometimes this is the only way that they can raise cash for other things that they regard as necessary, such as the Mak Mak people who are trying to control the spread of mimosa, an introduced weed that is taking over the wetlands in their country.³²

When under threat, one typical response by First peoples has been to accommodate, through reciprocal sharing, integrating alien things into their cosmic order.³³ For

example, First people gave themselves in marriage to the incomers, with the idea that they were incorporating these people into their kinship systems, and so they would then have responsibility towards their kin and for the land.³⁴ This adoption into the kinship system is sometimes understood as an attempt to bring the ‘wild’ into a moral order.³⁵ They are then bemused when this has not resulted in people taking their responsibility.

6.3 Listening to the Yolngu

Throughout the narrative of this thesis, the Yolngu have appeared at a number of significant points. This section will briefly recount and analyse some aspects of their approach to the problem of relationships with non-Indigenous people – who they call ‘Balanda’ – as an example of the tireless and endlessly creative approach of many First people towards the Subsequent peoples, and yet that is missed by the dominant narrative concerning relationships between the peoples.

The Yolngu hold objects which represent their ownership of the land. These items – ‘rangga’ in the Yolngu languages of Elcho Island – are only allowed to be seen by those with the appropriate level of knowledge. However, in the late 1950s, in order to establish their claim on the land, the Yolngu on Elcho Island decided to display some of their rangga. This was a bold move on their part, making an accommodation to the non-Indigenous legal system, displaying their rightful ownership of the land, and expecting it to be respected.³⁶

It was Yolngu who presented a bark petition to the Commonwealth Parliament, making their claim on their land in a multi-cultural medium, and, when this failed to have the desired effect, they took the government to court, an important point in the recent history of land in Australia. They have not given up their claim against the mining industry, and have travelled to Switzerland to lobby the mining company,³⁷ and their rock band, Yothu Yindi has carried their message around the world, including London, New York, Paris and Rome.³⁸

Yet, despite all of this, relationships between the non-Indigenous system and the Yolngu remain difficult. At the invitation of the Revd Dr Djiniyini Gondarra, one of the present leaders of the Yolngu of Arnhem Land, Richard Trudgen, who has spent more than two decades working with the Yolngu, wrote a book for non-Indigenous people, which interprets why the Yolngu have found the dominant culture so debilitating.³⁹

Trudgen sees that the root problem for the Yolngu has been loss of control, and he lists forty-three factors that have led to loss of control for these people.⁴⁰ Besides the foundational causes of taking their land, the destruction of their economy, and the introduction of alien diseases, it is clear from reading Trudgen's book that attempts at trying to 'fix' the resulting mess have largely failed because non-Indigenous cultures are so alien to the Yolngu, and, on the whole, non-Indigenous people have not taken the time to, and put the resources into, understanding Yolngu culture and interpreting non-Indigenous culture to these people. For example, millions of dollars have been spent on medical intervention, with little effect, because the medical model that is being used is alien to the Yolngu, and has never been properly explained. The Yolngu are intelligent people, but some ways of trying to teach them, such as using puppets, have treated them like stupid children. When Trudgen has used dialogical teaching methodologies, speaking in their own languages, and with knowledge of their culture, the Yolngu have been able to integrate the new knowledge into their cultural system and teach it in appropriate ways.⁴¹

Since Trudgen wrote his book, there have been publications concerning good projects in other parts of Australia that have helped Aboriginal people engage with the alien culture of the incomers.⁴²

However, it would be poor to read Trudgen's book as only arguing what must be done in order to interpret non-Indigenous culture to the Yolngu. It also opens up the possibility for non-Indigenous people to begin to look at the strangeness of their own culture by being able to look at it from the standpoint of another culture. Programmes aimed simply at acquiring enough knowledge in order to teach First people to engage with non-Indigenous cultures are in danger of perpetuating the damaging relationships that have been going on since Europeans first landed in Australia, and they miss the opportunity to be challenged and changed by a real encounter with vibrant and viable alternative worldview.⁴³ To allow this to happen will be challenging, but ultimately healing to the land and its peoples.

More generally, as the incomers have made anthropological studies of First peoples, so they should open themselves up to hear what the First peoples have to say to them.

For example, here are some quotations from the early work of Debbie Rose with the Victoria River people. They are worth pondering.

Unlike many European Australians, Victoria River Aborigines believe that the lives of all Australian people are inextricably bound together, as are the soils, water systems, and the lives of plants and animals. In refusing to deny or forget the past, they assert the value of their own understanding of Australian life, in particular, and for the future of life on earth.⁴⁴

Hobbles has offered a set of profound gifts to a non-Aboriginal audience: an acceptance of the conditions of the past as a basis from which we will build our future; some means of transforming the wrongs of the past into more equitable relationships. Flesh and blood, earth and water are offered as media through which Aboriginal and European Australians can be truly at home together in this continent. Hobbles may not have realised that beyond his overt statements he was also offering other gifts; his narratives point to a theory and practice of otherness, of generating structures which empower, rather than diminish, people. He offers the means by which nobody loses, and all life is sustained.

These gifts, like the meaning of his stories, are not always immediately obvious. For me, the most profound gift is also, at times, overwhelming. European ideologies of conquest assert that conquest is finished, and it was the product of so many compelling and inescapable causes that it was inevitable. Ideologies throw the ball back to Aborigines, metaphorically, telling them that they cannot live in the past, and will just have to adapt to the new order.

Hobbles and others disentangle the mystifying ideologies of conquest, showing that at every moment there is an act of will. They say that it is Europeans who are living in the past, still following a law that has no future. And they ask that others make choices, exercising their will as an act of consideration for the fact that we all live, and die, together. The challenge can be overwhelming because it throws open to us the limits of our own power within structures that oppress.⁴⁵

Again, the Yolngu have been creative in this direction, seeking to teach the Subsequent peoples how to live in the land. For example, Yolngu now teach at the Charles Darwin University,⁴⁶ and the Revd Dr Djiniyini Gondarra, in association with Patrick McIntyre, has initiated the Mawul Rom project, which teaches people about reconciliation from a Yolngu perspective.⁴⁷ This course is now accredited as a Masters Degree ('Masters in Indigenous Knowledges (Mawul Rom)') from the Charles Darwin University, with the first students graduating in 2009.⁴⁸

6.4 Learning About History

In Chapter 1 it was noted that there was a period of time when Indigenous people were written out of non-Indigenous histories of Australia. Even when they have been recovered into non-Indigenous history, the historical methodologies have largely drawn

on non-Indigenous historical methods, using non-Indigenous historical resources, and the so-called 'history wars' have largely been over the conclusions that can be drawn from these resources. However, there is a bigger debate about the nature of history itself, especially the problem of trying to create a universal history, '[r]ather than history being an aggregation of particular routes from events in the past to events in the present.'⁴⁹ The problem with this is that other histories tend to either get subsumed, and thus reinterpreted, within the grand narrative, or are left aside.⁵⁰ It is important, therefore, that non-Indigenous people acquaint themselves with Indigenous narrations of history.

The telling of history from an Indigenous perspective is becoming increasingly accessible to non-Indigenous people, and is presented in a wide range of media, such as dance,⁵¹ theatre, films,⁵² comedy, music,⁵³ art,⁵⁴ recorded oral histories,⁵⁵ personal narratives,⁵⁶ biographies,⁵⁷ academic studies,⁵⁸ and histories presented from an Aboriginal perspective.⁵⁹ Many examples of these genres were available at *The Dreaming: Australia's International Indigenous Festival*, held at Woodford in Queensland, 10-13 June, 2005.⁶⁰

Aboriginal cultures have been extremely resilient under pressure, and have often responded very creatively to the oppression of the dominant culture. Throughout, there is a stubbornness that refuses to be defeated, that refuses to take on the dominant view of history, and refuses to give up ownership to the land. Listening to this strand of history would be particularly helpful to the dominant culture as it tries to come to terms with its history of relationship with the Indigenous people. Reflecting on the history of Australia that she has learnt from the Yarralin people, Rose puts it well,

Yarralin people's stories of Captain Cook and Ned Kelly offer us a mirror in which we can see ourselves. In no way does the image inscribed in these stories tell us that we are the fairest, the most deserving, the most worthy. But it does tell us that we are not without redemption.

Revealing us to ourselves, these stories also offer us a different future. Social justice, they say, is not to be achieved through the destruction of the past, but rather through recognition. We are the successors, the 'behind mob'; and it is up to us to determine to which law we will adhere. These stories tell us that truth is revealed in myth, and that people are capable of changing their society to conform to that truth. ...

This, I believe, is why we have had such difficulty understanding Aboriginal people's responses to invasion. Unlike cargo cults which flatter our sense of mastery and, on the surface, suggest that it is others who want to change, Ned Kelly stories suggest that it is we who are in the dire need of radical change. The last thing one would expect, or be prepared to hear, from a position of power, is that the dispossessed claim to have indeed understood. That they have accepted. And that they are offering us redemption.⁶¹

6.5 Learning About Land

One of the things that has been noted time and again about Indigenous cultures is that their relationships to the land are much more complex than the Western notion of 'ownership'; the land is harmed when its connection with its people is broken.⁶² Yet the non-Indigenous court system has consistently failed to grapple with this, preferring instead to engage with Indigenous claims over land in terms of its understanding of ownership, or rights to various forms of usage. This section will briefly look at some Christian theological ideas that are being recovered, or developed, which might be good places to start engaging with Indigenous understandings of relationships to the land. 'To seek to encounter God with Aboriginal people is to question the way we impose a story that stops this place being country.'⁶³ This section is not meant to be comprehensive, but its intention is to stimulate further thought.

It is difficult for people brought up in the Western theological tradition to develop an adequate theology of land, for several reasons. Firstly, the relationship of human beings with land has been one of dominance and exploitation, often theologically bolstered by particular interpretations of Gen. 1.26, and seeing human beings, rather than the rest of the seventh day of creation (Gen. 2.1-3), as the 'crown of creation'.⁶⁴ Secondly, the economic system in the West has been dominated by the generation of wealth and waste through excess production, and land has been commodified.⁶⁵ Thirdly, settled existence has been seen as preferable to nomadic existence, and land was seen as 'wasteland' until it was cultivated and made fruitful.⁶⁶ Fourthly, there is the concept of land ownership, where ownership is strongly related to two ideas, namely the ability to exclude others from the land, and the freedom to do whatever you want with it. Finally, all these cultural practices have found their way into interpreting the biblical text, making the Bible much harder to understand, increasing the hermeneutical gap.

Walter Brueggemann writes helpfully that 'the Bible insists that fertility is impossible without justice'⁶⁷ Land has been treated promiscuously: it has been bought, sold, traded, used, discarded as a convenient commodity, and dominated as if it had no rights.

However, '[t]he mystery of faithfulness is to hold the land so loyally so as not to reduce it to a commodity, but to hold so freely as to respect its rights as partner and not as possession. ... we shall not have fertility until we have justice toward the land and toward those who depend on the land for life'⁶⁸ In his study, Brueggemann notices a strong link between the mistreatment of people, women in particular, and mistreatment of the land.⁶⁹ He argues that it is unlikely that a new ethic for land will be possible until a new ethic has been established for human relationships; they are interconnected.⁷⁰ This is in line with the main argument of this thesis, that problems with the land will not be resolved until better relationships are established between the peoples of Australia, which necessitates work on the relationship of human beings to the land.

Howard Morphy writes helpfully concerning 'art', sacred sites, and 'religious business' in some Aboriginal cultures, that

[a]boriginal paintings are maps of land.⁷¹ It is necessary, however, to define precisely what is meant by a 'map' in this context. The danger is in transferring too literally a Western concept of topographical map on to Aboriginal cultural forms and making them into something they are not. ... It is possible to relate nearly all Aboriginal art to landscape, and some paintings and designs do represent quite precisely the topographical relationship between different features of the landscape. But taken too far the analogy between Aboriginal art and maps can be misleading because it oversimplifies and gives the wrong emphasis.

From an Aboriginal perspective the land itself is a sign system. The Dreamtime ancestors existed before the landscape took form; indeed, it is they who conceived of it and gave it meaning. Rather than being topographical representations of land forms, Aboriginal paintings are conceptual representations which influence the way in which landscape is understood. When Aboriginal paintings do represent features of the landscape, they depict them not in their topographical relations to one another but in relation to their mythological significance.⁷²

Modernity brought a change in the way the world was understood by European peoples. In medieval times, the world was criss-crossed with holy places to which people journeyed, making pilgrimage;⁷³ a sacred geography held sway.⁷⁴ With the emergence of modern 'maps', which divided space up into equal parts and described it by geographical features, the idea of 'itineraries' over sacred geography was replaced by journeys on a map. De Certeau writes, '[i]f one takes the "map" in its current form, we can see that in the course of the period marked by the birth of modern scientific discourse (i.e. the fifteenth to the seventeenth century) the map has slowly disengaged

itself from the itineraries that were the condition of its possibility.’⁷⁵ Cavanaugh summarises de Certeau’s insights on the transformation in this way:

Pre-modern representations of space marked out itineraries which told ‘spatial stories’, for example, the illustration of the route of a pilgrimage which gave instructions on where to pray, where to spend the night, and so on. Rather than surveying them as a whole, the pilgrim moves through particular spaces, tracing a narrative through space and time by his or her movements or practices ... By contrast, modernity gave rise to the mapping of space on a grid, a “formal ensemble of abstract places” from which the itinerant was erased. A map is defined as a ‘totalising stage on which elements of diverse origin are brought together to form a tableau of a “state” of geographical knowledge’. Space itself is rationalised as homogenous and divided into identical units. Each item on the map occupies its proper place, such that things are set beside one another, and no two things can occupy the same space. The point of view of the map user is detached and universal, allowing the entire space to be seen simultaneously.⁷⁶

Some Christian theologians are working towards a better understanding of land and of place. Brueggemann reminds us that the story of God’s relationship with human beings cannot be separated from the land.

In the Old Testament there is no timeless space, but there is also no spaceless time. There is rather *storied place*, that is a place which has meaning because of the history lodged there. There are stories which have authority because they are located in a place. This means that biblical faith cannot be presented simply as an historical movement indifferent to place which could have happened in one setting as well as another, because it is undeniably fixed in this place with this meaning. And for all its apparent ‘spiritualising’, the New Testament does not escape this rootage.⁷⁷

John Inge draws on the European medieval world view and Brueggemann’s notion of storied space to develop a theology of place, where

[w]e might say, therefore, that it is clear from the incarnation that *places are the seat of relations or the place of meeting and activity in the interaction between God and the world*, and argue further that place is therefore a fundamental category of human and spiritual experience.⁷⁸

In places, the material becomes the vehicle for God’s self-communication, leading to a sacramental view of place,⁷⁹ which may be related to the Aboriginal notion of sacred sites. Inge writes,

[w]hen places become associated with divine disclosure they become the defining coordinates of a sacred geography the function of which is to remind

believers that they are to understand all their experience in the light of the creation of the world by God and its redemption in Jesus Christ. Sacramental encounters have also an eschatological dimension, since they reveal the reality of things as they will be. This sacramental understanding allows us to steer a middle course between ignoring the importance of the material, and its idolatrous exaltation.⁸⁰

Places within a sacred geography become places of pilgrimage, so linking people and places and God over time.

The notion of the holiness of place can be seen to derive directly from the scriptures, and was an essential part of the Christian tradition from the beginning of Christian history. It is clear, from both the scriptures and the tradition, that God chooses some places for self-revelation to people, just as God chose one place for the incarnation. It cannot be otherwise since, as we have seen, places are the seat of meeting and interaction between God and the world. It is not that some places are intrinsically holy, but that this self-revelation on the part of God is then built into their story, and this makes such places worthy of pilgrimage. It puts people in touch with their Christian story, their roots. There then develops a three-way relationship between people, place, and God which endures across time. In other words, it is not that God has chosen some places in preference to others, but rather that holy places point to the redemption of all places in Christ. Places have a story, and sacred places are those places whose story is associated with God's self-revelation and with the lives of the holy. These, then, are places which attract pilgrimage. Pilgrimage is a very powerful model which links people, places, and God together in a way which has great potential because it is dynamic and yet it also *roots* people.⁸¹

In closing this section, it must be recalled again that both the land and Indigenous traditions are changing. The future of the land depends on co-operation between the various people groups of Australia,⁸² generating new knowledge of country. However, this cannot just be about incorporating Indigenous people into the dominant economic system. Sarah Maddison rightly reminds people that there is a diverse Indigenous response to the levels of engagement with the dominant economic system.⁸³ However, any engagement which is not open to the dominant system being changed by the encounter is unlikely to honour the land in an appropriate way. The final New Testament use of the word 'reconciliation' is in Col. 1.19f, where cosmic reconciliation is in view: 'For in him [Jesus] all the fullness of God was pleased to dwell, and through him to reconcile to himself all things, whether on earth or in heaven, making peace by the blood of his cross.' By seeking to be reconciled to the Indigenous peoples of Australia, by being changed through this encounter, the non-Indigenous peoples of Australia open up the way to also making peace with the land itself.

6.6 Unfinished Business

In the final report of the Council for Aboriginal Reconciliation, the unfinished business between the Indigenous and non-Indigenous peoples of Australia was discussed. They wrote,⁸⁴

[t]he definition of unresolved issues for reconciliation was also difficult. While the definition could have contained a list of issues, similar to that contained in the Council's document *Recognising Aboriginal and Torres Strait Islander Rights*, it has been left deliberately general to avoid pre-empting the matters that will be identified by the processes contained in this Act.⁸⁵ The definition refers to the fact that many of these issues have already been identified, including through the work of the Council. They may include, but are not limited to:

- a comprehensive agreements process for the settlement of native title and other land claims;
- compensation and reparation with respect to loss of legal rights over land and waters;
- protection of Aboriginal and Torres Strait Islander culture, heritage and intellectual property;
- the achievement of substantive equality;
- the effective implementation of relevant recommendations of the Royal Commission into Aboriginal Deaths in Custody, the Human Rights and Equal Opportunity Commission's Bringing them Home Report and other reports;
- recognition of Aboriginal and Torres Strait Islander customary law;
- Aboriginal and Torres Strait Islander self-government and regional autonomy;
- economic development;
- constitutional reform to enable the recognition of Aboriginal and Torres Strait Islander peoples and the protection of their rights;
- effective political participation;
- a bill of rights that specifically protects the rights of Aboriginal and Torres Strait Islander peoples; and
- principles for negotiated outcomes at other levels.

Although lengthy, this list is not new: Mick Dodson rightly notes that '[e]verything mentioned in the Council's report ... [has] been addressed in some report somewhere in the last three decades, so coverage of these issues is not new, it is unfinished.'⁸⁶ The frustration of Indigenous peoples is clearly both comprehensible and justified.

The final report of the Council for Aboriginal Reconciliation included two documents: 'Australian Declaration Towards Reconciliation', and 'The National Strategy to Sustain the Reconciliation Process',⁸⁷ as well as draft legislation to put their recommendations into effect.⁸⁸ What some sections of the Indigenous peoples of Australia were looking for in terms of a process to reach reconciliation could not have been made any clearer.

However, like other documents produced during the Howard regime, these documents were shelved upon receipt, and not acted on at the time.

6.7 Warning: The Dangers Inherent in Seeking a Treaty⁸⁹

The Indigenous peoples of Australia have been looking for ways to secure their future.⁹⁰ This thesis has demonstrated how both legislation and the law courts have failed to deliver justice to Indigenous peoples in Australia concerning land. Some Indigenous people have sought to make their position more secure by enshrining their rights in the Australian Constitution,⁹¹ with respect to which both legislation must be enacted, and also the law must be interpreted in the courts. As well, the Constitution is much harder to change than the law.

Closely related to the desire to change the Constitution is the wish to establish a treaty between the Indigenous and non-Indigenous peoples of Australia, which may be supported by the Constitution.⁹² The modern treaty movement stems from the proposal for a treaty made by the Larrikia people, whose land covers Darwin, in 1972, which was rejected by the Prime Minister at the time, because the people ‘were British subjects, and it would be inappropriate to negotiate with them as if they were foreign powers, and it was too difficult to know with whom to negotiate a treaty.’⁹³ John Howard famously said, ‘a nation ... does not make a treaty with itself,’⁹⁴ in spite of the examples of such treaties within the US, Canada, and Aotearoa /New Zealand. His statement demonstrates his refusal to acknowledge the point that the Indigenous peoples have been trying to make all along, namely that they do not recognise the sovereignty of the State of Australia over them. This inability to comprehend the idea that several different peoples may be able to exist in one land is at the root of the failure of the policies of non-Indigenous governments in Australia over time, which have consistently had the effect of trying to erase Indigenous identity, and consequently subsuming it under the identity of the State of Australia.⁹⁵

It was argued, in Chapter 4, that the present generation of people in a dispute will continue to sin in ways that are shaped by the sins of the past, and it was argued in Section 5.4 that this is indeed what has happened with land. Therefore, the Indigenous peoples of Australia need to be careful if they are going to pursue a treaty as a way of ensuring their future. Aden Ridgeway is correct when he writes that ‘... you cannot treat the symptoms of dysfunction in isolation from the historical causes. Good public policy

can only emerge when there has been an honest and accurate analysis of past errors and omissions, and a genuine commitment to meeting the needs and aspirations of the people affected by any new policy.⁹⁶ However, this thesis has argued that honesty about the past and a commitment towards the future is not sufficient. Mick Dodson is closer to the mark when he writes, '[t]he history of white/black conflict in Australia should drive government to negotiate a treaty with both Aborigines and Torres Strait Islanders. The negotiations should be in good faith. The government should act on behalf of its immigrant population to deal with history truthfully, and its consequences honourably.'⁹⁷ It is the recommendation of this thesis that any treaty has to be a process, and that it will only be safe for Indigenous peoples if negotiations are approached by non-Indigenous peoples as part of their process of repentance in seeking reconciliation with the Indigenous peoples of Australia. Whilst it is important to know the goal of a treaty process,⁹⁸ as was seen in the previous section, the needs of the Indigenous peoples of Australia will only be clarified through the process of seeking reconciliation. A treaty will have to support a structure for the on-going process of reconciliation; that is, it is unlikely that a satisfactory treaty will be a final document, but it will need to be something that grows with the process of reconciliation.

In September 2007, Australia was one of only four nations that voted against the United Nations Declaration on the Rights of Indigenous Peoples (the others being the USA, Canada and Aotearoa/New Zealand).⁹⁹ This must be worrying for Indigenous peoples in Australia. However, Indigenous peoples need to be careful as they seek to draw on the experience of other treaties in developing their thinking about forming a treaty in Australia,¹⁰⁰ for they need to look at how the treaties were negotiated and established, and whether they are perpetuating the problems of the past.

One of the themes running through this thesis is that there are multiple Indigenous cultures, with multiple histories of contacts with other cultures, leaving people with diverse issues that need to be resolved. 'For example, an Indigenous person who is a member of the stolen generations may view the key outstanding issues in a treaty process in quite a different way to someone who has had a relative die in custody, or someone who has had their native title rights extinguished by historical act or transaction. Furthermore, there are many Indigenous Australians who regard the question of Aboriginal and Torres Strait Islander sovereignty as the most pressing and important business for the nation to address. It is important therefore in the treaty

making process, we include all points of Indigenous view on the subject, including those views that reject or diminish the importance of the issue.’¹⁰¹ It is unlikely that a single treaty will be sufficient, but that some framework needs to be established to enable treaties at a local or regional level to satisfy the differing needs and aspirations of various Indigenous groups.¹⁰²

6.8 Conclusion

Recognising that repentance is a process which requires significant listening to the other people involved in the conflict, this chapter has explored some of the things that the Subsequent peoples might learn if they listened properly to what First peoples have been saying to them. The chapter began by arguing that deep listening could only happen if Subsequent peoples approached the process from a place of humility, recognising the implications of their being ‘Subsequent’, not ‘First’. When this is done, it opens up the way to hear what Indigenous people have been saying, about the Subsequent peoples, their culture, their understanding of human relationships to the land, what has happened in Australia since 1788, and so on. Repentance by the Subsequent peoples of Australia includes a process of listening to what the First peoples of Australia have to say about them, and being open to being changed by that encounter. This chapter has introduced some of the anthropological observations from First peoples about Subsequent peoples, touching on their perceptions of their relationships with Subsequent peoples, on history, and, perhaps most importantly, on the nature of human relationships with the land, where the concept of ‘ownership’ has been found wanting. The ‘unfinished business’ of reconciliation was briefly touched on. The chapter concluded with a section on the idea of a treaty, which is being promoted by some First people in order to ensure a more secure foundation for the future of First peoples in Australia. A warning was issued to those who wish to pursue this path, that to do so without it being part of the repentance process by Subsequent peoples will lead to a further fixing of the original sins of the first European incomers.

It must be stressed, that the process of listening must not be done in such a way that it imposes further burdens on the First peoples of Australia.

The next chapter will draw the argument of the thesis together.

¹ See Sections 1.3.1 and 3.2.

² Volf, *Exclusion*.

³ Writing of establishing peace in an armed conflict, Lederach, *Building*, p. 75, says, ‘Crisis response tends to involve specific projects with short-term, measurable outcomes. In the interests of transforming the conflict, however, short-term efforts must be measured primarily by their long-term implications. For example, while achieving a cease-fire is an immediate necessity, this goal must not be mistaken for, or replace, the broader framework of peacebuilding activity. Rather, a sustainable transformative approach suggests that the key lies in the *relationship* of the involved parties, with all that term encompasses at the psychological, spiritual, social, economic, political, and military levels.’

⁴ See further, e.g., Jack Horner (*Seeking Racial Justice: An Insider’s Memoir of the Movement for Aboriginal Advancement, 1938-1978* (Canberra: Aboriginal Studies Press, 2004), p. 155), who, in the context of his work with First and Subsequent people over the decades, reflected that there ‘had been many decades, indeed generations, of oppression by whites on and off the Aboriginal reserves. Out of loyalty to their families and for self-respect, some Aboriginal and Islander people could never feel comfortable working with white people, however considerate they might be. It was a truth not to be dismissed, a legacy of past and present violence.’

⁵ I am grateful to my wife, Helen Burn, for helping me to begin to think about the importance of ‘first’ and ‘subsequent’ in Australia, and for pointing out the work of Rogers, which is used below.

⁶ E.g. recall the remarks made in the valedictory speech by Senator Tchen, as discussed in Section 1.3 of Chapter 1.

⁷ See e.g. Jones, Philip, “Ideas Linking Australian Aborigines and Fuegians – From Cook to the *Kulturkreis* School”, *Australian Aboriginal Studies* no. 2 (1989), 2-13.

⁸ Broome, *Aboriginal*, pp. 96-97.

⁹ See Section 5.1.

¹⁰ Recall that the fact that there were multiple other Aboriginal cultures does not mean that they let go of their contact to the land (see Section 5.1). Diane Bell (“Respecting the Land: Religion, Reconciliation, and Romance – An Australian Story” in Grim, John A., ed., *Indigenous Traditions and Ecology: The Interbeing of Cosmology and Community* (Cambridge, Massachusetts: Harvard University Press, 2001), 465-483, p. 472), writes that the land claims process under the 1976 legislation ‘helped entrench what I will call the “tyranny of tradition.” It was ceremony, language, and unbroken clan genealogies that were being recognized, not the survival of knowledge in the face of disruption, dislocation, and depopulation. Claims on the basis of need, as recommended by the Woodward Commission, out of which the legislation had grown, were shuffled off the legislative agenda.’

¹¹ Recall, for example, the construction of eel traps, and other examples of managing and harvesting the land (see Section 5.1). Also, Stanner (“Caliban Discovered” (1962), reprinted in Stanner, W.E.H., *White Man Got No Dreaming: Essays 1938-1973* (Canberra: Australian National University Press, 1979), 144-164, p. 162), wrote: ‘At the same time, where the costs of futurity could be anticipated and lowered, that was done. Rivers and tidal shallows were permanently weired for fish; wells were dug and maintained; heavy grinding-stones were placed conveniently for later visits; rafts and canoes were put at dangerous crossings.’

¹² See, e.g., Broome, *Aboriginal*, pp. 75-79; Stanner, W E H, “Fictions, Nettles, Freedoms” (1972) , reprinted in Stanner, W.E.H., *White Man Got No Dreaming: Essays 1938-1973* (Canberra: Australian National University Press, 1979), 299-319; van Toorn, Penny, “Indigenous Australian Life Writing: Tactics and Transformations” in Attwood, Bain and Magowan, Fiona, eds., *Telling Stories: Indigenous History and Memory in Australia and New Zealand* (Crows Nest: Allen & Unwin, 2001), 1-20, 215-217, p. 14.

¹³ See Section 6.4 below.

¹⁴ I am grateful to Stephen Barton for pointing out this work to me.

¹⁵ Budden, *Following*, pp. 120f. He writes, '[t]he invisibility was reinforced through the colonists' refusing to make a treaty with Indigenous people; through the fiction of *terra nullius*; through colonists' denying Indigenous people citizenship, the vote, rights of residence, and the right to drink alcohol; through white Australians' taking Indigenous children; through whites' imprisoning Indigenous people at high rates; through whites' placing Indigenous people on missions, nearer to isolated areas. What is clear from the conversations and telling of stories that I have shared with Indigenous people is that many Indigenous people grew up feeling invisible – at school, when it came to work opportunities, and when people shared information on how to cope in society. This invisibility was a source of enormous shame.'

¹⁶ Budden, *Following*, p. 121. He writes, '[o]ne of the issues with invisibility and shame is the way in which people are named economically, as consumers; and the way in which they are ashamed because they cannot participate in this world.' Cf. Taylor, Louise ("Who's", p. 91), who writes, '[n]ot only was an Aborigine characterised by their level of Aboriginal blood, they were also clearly identifiable from the behaviour they displayed. Typically, and I would argue currently, this essentially Aboriginal behaviour had to include abuse of alcohol, criminal acts and/or stupidity.'

¹⁷ Thomas, Nicholas, *Possession: Indigenous art/colonial culture* p. 109, cited in Healy, Chris, *Forgetting Aborigines* (Sydney: University of NSW Press, 2008), p. 83.

¹⁸ Recent scholarship has re-established the centrality of Romans 9-11 in Paul's argument. No longer is the expression the 'righteousness of God' seen as only denoting the righteousness given to human beings by God, but as Paul's claim that God continues to be righteous (just, and trustworthy), when God seems to have changed the basis on which human beings are related to God. See the excellent essay, Beker, "The Faithfulness of God and the Priority of Israel in Paul's Letter to the Romans" in Donfried, Karl P., ed., *The Romans Debate* (Edinburgh: T&T Clark, 1991, 2nd edn), 327-332, for an introduction to this work, and Dunn, *The Theology*, pp. 340-346.

¹⁹ Rom. 11.17-24. Eugene Rogers (*Sexuality and the Christian Body* (Oxford: Blackwell, 1999), p. 64), writes,

[t]he Gentile church ... has no God of its own. It worships an other God, a God strange to it, the God of Israel, and Gentile Christians are strangers within their gate. Gentiles, even Gentile Christians, are not God's first love, not those of whom God is jealous, not those to whom God is betrothed, with whom God has made and renewed a covenant. Gentiles are so foreign to the God of Israel that Paul can say that God acts "contrary to nature," *para phusin*, in grafting them in.

²⁰ Again, Rogers, *Sexuality*, p. 50, writes,

[a]lmost all current Christians are, in the biblical categories, Gentiles. Christians have therefore largely forgotten, and it becomes perilously important that they should recall, that by and large *they are Gentiles*. Gentiles, who of themselves are defined as "not knowing God," (1 Thess. 4.5 and elsewhere) come to know a God not their own, are allowed to share in the benefits of God's people, whom they are not; they are "those who are not a nation" or an "un-nation", that is, not part of the true polity of God (Dt. 32.21; Rom. 10.19). Paul sees the coming in of the Gentiles as the very opposite of "seek and ye shall find," the shocking reversal of the politics of the desert, God's eschatological fulfillment of the prophecy of Isaiah: "I have been found by those who *did not* seek me; I have shown myself to those who *did not* ask for me" (Is. 65.1-2; Rom. 10.20)

(author's italics). Cf. Eph. 2.17-22.

- ²¹ Thrall, *II Corinthians (vol. 1)*, pp. 412-420 explores a range of possible interpretations. The key question is what sort of knowledge is being repudiated, which ‘depends on our understanding of the meaning and point of reference of the phrase κατὰ σάρκα. If it is to be attached to the pronoun οὐδένα and the noun Χριστόν, Paul is talking about understanding people on the basis of their external characteristics or natural attributes, whilst if it is to be related to the verbs, it is a matter of evaluating others by means of purely human criteria, worldly standards, and the like’ (p. 412).
- ²² Harris, *One*, pp. 138-140.
- ²³ Willis, “Riders”, pp. 317ff.
- ²⁴ Rose, Deborah, “Ned Kelly Died for our Sins (1988)” in Charlesworth, Max, ed., *Religious Business: Essays on Australian Aboriginal Spirituality* (Cambridge: Cambridge University Press, 1998), 103-119, p. 105.
- ²⁵ *Encountering Aborigines: A Case Study: Anthropology and the Australian Aborigines* (New York: Pergamon Press, 1973), p. 238, quoted in Rose, *Dingo*, p. 25
- ²⁶ Rose, “Ned”, p. 107.
- ²⁷ Harris, *One*, pp. 138f.
- ²⁸ Anderson, Christopher, “A Case Study in Failure: Kuku-Yalanji and the Lutherans at Bloomfield River, 1887-1902” in Swain, Tony and Bird Rose, Deborah, *Aboriginal Australians and Christian Missions: Ethnographic and Historical Studies* (The Australian Association for the Study of Religions, 1988), 321-337, p. 334
- ²⁹ McGrath, *Born*, pp. 148-153.
- ³⁰ McGrath, *Born*, p. 170; Willis, “Riders”, p. 316.
- ³¹ Rose recalls stopping at the side of a road in 1986 to film some of the most spectacular erosion in the Victoria River District. She asked her Aboriginal teacher/friend, Daly Pulkara, what he called that country. He said, “It’s the wild. Just the wild.” He then went on to speak of quiet country – the country in which all the care of generations of his people is evident to those who know how to see it. Quiet country stands in contrast to the wild: we were looking at a wilderness, man-made and cattle-made. This wild was a place where the life of the country was falling down into the gullies and washing away with the rain’ (Rose, “Sacred”, p.117). Quiet country was the result of the organisational ‘management’ of the land by his ancestors. Daly said that the damage in wild country was killing both life and time, “We’ll run out of history,” he said, “because *kartiya* [Europeans] fuck the Law up and [they’re] knocking all the power out of this country” (Rose, “Sacred”, p. 118). See also Rose, *Reports*, especially chapter 4, “Cattle Kings and Sacred Cows”.
- ³² Rose et al, *Country*, pp. 127-132. In personal correspondence, Rose said that the Mak Mak people are able to overcome this paradox because they know how to manage the cattle so that they do not damage the environment any further.
- ³³ Rose, “Ned”, p. 106; Willis, “Riders”, pp. 316ff.
- ³⁴ See, e.g., McIntosh, *Aboriginal*, pp. 51f; Willis, “Riders”, pp. 314ff. Rose, *Dingo*, p. 196, notes that the whole point of the marriage as a system of accommodation is that a new generation shares in the locative identity of both parents, but European practises of sexual exploitation and policies of assimilation effectively disabled this system. Adoption into the kinship system, in other ways apart from marriage, continues today, and is an important part of the Mawul Rom project (see Section 6.3).
- ³⁵ Rose, *Dingo*, p. 188.
- ³⁶ McIntosh, Ian, *Aboriginal*, pp. 67-71.
- ³⁷ McIntosh, Ian, *Aboriginal*, p. 127.
- ³⁸ The website for the band, as at 22.12.09 is: <http://www.yothuyindi.com/>.

³⁹ Trudgen, Richard, *Why Warriors Lie Down and Die: Towards an Understanding of why Aboriginal people of Arnhem Land face the greatest crisis in health and education since European contact* (Aboriginal Resources and Development Services Inc., 2000).

⁴⁰ Trudgen, *Why*, pp. 221f. The factors are: Yolngu clans' and nations' loss of sovereignty; the dominant culture 'naming' Yolngu culture with demeaning names; the dominant culture's non-recognition of traditional law and Yolngu legal codes; the dominant culture's non-recognition of Yolngu proprietary property rights; the dominant culture's non-recognition of thirteen years of war, and Yolngu victories over pastoralists; introduction of many Western diseases to Yolngu in one lifetime; unacknowledged traditional economic system, national and international trade; the dominant culture's destruction of trepang, pearling and crocodile skin industry and trade; unacknowledged massacres and slaughter early this century; many Yolngu forced off their estates to live on missions and settlements; institutionalisation during welfare era; traditional health systems and knowledge not acknowledged; total economic collapse in Arnhem Land; Yolngu economics replaced with Balanda [white person in Yolngu language] rations and modern welfare; rampant, debilitating dependency and learned helplessness; Yolngu confused about dominant culture world, in particular economics and wealth generation; Yolngu confused about dominant culture authority, legal and political systems; Yolngu confused about disease causation and modern medicines; Yolngu confused about dominant culture technical development; Yolngu confused about dominant culture agriculture, horticulture and aquaculture; decision-making removed from Arnhem Land to Darwin and Canberra; Yolngu lost the fight to stop mining on their lands; Balanda mining towns developed; influx of large numbers of dominant culture people in 1970s and '80s; destruction of traditional knowledge and values through Western influences; continual communication failure, unfamiliar language and world-view; the dominant culture not appreciating the massive communication failure; alcohol and other drugs become freely available; intervention programs are developed out of the dominant culture 'naming'; dominant culture professionals not trained for the Arnhem Land situation; constant turnover of inexperienced dominant culture staff and the resulting loss of dominant culture corporate history of Arnhem Land; historical trauma, culture shock, future shock not acknowledged; no language centres to chart the languages and develop dictionaries and other language tools; only a few interpreters or communication facilitators exist; no active, comprehensive mass media service in Yolngu Matha; meaningless contemporary education and training; use of foreign health, education, administration and legal systems (which Yolngu do not understand) to run infrastructure and enterprises on Yolngu communities; almost a total loss of meaningful employment to outsiders; loss of mastery over being good at something like a job or an artistic or life-skill; loss of master over living environment; Yolngu economic thinking and activity now centred on welfare; loss of fulfilling roles within community and families; and nothing to live and be educated for.

⁴¹ One example of this is the almost complete elimination of petrol sniffing in the Ramingining community (Trudgen, *Why*, pp. 239-245). Government approaches to this problem have been expensive and have sometimes aggravated the problem.

⁴² Baker et. al., *Working*, and Walsh et. al., *Planning*.

⁴³ On a small scale, Trudgen *Why*, p. 238, writes that the educational methods that he uses often result in 'the people [taking] the educator to a new level of understanding about the subject being discussed.' On a larger scale, consider Noel Pearson's constant attack on the welfare system, and, on an even bigger canvas, consider Bell, Jr., Daniel M, *Liberation Theology After the End of History: The refusal to cease suffering* (London: Routledge, 2001), which argues that capitalism is a form of madness.

⁴⁴ Rose, *Dingo*, p. 24.

⁴⁵ Rose, *Dingo*, p. 197.

⁴⁶ For further information, as at 22.12.09, see:

<http://www.cdu.edu.au/aiks/postgraduate.html>.

⁴⁷ As at 14.7.09, the website for this project is: <http://www.mawul.com/>.

⁴⁸ Pat McIntyre, private communication.

⁴⁹ Healy, *Forgetting*, p. 126.

⁵⁰ Healy, *Forgetting*, p. 126.

⁵¹ Besides the many 'traditional' type Aboriginal dances, there are also groups like the Bangarra Dance Theatre, who advertise themselves as 'one of the youngest and oldest of Australia's dance companies. Its living traditions go back at least 40,000 years with the indigenous peoples of Australia, yet it also reflects the lives and attitudes of indigenous people today. Steps that have pounded the dust of a dry continent for so long are the source of a truly Australian dance language' (as at 10.4.06, see <http://www.bangarra.com.au/>).

⁵² e.g. *Rabbit Proof Fence*; and *Deadly Yarns* (as at 10.4.06, see www.fti.asn.au).

⁵³ E.g. Yothu Yindi band.

⁵⁴ E.g. Winter, Joan G., curator, *Native Title Business: Contemporary Indigenous Art* (Southport, Queensland: Keearia Press, 2002); National Gallery of Australia, *Culture Warriors: Australian Indigenous Art Triennial* (National Gallery of Australia, 2009, second edition); Morphy, *Aboriginal*.

⁵⁵ E.g. Olive, *Karjini*; Rose, Deborah, *Hidden Histories: Black Stories from Victoria River Downs, Humbert River, and Wave Hill Stations* (Canberra: Aboriginal Studies Press, 1991).

⁵⁶ E.g. Huggins, Rita and Huggins, Jackie, *Auntie Rita* (Canberra: Aboriginal Studies Press, 1994); and a long list is given in Broome, *Aboriginal*, pp. 320f.

⁵⁷ E.g. Keefe, *Paddy's*.

⁵⁸ E.g. Corne, Aaron, and Neparnga Gumbula, "Now Balanda Say We Lost Our Land in 1788": Challenges to the Recognition of Yolngu Law in Contemporary Australia" in Langton, Marcia; Tehan, Maureen; Palmer, Lisa; and Shain, Kathryn, eds., *Honour Among Nations?: Treaties and Agreements with Indigenous People* (Melbourne: Melbourne University Press, 2004), 101-114; Rose, "Ned"; Rose, Deborah, "The Saga of Captain Cook: Remembrance and Morality" in Attwood, Bain and Magowan, Fiona, eds., *Telling Stories: Indigenous History and Memory in Australia and New Zealand* (Crows Nest: Allen & Unwin, 2001), 61-79, 228; and Part One of Trudgen, *Why*.

⁵⁹ E.g. Perkins and Langton, *First*.

⁶⁰ Some details available on 10.04.06 at the website: www.thedreamingfestival.com.

⁶¹ Rose, "Ned", p. 117.

⁶² Budden, *Following*, p. 21.

⁶³ Budden, *Following*, p. 72.

⁶⁴ Moltmann, J., *God in Creation* (London: SCM, 1985), pp. 276-278.

⁶⁵ Johnson et al, *Placebound*, p. 165.

⁶⁶ The idea that settled agricultural life is more 'civilised' or 'advanced' is at least as old as the charge the Romans made against the peoples living in the British Isles. Wachter, John, *The Towns of Roman Britain* (London: Batsford, 1995, 2nd edition), p. 33, writes, [t]he geographer Strabo, writing at the turn of the first century BC and first century AD, implied that the backwardness of western Europeans outside Italy was derived from their hunting, raiding way of life. Once they were converted to a settled, agricultural existence, urbanization would develop of its own accord. In the late eighteenth century, the Swiss jurist Emmerich de Vattel, whose work had been translated into English in 1759, justified the taking of lands occupied by

wandering tribes by saying that the only way of sustaining the world's population was by cultivation. So, those who did not cultivate were shirking their moral duty to do so, and should not complain if nations too confined at home should come and cultivate their land (paragraphs 81 and 209) (from King, "Terra", pp. 77ff).

⁶⁷ Brueggemann, Walter, "Land: Fertility and Justice" in Evans, Bernard F., and Cusack, Gregory D., eds., *Theology of the Land* (Collegeville: Liturgical Press, 1987), 41-68, p. 42.

⁶⁸ Brueggemann, "Land", p. 43.

⁶⁹ Brueggemann, "Land", pp. 44f. For example, in Ezek. 16.46-50, the treatment of women and the land is closely paralleled.

⁷⁰ Brueggemann, "Land", p. 43.

⁷¹ Here, Morphy is referring to art as representations of the land. His book, *Aboriginal*, covers other areas of Aboriginal art as well. For Aboriginal art which engages more explicitly with political issues, see, for example, Winter, *Native Title Business*, and National Gallery of Australia, *Culture Warriors*.

⁷² Morphy, *Aboriginal*, p. 103. It is worth reading the whole of chapter 4, "A Totemic Landscape: Art, Maps and People", pp. 103-142 of his *Aboriginal*; Morphy, "'Now'"; and Swain, Tony, "The Ghost of Space: Reflections of Warlpiri Christian Iconography and Ritual" in Swain, Tony and Bird Rose, Deborah, *Aboriginal Australians and Christian Missions: Ethnographic and Historical Studies* (The Australian Association for the Study of Religions, 1988), p. 452-469.

⁷³ In an unpublished lecture, Grace Davie noted a resurgence of the practice of pilgrimage (presented at the conference, 'Theology for the Future of Parish Ministry', Wescott Hall, Oxford, 16th-18th September, 2009).

⁷⁴ There seems to be similarities here with some traversings of the land by Aboriginal peoples.

⁷⁵ de Certeau, M, *The Practice of Everyday Life* (University of California Press, 2002), p. 120.

⁷⁶ Cavanaugh "The World", p. 183. See also Johnson et al, *Placebound*, especially Chapter 5, "Postcolonial Feminist Geographies".

⁷⁷ Brueggemann, Walter, *The Land: Place as Gift, Promise and Challenge in Biblical Faith* (London: SPCK, 1977), p. 187.

⁷⁸ Inge, John, *A Christian Theology of Place* (Aldershot: Ashgate Publishing, 2003), p. 52, author's italics.

⁷⁹ Inge, *A Christian*, p. 66, is careful in defining what he means by sacramental:

... we need to be clear that although God reveals himself in the world, sacramentality does not mean the world itself is self-revelatory of God in a general and indiscriminate manner. Rather, it means that the world in all its diverse aspects can be the place of God's own self-revelation to us. This is because, as Tim Gorringer puts it, sacraments should be seen as:

those rents in the opacity of history where God's concrete engagement to change the world becomes visible. It is therefore to speak of the Holy Spirit, which is to say the awareness of events which are wholly worldly, opaque and ordinary on the one hand, and wholly divine, radiant and mysterious on the other, for such a duality is the mark of the Spirit. Sacraments are reminders, if we need reminders, that matter and spirit, body and soul are not opposites, not temporarily and unfortunately mismatched, but proper expressions of each other (Gorringer, T., "Sacraments" in Morgan, R., ed., *The Religion of the Incarnation*:

⁸⁰ Inge, *A Christian*, p. 91.

⁸¹ Inge, *A Christian*, p. 100.

⁸² Some examples of how this is happening can be found in Baker et al, *Working*; and Walsh et al, *Planning*.

⁸³ Maddison, *Black*, pp. 74-79.

⁸⁴ Council for Aboriginal Reconciliation, *Reconciliation*, Appendix 3 (available 14.2.10 at: <http://www.austlii.edu.au/au/other/IndigLRes/car/2000/16/appendices03.htm>).

⁸⁵ Note that this insists that the issues that need to be addressed cannot be completely determined in advance, but will only emerge during the process of reconciliation, just as the earlier work in Chapter 3 has insisted that the nature of repentance and justice is only determined through the process of reconciliation.

⁸⁶ Dodson, Mick, "Unfinished", p. 31. See also pp. 39f. Larissa Behrendt ("Practical Steps Towards a Treaty – Structures, Challenges and the Need for Flexibility" in McGlade, Hannah, ed., *Treaty: Let's Get It Right! A Collection of Essays from ATSIAC's Treaty Think Tank and Authors Commissioned by AIATSIS on Treaty Issues* (Canberra: Aboriginal Studies Press, 2003), 18-29, 200-216) notes that earlier statements of Aboriginal requirements include the Barunga statement, the Eva Valley Statement, and Dodson, "Until".

⁸⁷ Council for Aboriginal Reconciliation, *Reconciliation*, Appendix 1.

⁸⁸ Council for Aboriginal Reconciliation, *Reconciliation*, Appendix 3.

⁸⁹ As was the case with the Chapter 5 on land, this section will only address arguments about a treaty up until around 2005, and will draw mainly on the collection of essays found in McGlade, *Treaty*. This time cut-off does not affect the primary point being made in this section, namely a warning that arises from Chapter 4, that the establishment of a treaty is fraught with danger unless it is part of the reconciliation process, part of the process of repentance of the non-Indigenous peoples in particular.

⁹⁰ E.g. Behrendt, "Practical", p. 19.

⁹¹ See, for example, Appendix 1 of Council for Aboriginal Reconciliation, *Reconciliation*; Dodson, Mick, "Unfinished", p. 32.

⁹² See Dodson, Mick, "Unfinished", pp. 33-38 for a description of how this could be implemented.

⁹³ Budden, *Following*, pp. 155f.

⁹⁴ This was said in an interview with John Laws on 29th May, 2000, and is recorded in many places, including Brennan, *Treaty*, p. 70.

⁹⁵ Cf. Gatens, Moira, *Imaginary Bodies: Ethics, Power and Corporeality* (London: Routledge, 1996), pp. 26f, who writes,

[t]he most a universal ethic will permit is the *expansion* of the one body. Under pressure from its own insistence on equity, it may be forced to admit women, slaves and others. It will not, however, tolerate the positing of a second, or a third, or a fourth body. Prime Minister Hawke's courting of the Aboriginal land rights movement prior to the Australian Bicentennial celebrations in 1988 could provide an example of my point here. He wanted to take the body politic off to the beauty parlour so it would look its best for its big birthday party. An important component of this beauty treatment involved attending to the blemishes on this body caused by the history of its abuse of Aboriginal bodies. It is instructive that Hawke wanted to make up by calling for a *compact*, a term that is more at home in seventeenth-century political texts. The term carries connotations of an agreement between equals, between like beings, to join a

single body. Some Aborigines, on the other hand, called for a *treaty*, a term that carries connotations of an agreement between unlike beings to respect each other's differences. It also implies a demand for the recognition of *two* bodies. Hawke resisted a treaty because this would be to recognize another voice, another body, and this raises the deepest fears. To recognize another body is to leave oneself open to *dialogue*, debate and engagement with the other's law and the other's ethics.

⁹⁶ Ridgeway, "Mabo", p. 189.

⁹⁷ Mansell, Michael, "Citizenship, Assimilation and a Treaty" in McGlade, Hannah, ed., *Treaty: Let's Get It Right! A Collection of Essays from ATSIC's Treaty Think Tank and Authors Commissioned by AIATSIS on Treaty Issues* (Canberra: Aboriginal Studies Press, 2003), 5-17, 200-216, p. 16.

⁹⁸ Mansell, "Citizenship", p. 6; National Indigenous Youth Movement of Australia, "A Story of Emergence – NIYMA's Views on a Treaty" in McGlade, Hannah, ed., *Treaty: Let's Get It Right! A Collection of Essays from ATSIC's Treaty Think Tank and Authors Commissioned by AIATSIS on Treaty Issues* (Canberra: Aboriginal Studies Press, 2003), 107-117, 200-216, p. 108.

⁹⁹ Maddison, *Black*, p. 239f.

¹⁰⁰ Langton et al, *Honour*; Havemann, Paul, ed., *Indigenous Peoples' Rights in Australia, Canada and New Zealand* (Melbourne: Oxford University Press, 1999).

¹⁰¹ Dodson, Mick, "Unfinished", p. 30.

¹⁰² Behrendt, "Practical", p. 20. Cf. Dodson, Mick, "Unfinished", p. 32, who writes, '[i]n my opinion, a single national treaty is impossible to achieve in Australia mainly because I believe Indigenous Australians would not agree to this. My preferred approach is for a national treaty framework model, which allows for treaty making on a national, state-wide regional or local basis.'

7 Conclusion

Talk to us about reconciliation
Only if you first experience
the anger of our dying.

Talk to us of reconciliation
If your living is not the cause
of our dying.

Talk to us about reconciliation
Only if your words are not products of your devious scheme
to silence our struggle for freedom.

Talk to us about reconciliation
Only if your intention is not to entrench yourself
more on your throne.

Talk to us about reconciliation
Only if you cease to appropriate all the symbols
and meanings of our struggle.

J Cabazares¹

The former Prime Minister, Gough Whitlam, once said, ‘Australia’s treatment of her Aboriginal people will be the thing upon which the rest of the world will judge Australia and Australians – not now, but in the greater perspective of history.’² This thesis has argued that the Subsequent peoples in Australia need to pursue reconciliation with the First peoples in Australia, for the well-being of all the peoples in Australia, and for the well-being of the land itself.

Patrick Dodson has written that ‘the forces of destruction inherent in Australia’s nation-building project, which have sought to extinguish Indigenous people’s society and

culture in their own country, are as powerful today as they were in the era of violent dispossession and state-sanctioned human rights abuses.³³ This thesis has tested the veracity of Dodson's words, and found them to be true. It has given an explanation of why these forces of destruction continue to work, and it has explored the nature of the reconciliation process that is needed in order to halt the continuing destructiveness of the Subsequent peoples of Australia. This chapter will draw the argument of this thesis together.

When he planted the British flag in the ground, Captain Philip committed a foundational sin, namely the failure to recognise Indigenous systems of law, including the sovereignty and the ownership of the land by the First peoples of Australia, part of a bigger failure to engage with the First peoples in their full humanity. Chapter 4 established the theological case that the present generation in any dispute has the propensity to continue to sin in ways that are shaped by the sins of former generations; there is a continuity between the behaviour of our forebears and ourselves. This theological observation was shown to have been true in practice by the study of how disputes over land have been treated by the non-Indigenous parliamentary and legal system during the past half century in Australia (Chapter 5), where the non-Indigenous system has continued to sin against the First peoples of Australia in ways that have been shaped by the sins of the past.

It could be argued that it is anachronistic to say that what Captain Philip did was wrong, for he was only acting in accordance with the developing European international law of his day. However, the failure of the incomers to change their understanding when they recognised that the land and its peoples were different from what they had expected, although it may have been difficult for them to see this through their particular cultural lenses, leaves them culpable, and it established a pattern of relating to the First peoples of Australia which has still to be broken. It simply will not do to say that the people were working within their cultural moral framework and so they should not be judged for actions that we now believe are wrong, because it can now be seen that the ways that they behaved had grave consequences for the land and its peoples, and their actions have continued to shape the behaviour of people ever since.

Some would also say that it is not fair that they are being made to feel guilty for what was done in the past. However, such sentiments are mistaken in two ways. Firstly, as

has been demonstrated in this thesis, the problems have not arisen only from the actions of people in the past, but they continue to be perpetuated in the present. Secondly, this way of thinking is too individualistic: although individuals may not have deliberately done things which have damaged the First peoples of Australia, they are part of a generation which has, and this corporate responsibility must be dealt with.⁴

The situation, however, is not irredeemable; there is a way to break the pattern, and that is through seeking reconciliation. Chapter 2 argued that reconciliation is made possible by God. Reconciliation, said Chapter 3, is a process that involves both forgiveness and repentance, and Chapter 4 argued that the present generation has the responsibility of repenting both of its own sins and the sins of its forebears, and similarly forgiveness needs to be given for the sins committed over the generations. Crucially, the nature of repentance cannot be known beforehand, and it is certainly more than just an apology, but the nature of repentance emerges during engaging in the process of reconciliation. Similarly, the nature of justice cannot be determined beforehand, but what is truly just arises from the process of reconciliation.

Clearly, these theological observations are applicable beyond the particular situation addressed in this thesis.⁵

This thesis has focused on the need for the Subsequent peoples to repent. This does not mean that there will not be things for which the First peoples need to repent, but the need for the Subsequent peoples to repent has been highlighted because of the way that many people from the dominant culture believe that they can distance themselves from the past, and go into the future without repeating the sins of the past. However, it is simply not possible to draw a line under the past because, without repentance, the present generation will continue to sin in ways that are shaped by the sins of the past.

Land was chosen for the case study in Chapter 5 because land is foundational to Indigenous identities, and so how land has been treated is indicative of the real will of the Subsequent peoples of Australia towards reconciliation. When it was judged that native title could be recognised by non-Indigenous law, there was an opportunity to explore what this precious, *sui generis* title might be; it could have been a point of engagement between the multifarious Indigenous and non-Indigenous communities, instead of which it turned out to be a rather fragile concept that was not allowed to take

root.⁶ Chapter 5 showed that the reflex response of the Subsequent peoples was still to protect their own perceived rights over those of the First peoples, so continuing to sin in a way that is shaped by the foundational sins, failing to pursue reconciliation. However, the fact that many people have failed to have claims to their land recognised in the non-Indigenous legal system does not mean that the land is owned by those who hold title to it according to the non-Indigenous legal system; there are two competing systems of ownership, and the ownership of land is still contested.⁷

It cannot be stressed strongly enough that recognising the land title held by First peoples does not resolve the problems for First peoples in Australia, for their survival is dependent on more than just land.⁸ The case study on land confirmed the more general point that the relationships between the First and Subsequent peoples of Australia continue to be shaped by the foundational sins and the whole complex history of interrelationships that has flowed from this ever since. Unless there is repentance for the whole history of destructive relationships, then the First peoples of Australia will continue to be under siege, even if they are granted title to their land.

There are indications that some changes are occurring in the way that Subsequent peoples are thinking about their First neighbours in Australia. For example, there was the Prime Minister's speech of apology to the 'Stolen Generations', as discussed in Chapter 3,⁹ and there are an increasing numbers of Indigenous Land Use Agreements, as discussed in Chapter 5, indicating a willingness to negotiate with First peoples about land use. It is still too early to make any judgements about whether these are changes are going to be sustained, and if they will be catalysts for a more far-reaching process of repentance. Chapter 6 therefore considered some of what needs to happen if the Subsequent peoples of Australia are to pursue a process of repentance. Patrick Dodson, in a continuation of the quotation from him above, wrote, '[t]he repudiation of assimilation as a philosophy of Australian nationhood will require a creative dialogue between the Indigenous peoples as much as a discourse between Indigenous people and settlers, so that a philosophy of recognition and respect of the culture of the First Peoples can become a foundation principle of Australian nationhood.'¹⁰ The formation of a treaty, as pursued by some of the First peoples of Australia, in order to secure their future, will only be safe if it is part of a process of repentance. Most of all, the Subsequent peoples need to allow themselves to be addressed by the First peoples, and to see what needs to be done in response: it not about seeking to include First peoples,

but for the non-Indigenous institutions to be changed by their encounter with First peoples.¹¹

In all of this, it is important to recognise that there is no universal Indigenous voice or experience.¹² No government has really addressed the diversity of Indigenous cultures.¹³ Too often, governments have listened to some dominant Indigenous voices, and then made policies affecting all First peoples, rather than listening to the people who were authorised to speak on behalf of their land and people.¹⁴ In any discussions, the diversity of conflicting opinions of First peoples must not be used to divide them, but should be understood as an indication of the complexity of really engaging with them.¹⁵

Ben Okri rightly tells us that

[s]tories are the secret reservoir of values: change the stories individuals and nations live by and tell themselves and you change the individuals and nations. ... Nations and peoples are largely the stories they feed themselves. If they tell themselves stories that are lies, they will suffer the future consequences of those lies. If they tell themselves stories that face their own truths, they will free their histories for future flowerings.¹⁶

Larissa Behrendt reminds us that that ‘confronting history, especially the moments that might not make one proud, allows the legacies of those moments to be countered. It is not about shaming or “guilting” or blaming. It is about acknowledging a truth, and with that acknowledgement will come reconciliation, healing, empowerment and pride.’¹⁷ But it is necessary to go further than this, for it has been shown that reconciliation is a process that involves both repentance and forgiveness, and that both reconciliation and justice come as a gift of God. More accurate are the words of Rowan Williams, who writes,

[t]o the objection that this simply produces an unprofitable and unrealistic guilt over actions that are now irreparable and may have been justifiable, the Church can only reply that it never seeks to generate guilt as an end in itself; but that its recollection of the fact of violence is a call to responsible acknowledgement and to conversion. Whatever may have been the heavy constraints which led men or nations to destructive acts, nothing can alter or soften the suffering caused. The Church speaks for that; yet by saying that this suffering belongs with the passion of the Saviour, the passion of God, it shows that penitent self-knowledge coincides with the knowledge of a forgiving and recreating Lord. And it must manifest this in the fact that its judgement – like that of Jesus – is at the same time an invitation, into a new form of life and a new pattern of relations: the

penitent are summoned to sit and eat at the Saviour's table, and to be themselves carriers of the gospel's judgement and the gospel's hope.'¹⁸

This has been a work of Christian theology. The purpose of this thesis has been to understand the nature of the problems in Australia for First and Subsequent peoples, and for the land itself. It has explored the nature of reconciliation from a Christian theological standpoint, and proposed reconciliation as a way of resolving the problems in Australia. In particular, it has focused on what it might mean for the Subsequent peoples of Australia to repent. With this understanding of reconciliation, pursuing reconciliation will not be just another policy done to the First peoples of Australia (cf. Figure 1-2).

Unfortunately, it has not proved possible in this thesis to engage fully with the law systems of the First peoples of Australia, to make this work itself a proper act of repentance. Therefore, this thesis is only the beginning of a conversation; how its insights are worked out, for example in non-Indigenous law,¹⁹ or what will happen when the ideas contained in it are engaged more fully with the systems of law of the First peoples of Australia, is beyond the scope of this thesis. But it is hoped that what has been written here will show why it is imperative to pursue reconciliation in Australia, and that it will stimulate the process of reconciliation. It is hoped that this work will be found beneficial for the peoples and the land of Australia, amongst whom I count myself.

¹ J Cabazares is a Filipino poet, and this poem is reproduced from Wink, *When*, p. 27.

² cited in Reynolds, *The Law*, p. 183.

³ Patrick Dodson, p. ix of the Foreword to Maddison, *Black*. In the opening pages of the *Bringing Them Home Report*, the editors make a similar point:

[t]he actions of the past resonate in the present and will continue to do so in the future. The laws, policies and practices which separated Indigenous children from their families have contributed directly to the alienation of Indigenous societies today. ... In no sense has the Inquiry been 'raking over the past' for its own sake. The truth is that the past is very much with us today, in the continuing devastation of the lives of Indigenous Australians. That devastation cannot be addressed unless the whole community listens with an open heart and mind to the stories of what has happened in the past and, having listened and understood, commits itself to reconciliation.

⁴ This does not mean that there have not been outstanding people and communities who have worked well with First peoples, and for their benefit, even seeking to change the way that the non-Indigenous cultures related to First peoples. However, it does say that these people have been part of a larger and continuing history of destructive practices towards First peoples in Australia.

⁵ For example, the massacre of the Jews in the 1939-1945 war can be seen as the culmination of relationships between Jewish people and others in Europe for nearly two millennia. It thus made sense for a recent Pope to apologise on behalf of the Roman Catholic Church for their failure towards the Jews in this war. The present generation of Christians has an obligation to seek reconciliation with Jewish people for the sins committed against them for two millennia.

⁶ Healy, *Forgetting*, p. 130.

⁷ Mansell, "Citizenship", p. 13, writes,

Often, government or the High Court "declares" that certain Aboriginal rights do not exist. ...

However, the decisions of these bodies, while binding on Australian citizens, are binding only on those citizens. Decisions by the High Court rejecting the existence of Aboriginal sovereignty (*Coe v C/W* 1979; *Coe v C/W* 1993), for example, declare the law for Australian citizens. The declaration has no binding effect on all Aborigines as a sovereign, independent people. The High Court's declaration merely means that Australian law does not recognise Aboriginal sovereignty.

A legal ruling by the High Court against Aboriginal sovereignty does not mean that Aboriginal sovereignty does not exist. It simply means white law does not recognise it. The question of the existence of sovereignty is entirely in the hands of the people who assert its existence, in this case Aborigines. The Court cannot be the absolute ruler on the point because neither the Court nor the Australian nation, has obtained the consent of indigenous peoples to decide.

Action was taken by Aboriginal leaders Paul and Isobel Coe (*Coe v C/W* 1979; *Coe v C/w* 1993), to test the High Court's position on Aboriginal sovereignty. This was not implied consent for the institutions of the Australian state to sit in judgement on Aboriginal rights. Those cases, like the Mabo case, simply tested the internal position of the Australian law.

A similar point is made by many other First people (e.g. Galarrwuy Yunupingu in McIntosh, *Aboriginal*, p. 109).

⁸ National Indigenous Youth Movement of Australia, "A Story", p. 113, write, 'Native Title has also divided the Indigenous community, and the focus on native title in the Indigenous rights debate has ignored the fact that Indigenous cultures and survival are based on much more than only land, though this is obviously central. Many Indigenous people have, as a result of history, lost their greater connection to their land through separation and death, and we need to include this as part of our identity as Indigenous peoples. We must address all the needs of our communities, not just those that are land-based. Further the [Royal Commission into Aboriginal Deaths in Custody]'s recommendations have never been fully implemented by either the federal or state/territory governments.'

⁹ Healy, *Forgetting*, p. 216, quite rightly notes that '[o]n the one hand Rudd's speech was tightly focused on the stolen generations, while on the other he seemed to be making reference to a broader process of reconciliation.' However, Norman, "An Examination", p. 14, is quite right to express disquiet that '[t]he people's movement for reconciliation, encapsulated as the walk across the bridge, came to equate Reconciliation with saying sorry for the stolen generations.' This is not enough.

¹⁰ Patrick Dodson, p. ix of the Foreword to Maddison, *Black*.

¹¹ Budden, *Following*, pp. 90, 134, 159, makes this case concerning the church.

¹² Farley, "What's", pp. 107f.

¹³ Maddison, *Black*, pp. xxxviii ff.

¹⁴ Pat McIntyre, personal communication.

¹⁵ Maddison, *Black*, is a reflection of the diverse opinions of some well-known Indigenous people on various issues that affect them. Several of the people interviewed expressed their concern that the Subsequent cultures made it hard for them to be allowed to have disagreements.

¹⁶ quoted in McIntosh, Alistair, *Soil and Soul: People versus Corporate Power* (London: Aurum Press, 2001), p. 46.

¹⁷ Behrendt, Larissa, *Achieving Social Justice: Indigenous Rights and Australia's Future* (Sydney: The Federation Press, 2003), p. 5.

¹⁸ Williams, Rowan, *Resurrection: Interpreting the Easter Gospel* (London: Darton, Longman and Todd, 2002, 2nd edition), p. 60.

¹⁹ As the preparation of this thesis was drawing to a close, I enjoyed stimulating conversations with Pat McIntyre about this question.

Bibliography

- Abernathy, David, "Paul's Ministry of Reconciliation: Exegeting and Translating 2 Corinthians 5.11-6.2", *Notes on Translation, Summer Institute of Linguistics* 15/4 (2001), 48-64
- Aboriginal and Torres Strait Islander Social Justice Commissioner, *Native Title Report 2004*, http://www.humanrights.gov.au/social_justice/ntreport04/ (checked 17th May, 2005)
- Adams, Edward, *Constructing the World: A Study in Paul's Cosmological Language* (Edinburgh: T&T Clark, 2000)
- Adams, Edward, and Horrell, David G, eds., *Christianity at Corinth: The Quest for the Pauline Church* (Louisville: Westminster John Knox Press, 2004)
- Adams, Michael, and English, Anthony, "Biodiversity is a whitefellas word': Changing Relationships Between Aborigines and the New South Wales National Parks and Wildlife Service" in Taylor, Luke; Ward, Graeme K.; Henderson, Graham; Davis, Richard; and Wallis, Lynley A., eds., *The Power of Knowledge, The Resonance of Tradition* (Canberra: Aboriginal Studies Press, 2005), 86-97
- Agius, Parry; Davies, Jocelyn; Howitt, Richard; Jarvis, Sandra; and Williams, Rhiân, "Comprehensive Native Title Negotiations in South Australia" in Langton, Marcia; Tehan, Maureen; Palmer, Lisa; and Shain, Kathryn, eds., *Honour Among Nations?: Treaties and Agreements with Indigenous People* (Melbourne: Melbourne University Press, 2004), 203-219
- Agosto, Efrain, "Paul and Commendation" in Sampley, J. P., ed., *Paul in the Greco-Roman World: A Handbook* (Harrisburg: Trinity Press International, 2003), 101-133
- Aguila, Mario I., "The *Mesa di Diálogo* and the Fate of the Disappeared in Chile 1999-2000: National Forgiveness Without Political Truth?" in Maclean, Iain S., ed., *Reconciliation, Nations and Churches in Latin America* (Aldershot: Ashgate, 2006), 41-55
- Ah Kit, John, "Land Rights at Work – Aboriginal People and Regional Economies", in Yunupingu, Galarrwuy (ed.), *Our Land is Our Life: Land Rights – Past, Present and Future* (St Lucia, Queensland: University of Queensland Press, 1997), 52-62
- _____, "A Chinaman in the Woodpile – or a Blackfella in the House?" in Edwards, Penny and Yuafang, Shen, eds., *Lost in the Whitewash: Aboriginal-Asian Encounters in Australia, 1901-2001* (Canberra: The Australian National University Humanities Research Centre, 2003), 115-123
- Aldunate, José, "The Christian Ministry of Reconciliation in Chile" in Baum, Gregory and Wells, Harold, eds., *The Reconciliation of the Peoples: Challenge to the Churches* (Geneva: WCC Publications, 1997), 56-66
- Alexopoulos, Stefanos, "An Example of Ecclesial Reconciliation in the Early Church: Three Homilies by Paul of Emesa and Cyril of Alexandria," *St Vladimir's Theological Quarterly* 45/4 (2001), 339-58
- Alroe, Michael, "A Pygmalion Complex Among Missionaries: The Catholic Case in the Kimberley" in Swain, Tony and Bird Rose, Deborah, *Aboriginal Australians and Christian Missions: Ethnographic and Historical Studies* (The Australian Association for the Study of Religions, 1988), 30-44
- Altman, Jon, "Economic Development of the Indigenous Economy and the Potential Leverage of Native Title" in Keon-Cohen, Bryan, ed., *Native Title in the New Millennium* (Canberra: Aboriginal Studies Press, 2001), 105-115

- _____, "Development Options on Aboriginal Land: Sustainable Indigenous Hybrid Economies in the Twenty-First Century" in Taylor, Luke; Ward, Graeme K.; Henderson, Graham; Davis, Richard; and Wallis, Lynley A., eds., *The Power of Knowledge, The Resonance of Tradition* (Canberra: Aboriginal Studies Press, 2005), 34-48
- Anderson, Christopher, "A Case Study in Failure: Kuku-Yalanji and the Lutherans at Bloomfield River, 1887-1902" in Swain, Tony and Bird Rose, Deborah, *Aboriginal Australians and Christian Missions: Ethnographic and Historical Studies* (The Australian Association for the Study of Religions, 1988), 321-337
- _____, "Aborigines and Conservationism: The Daintree-Bloomfield Rd", *Australian Journal of Social Issues* 24/3, (3rd August, 1989), 214-227
- Anderson, Ian, "The Framework Agreements: Intergovernmental Agreements and Aboriginal and Torres Strait Islander Health" in Langton, Marcia; Tehan, Maureen; Palmer, Lisa; and Shain, Kathryn, eds., *Honour Among Nations?: Treaties and Agreements with Indigenous People* (Melbourne: Melbourne University Press, 2004), 254-272
- Anderson, Jan, "Beyond Traditional Law: Better Native Title Service Provision" in Toussaint, Sandy, ed., *Crossing Boundaries: Cultural, Legal, Historical and Practice Issues in Native Title* (Melbourne: Melbourne University Press, 2004), 58-66, 211-212
- Anderson, Pamela Sue, "A Feminist Ethics of Forgiveness", in *Forgiveness and Truth*, edited by Alistair McFadyen and Marcel Sarot, 145-156
- Ariss, Robert, "Writing Black: The Construction of an Aboriginal Discourse" in Beckett, Jeremy, ed., *Past and Present: The Construction of Aboriginality* (Canberra: Aboriginal Studies Press, 1988), 131-146
- Asch, Michael, "From *Calder* to *Van der Peet*: Aboriginal Rights and Canadian Law, 1973-96" in Havemann, Paul, ed., *Indigenous Peoples' Rights in Australia, Canada and New Zealand* (Melbourne: Oxford University Press, 1999), 428-446
- Asche, Wendy, "Method, Mechanism and Mindset: Collaborative Approaches in Native Title" in Toussaint, Sandy, ed., *Crossing Boundaries: Cultural, Legal, Historical and Practice Issues in Native Title* (Melbourne: Melbourne University Press, 2004), 50-57, 211
- Asmal, Kader, Asmal, Louise, and Roberts, Ronald Suresh, "When the Assassin Cries Foul: The Modern Just War Doctrine" in Villa-Vicencio, Charles and Verwoerd, Wilhelm, ed., *Looking Back Reaching Forward: Reflections on the Truth and Reconciliation Commission of South Africa* (Cape Town: University of Cape Town Press 2000), 86-98
- Atkinson, Wayne, "Reflections on the Yorta Yorta Native Title Claim, 1994-2003", *Journal of Australian Indigenous Issues* 6/1 (March, 2003), 3-11
- _____, "'Reconciliation and Land Justice: You Can't Have One Without the Other' – Reflections on the Future Directions of the Yorta Yorta Land Claim", *Journal of Australian Indigenous Issues* 7/2 (June, 2004), 24-28
- Attridge, Harold W. *Hebrews* (Philadelphia: Fortress Press, 1989; Hermeneia Commentary)
- Attwood, Bain, "Introduction" in Attwood, Bain and Arnold, John, eds, *Power, Knowledge and Aborigines* (Victoria: La Trobe University Press, 1992), i-xvi
- _____, "The Burden of the Past in the Present" in Grattan, Michelle, *Essays on Australian Reconciliation* (Melbourne: Black Inc, 2000), 254-259
- _____, "'Learning About the Truth': Stolen Generations Narrative" in Attwood, Bain and Magowan, Fiona, eds., *Telling Stories: Indigenous History and Memory in Australia and New Zealand* (Crows Nest: Allen & Unwin, 2001), 183-212, 241-260

- Attwood, Bain and Arnold, John, eds, *Power, Knowledge and Aborigines* (Victoria: La Trobe University Press, 1992)
- Attwood, Bain and Magowan, Fiona, eds., *Telling Stories: Indigenous History and Memory in Australia and New Zealand* (Crows Nest: Allen & Unwin, 2001)
- Attwood, Bain and Markus, Andrew, eds., *The Struggle for Aboriginal Rights: A Documentary History* (Sydney: Allen & Unwin, 1999)
- Ausburger, David. W., *Helping People Forgive* (Louisville: Westminster John Knox Press, 1996)
- Austin, J.L., *How to Do Things With Words* (Cambridge, Massachusetts: Harvard University Press, 2nd edn, edited by J. O. Urmson and Marina Sbisa, 1975)
- Australian Psychological Society, *Code of Ethics* (Melbourne: 1997/1999)
- Avila, Charles, *Ownership: Early Christian Teaching* (Maryknoll: Orbis Books, 1983)
- Aydin, Mahmut, "Reconciliation in Islamic Theology" *Journal of Ecumenical Studies* 39 (2002), 141-150
- Bachelard, Michael, *The Great Land Grab* (Hyland House Publishing, 1997)
- Baines, Patricia, "A Litany For Land" in Keen, Ian, ed., *Being Black: Aboriginal Cultures in 'Settled' Australia* (Canberra: Aboriginal Studies Press, 1988), 227-249
- _____, "Seeking Justice: Traditions of Social Action Among Indigenous Women in the Southwest of Western Australia" in Brock, Peggy, ed., *Words and Silences: Aboriginal Women, Politics and Land* (Crows Nest: Allen & Unwin, 2001), 56-91, 180-181
- Baker, Richard; Davies, Jocelyn; and Young, Elspeth, eds., *Working on Country: Contemporary Indigenous Management of Australia's Lands and Coastal Regions* (Melbourne: Oxford University Press, 2001)
- _____, "Managing Country: An Overview of the Prime Issues" in Baker, Richard; Davies, Jocelyn; and Young, Elspeth, eds., *Working on Country: Contemporary Indigenous Management of Australia's Lands and Coastal Regions* (Melbourne: Oxford University Press, 2001), 3-23
- _____, "Introduction to Part II: Approaches to Managing Country" in Baker, Richard; Davies, Jocelyn; and Young, Elspeth, eds., *Working on Country: Contemporary Indigenous Management of Australia's Lands and Coastal Regions* (Melbourne: Oxford University Press, 2001), 49-59
- _____, "Introduction to Part III: Sharing Knowledge" in Baker, Richard; Davies, Jocelyn; and Young, Elspeth, eds., *Working on Country: Contemporary Indigenous Management of Australia's Lands and Coastal Regions* (Melbourne: Oxford University Press, 2001), 139-146
- _____, "Introduction to Part IV: Negotiating Management" in Baker, Richard; Davies, Jocelyn; and Young, Elspeth, eds., *Working on Country: Contemporary Indigenous Management of Australia's Lands and Coastal Regions* (Melbourne: Oxford University Press, 2001), 247-256
- _____, "Working on Country: Listening, Sharing, and Providing Practical Support" in Baker, Richard; Davies, Jocelyn; and Young, Elspeth, eds., *Working on Country: Contemporary Indigenous Management of Australia's Lands and Coastal Regions* (Melbourne: Oxford University Press, 2001), 337-345
- Baker, Richard; Davies, Jocelyn; and Young, Elspeth, eds., *Working on Country: Contemporary Indigenous Management of Australia's Lands and Coastal Regions* (Melbourne: Oxford University Press, 2001)
- Balz, Horst, and Schneider, Gerhard, eds., *Exegetical Dictionary of the New Testament*, 3 Volumes, (Grand Rapids: Eerdmans, 1990)
- Banks, *Jesus and the Law in the Synoptic Tradition* (Cambridge: Cambridge University Press, 1975)

- Barclay, John M G, "Thessalonica and Corinth: Social Contrasts in Pauline Christianity", *JSNT* 47 (1992), 49-79, reprinted in part in Adams, Edward, and Horrell, David G, eds., *Christianity at Corinth: The Quest for the Pauline Church* (Louisville: Westminster John Knox Press, 2004), 183-196
- Barker, Michael, "Working as a Barrister on the Miriuwung Gajerrong Native Title Claim" in Toussaint, Sandy, ed., *Crossing Boundaries: Cultural, Legal, Historical and Practice Issues in Native Title* (Melbourne: Melbourne University Press, 2004), 159-175, 219-220
- Barr, David R, "John's Ironic Empire", *Interpretation* 63/1 (January 2009), 20-30
- Barrett, C.K., *The Second Epistle to the Corinthians* (London: A & C Black, Black's New Testament Commentaries, 1973)
- _____, "Sectarian Diversity at Corinth" in Burke, Trevor J., and Elliott, J. Keith, ed., *Paul and the Corinthians: Studies on a Community in Conflict. Essays in Honour of Margaret Thrall* (Leiden: Brill, 2003), 287-302
- Barth, Karl, "The Christian Message in Europe Today", based on a lecture given in the summer of 1946 in Düsseldorf, Cologne, Bonn and other German centres, reproduced in his *Against the Stream: Shorter Post-War Writings 1946-52* (London: SCM, 1954), 165-180
- Barth, Markus, "Jews and Gentiles: The Social Character of Justification in Paul", *Journal of Ecumenical Studies* 5 (1968), 241-267
- Bartholomew, C., Chaplin, J., Song, R., and Wolters, A., eds, *A Royal Priesthood?: The Use of the Bible Ethically and Politically, A Dialogue with Oliver O'Donovan* (Grand Rapids: Zondervan, 2002)
- Bartlett, Richard H., "Native Title in Australia: Denial, Recognition, and Dispossession" in Havemann, Paul, ed., *Indigenous Peoples' Rights in Australia, Canada and New Zealand* (Melbourne: Oxford University Press, 1999), 408-427
- _____, "Canada: Indigenous Land Claims and Settlements" in Keon-Cohen, Bryan, ed., *Native Title in the New Millennium* (Canberra: Aboriginal Studies Press, 2001), 355-366
- _____, *Native Title in Australia* (Sydney: LexisNexis Butterworths, 2004, 2nd edition)
- Bartoli, Andrea, "Forgiveness and Reconciliation in the Mozambique Peace Process" in Helmick SJ, Raymond G., and Petersen, Rodney L., *Forgiveness and Reconciliation: Religion, Public Policy, and Conflict Transformation* (Pennsylvania: Templeton Foundation Press, 2001), 351-371
- Barton, Stephen, "Matthew", in Barton, Stephen, *The Cambridge Companion to the Gospels* (Cambridge: Cambridge University Press, 2006)
- Bash, Anthony, *Ambassadors for Christ: An Exploration of Ambassadorial Language in the New Testament* (Tübingen, J C B Mohr, 1997)
- _____, "A Psychodynamic Approach to the Interpretation of 2 Corinthians 10-13", *Journal for the Study of the New Testament* 83 (2001), 51-67
- Basten, John, "Beyond Yorta Yorta", Revision of a paper prepared for the AIATSIS Native Title Conference, Alice Springs, June 2003, published as AIATSIS Native Title Research Unit Issues Papers vol. 2, no. 24, October 2003, available on the web page (at 15.4.06): <http://ntru.aiatsis.gov.au/ntpapers/ipv2n24.pdf>
- Battle, Michael, "A Theology of Community: The Ubuntu Theology of Desmond Tutu", *Interpretation* (April 2000), 173-182
- _____, "Truth and Reconciliation: From Chile to South Africa" in Maclean, Iain S., ed., *Reconciliation, Nations and Churches in Latin America* (Aldershot: Ashgate, 2006), 207-224
- Batty, Philip, "Recruiting an Aboriginal Voice: The State Development of Aboriginal Broadcasting" in Taylor, Luke; Ward, Graeme K.; Henderson, Graham; Davis,

- Richard; and Wallis, Lynley A., eds., *The Power of Knowledge, The Resonance of Tradition* (Canberra: Aboriginal Studies Press, 2005), 169-181
- Baum, Gregory and Wells, Harold, eds., *The Reconciliation of the Peoples: Challenge to the Churches* (Geneva: WCC Publications, 1997)
- Beale, G.K., "The Old Testament Background of Reconciliation in 2 Corinthians 5-7 and its Bearing on the Literary Problem of 2 Corinthians 6.14-7.1", *New Testament Studies* 35 (1989), 550-581
- Beckett, Jeremy, *Torres Strait Islanders: Custom and Colonialism* (Cambridge: Cambridge University Press, 1987)
- _____, "Kinship, Mobility and Community in Rural New South Wales" in Keen, Ian, ed., *Being Black: Aboriginal Cultures in 'Settled' Australia* (Canberra: Aboriginal Studies Press, 1988), 117-136
- _____, ed., *Past and Present: The Construction of Aboriginality* (Canberra: Aboriginal Studies Press, 1988)
- _____, "Introduction" in Beckett, Jeremy, ed., *Past and Present: The Construction of Aboriginality* (Canberra: Aboriginal Studies Press, 1988), 1-10
- _____, "The Past in the Present; the Present in the Past: Constructing a National Aboriginality" in Beckett, Jeremy, ed., *Past and Present: The Construction of Aboriginality* (Canberra: Aboriginal Studies Press, 1988), 191-217
- _____, "Autobiography and Testimonial Discourse in Myles Lalor's 'Oral History'" in Attwood, Bain and Magowan, Fiona, eds., *Telling Stories: Indigenous History and Memory in Australia and New Zealand* (Crow's Nest: Allen & Unwin, 2001), 123-142, 234-236
- Behr, John, "Colossians 1.13-20: A Chiastic Reading" *St Vladimir's Theological Quarterly* 40 (1996), 247-264
- Behrendt, Larissa, *Aboriginal Dispute Resolution: A Step Towards Self-Determination and Community Autonomy* (Sydney: The Federation Press, 1995)
- _____, "The Link Between Rights and a Treaty: 'Practical Reconciliation'", *Balayi: Culture, Law and Colonialism* 4 (2002), 21-27
- _____, *Achieving Social Justice: Indigenous Rights and Australia's Future* (Sydney: The Federation Press, 2003)
- _____, "Practical Steps Towards a Treaty – Structures, Challenges and the Need for Flexibility" in McGlade, Hannah, ed., *Treaty: Let's Get It Right! A Collection of Essays from ATSIC's Treaty Think Tank and Authors Commissioned by AIATSIS on Treaty Issues* (Canberra: Aboriginal Studies Press, 2003), 18-29, 200-216
- Beier, Ulli, *Quandamooka: The Art of Kath Walker* (Bathurst: Robert Brown & Associates in association with Aboriginal Artists Agency, 1985)
- Beker, "The Faithfulness of God and the Priority of Israel in Paul's Letter to the Romans" in Donfried, Karl P., ed., *The Romans Debate* (Edinburgh: T&T Clark, 1991, 2nd edn), 327-332
- Belgrave, Michael; Kawharu, Merata; and Williams, David, eds., *Waitangi Revisited: Perspectives on the Treaty of Waitangi* (Melbourne: Oxford University Press, 2005)
- Bell, Jr., Daniel M, *Liberation Theology After the End of History: The refusal to cease suffering* (London: Routledge, 2001)
- Bell, Diane, "Sacred Sites: The Politics of Protection" in Peterson, Nicolas and Langton, Marcia, eds., *Aborigines, Land and Land Rights* (Canberra: Australian Institute of Aboriginal Studies, 1983), 278-293
- _____, "Desperately Seeking Redemption", *Natural History* 106/2 (March 1997), 52-53
- _____, *Ngarrindjeri Wurruwarrin: A World That Is, Was and Will Be* (Melbourne: Spinifex Press, 1998)

- _____, “Aboriginal Women and the Religious Experience (1980)” in Charlesworth, Max, ed., *Religious Business: Essays on Australian Aboriginal Spirituality* (Cambridge: Cambridge University Press, 1998), 46-71
- _____, “Respecting the Land: Religion, Reconciliation, and Romance – An Australian Story” in Grim, John A., ed., *Indigenous Traditions and Ecology: The Interbeing of Cosmology and Community* (Cambridge, Massachusetts: Harvard University Press, 2001), 465-483
- _____, “The Word of a Woman: Ngarrindjeri Stories and a Bridge to Hindmarsh Island” in Brock, Peggy, ed., *Words and Silences: Aboriginal Women, Politics and Land* (Crows Nest: Allen & Unwin, 2001), 117-138, 181-183
- _____, *Daughters of the Dreaming* (Melbourne: Spinifex Press, 2002, 3rd edn.)
- Bennion, Tom, “New Zealand: Indigenous Land Claims and Settlements” in Keon-Cohen, Bryan, ed., *Native Title in the New Millennium* (Canberra: Aboriginal Studies Press, 2001), 367-376
- Berndt, Ronald M., “A Profile of Good and Bad in Australian Aboriginal Religion (1979)” in Charlesworth, Max, ed., *Religious Business: Essays on Australian Aboriginal Spirituality* (Cambridge: Cambridge University Press, 1998), 24-45
- Best, Ernest, *Second Corinthians* (Louisville: John Knox Press, Interpretation Commentary, 1987)
- _____, *Ephesians* (Edinburgh: T&T Clark, International Critical Commentary, 1998)
- Bethke Elshain, Jean, “Politics and Forgiveness” in Nigel Biggar (ed.), *Burying the Past: Making Peace and Doing Justice after Civil Conflict* (Washington: Georgetown University Press, 2001), 40-56
- Betz, H.D., *Galatians: A Commentary on Paul’s Letter to the Churches in Galatia* (Philadelphia: Fortress Press, Hermeneia Series, 1979)
- Bhargava, Rajeev, “The Moral Justification of Truth Commissions” in Villa-Vicencio, Charles and Verwoerd, Wilhelm, ed., *Looking Back Reaching Forward: Reflections on the Truth and Reconciliation Commission of South Africa* (Cape Town: University of Cape Town Press 2000), 60-67
- Bieringer, R., “2 Kor. 5.19a Und die Versöhnung der Welt”, *Ephemerides Theologicae Lovanienses* (1987), 295-326, reprinted in Bieringer, R. and Lambrecht, J., *Studies in 2 Corinthians* (Leuven: Leuven University Press, 1994), 429-459
- _____, “Paul’s Divine Jealousy: The Apostle and His Communities in Relationship” in Koperski, V. and Bieringer, *Sharper than a Two-edged Sword* (Louvain Studies 17, 1992), 197-231, reprinted in Bieringer, R. and Lambrecht, J., *Studies in 2 Corinthians* (Leuven: Leuven University Press, 1994), 223-253
- _____, “Paul’s Understanding of Diakonia in 2 Corinthians 5.18” in Bieringer, R. and Lambrecht, J., *Studies in 2 Corinthians* (Leuven: Leuven University Press, 1994), 413-428
- Bieringer, R. and Lambrecht, J., *Studies in 2 Corinthians* (Leuven: Leuven University Press, 1994)
- Biggar, Nigel, “Forgiveness and Truth in the Twentieth Century: A Review of the Literature, 1901-2001”, in *Forgiveness and Truth*, edited by Alistair McFadyen and Marcel Sarot, 181-218
- _____, ed., *Burying the Past: Making Peace and Doing Justice after Civil Conflict* (Washington: Georgetown University Press, 2001)
- _____, “Making Peace or Doing Justice: Must We Choose?”, in Nigel Biggar (ed.), *Burying the Past: Making Peace and Doing Justice after Civil Conflict* (Washington: Georgetown University Press, 2001), 6-22
- _____, “Concluding Remarks”, in Nigel Biggar (ed.), *Burying the Past: Making Peace and Doing Justice after Civil Conflict* (Washington: Georgetown University Press, 2001), 270-285

- Birdsall, Chris, "All One Family" in Keen, Ian, ed., *Being Black: Aboriginal Cultures in 'Settled' Australia* (Canberra: Aboriginal Studies Press, 1988), 137-158
- Blumenfeld, Bruno, *the Political Paul: Justice, Democracy and Kingship in a Hellenistic Framework* (Sheffield: Sheffield Academic Press, 2001)
- Boers, Hendrikus, "2 Corinthians 5.14-6.2: A Fragment of Pauline Christology" *The Catholic Biblical Quarterly* 64 (2002), 527-547
- Bond, John, "Concerns with Reconciliation Place", *Journal of Australian Indigenous Issues* 4/4 (December, 2001), 29-30
- Boesak, Willa, *God's Wrathful Children: Political Oppression and Christian Ethics* (Grand Rapids: Eedrmans, 1995)
- Borrows, John, "Practical Reconciliation, Practical Re-Colonisation?" *Land, Rights, Laws: Issues of Native Title*, 2/27 (May 2004), available on web page (as at 18.4.06): <http://ntru.aiatsis.gov.au/ntpapers/ipv2n27.pdf>
- Bos, Robert, "The Dreaming and Social Change in Arnhem Land" in Swain, Tony and Bird Rose, Deborah, *Aboriginal Australians and Christian Missions: Ethnographic and Historical Studies* (The Australian Association for the Study of Religions, 1988), 422-437
- Botcharova, Olga, "Implementation of Track Two Diplomacy: Developing a Model of Forgiveness" in Helmick SJ, Raymond G., and Petersen, Rodney L., *Forgiveness and Reconciliation: Religion, Public Policy, and Conflict Transformation* (Pennsylvania: Templeton Foundation Press, 2001), 269-294
- Bottoms, John, "Thayorre People v Queensland" in Hiley QC, Graham, ed., *The Wik Case: Issues and Implications* (Sydney: Butterworths, 1997), 19-22
- Bourke, Colin and Bourke, Eleanor, "Can an Indigenous Australian University Be Part of Reconciliation?" in Manderson, Lenore, ed. *Reconciliation: Voices from the Academy (1998 Annual Symposium of the Academy of the Social Sciences in Australia)* (Canberra: Academy of the Social Sciences in Australia Occasional Paper Series 2/1999), 53-66
- Boyce, James, " 'What Business Have You Here?'" in Perkins, Rachel and Langton, Marcia, *First Australians: An Illustrated History* (Carlton: The Miegunyah Press, 2008), 62-113
- Bradfield, Stuart, "Communal Ownership of Indigenous Land and Individual Wealth Creation: The Debate So Far, Identifying Key Questions", *National Native Title Conference*, Coffs Harbour, 1st-3rd June, 2005, available on web page (as at 17.4.06): <http://ntru.aiatsis.gov.au/conf2005/papers/BradfieldS.pdf>
- Bradley, John J., "Landscapes of the Mind, Landscapes of the Spirit: Negotiating a Sentient Landscape" in Baker, Richard; Davies, Jocelyn; and Young, Elspeth, eds., *Working on Country: Contemporary Indigenous Management of Australia's Lands and Coastal Regions* (Melbourne: Oxford University Press, 2001), 295-307
- Brady, Maggie, "Making Use of Medics: Overcoming Cultural Constraints in Alcohol Interventions" in Taylor, Luke; Ward, Graeme K.; Henderson, Graham; Davis, Richard; and Wallis, Lynley A., eds., *The Power of Knowledge, The Resonance of Tradition* (Canberra: Aboriginal Studies Press, 2005), 130-140
- Brady, Maggie, and Palmer, Kingsley, "Dependency and Assertiveness: Three Waves of Christianity Among Pitjantjatjara People at Ooldea and Yalata" in Swain, Tony and Bird Rose, Deborah, *Aboriginal Australians and Christian Missions: Ethnographic and Historical Studies* (The Australian Association for the Study of Religions, 1988), 236-249
- Brandl, Maria and Walsh, Michael, "Roots and Branches, or the Far-Flung Net of Aboriginal Relationships" in Peterson, Nicolas and Langton, Marcia, eds., *Aborigines, Land and Land Rights* (Canberra: Australian Institute of Aboriginal Studies, 1983), 149-159

- Brennan SJ, Frank, "Aboriginal Aspirations to Land: Unfinished History and a Continuing National Responsibility" in Brennan SJ, Frank, Daniel SJ, William, Egan SJ, John, and Honner SJ, John, *Finding Common Ground: An Assessment of Aboriginal Land Rights* (Blackburn, Victoria: Collins Dove, 1986, 2nd edition), 11-49
- _____, Frank, *Sharing the Country: The Case for an Agreement Between Black and White Australians* (Victoria: Penguin, 1991)
- _____, ed., *Reconciling Our Differences: A Christian Approach to Recognising Aboriginal Land Rights* (Richmond, Victoria: Aurora Books, 1992)
- _____, "Introduction" in Brennan S.J., Frank, ed., *Reconciling Our Differences: A Christian Approach to Recognising Aboriginal Land Rights* (Richmond, Victoria: Aurora Books, 1992), 1-4
- _____, "From *Terra Nullius* to Constitutional Recognition of Aboriginal Rights" in Brennan S.J., Frank, ed., *Reconciling Our Differences: A Christian Approach to Recognising Aboriginal Land Rights* (Richmond, Victoria: Aurora Books, 1992), 35-52
- _____, "Land Rights – The Religious Factor" in Charlesworth, Max, ed., *Religious Business: Essays on Australian Aboriginal Spirituality* (Cambridge: Cambridge University Press, 1998), 142-175
- _____, *The Wik Debate: Its Impact on Aborigines, Pastoralists and Miners* (Sydney: University of New South Wales Press, 1998)
- _____, "Reconciling Our Differences" in Grattan, Michelle, *Essays on Australian Reconciliation* (Melbourne: Black Inc, 2000), 25-32
- _____, "Standing in Deep Time; Standing in the Law: A Non-Indigenous Australian Perspective on Land Rights, Land Wrongs and Self-Determination", Oxford Amnesty Lecture, Sheldonian Theatre, Oxford, 11 February 2005 (available http://www.uniya.org/talks/brennan_11feb05.html on 17th May, 2005)
- Brennan SJ, Frank, Daniel SJ, William, Egan SJ, John, and Honner SJ, John, *Finding Common Ground: An Assessment of Aboriginal Land Rights* (Blackburn, Victoria: Collins Dove, 1986, 2nd edition)
- Brennan, Sean; Behrendt, Larissa; Strelein, Lisa; and Williams, George, *Treaty* (Sydney: The Federation Press, 2005)
- Brett, Mark G., "The Loss and Retrieval of Ancestral Religion – In Ancient Israel and in Australia", in Michael Parsons (ed.), *Text and Task: Scripture and Mission* (Milton Keynes: Paternoster, 2005) 1-19
- Breytenbach, Cilliers, "Reconciliation: Shifts in Christian Soteriology" in Vorsker, W.S., ed., *Reconciliation and Construction: Creative Options for a Rapidly Changing South Africa* (University of South Africa, 1986), 1-25
- _____, *Verhöhnung. Eine Studie zur paulinischen Soteriologie* (WMANT 60; Düsseldorf: Neukirchener Verlag, 1989)
- _____, "On Reconciliation: An Exegetical Response" *Journal of Theology for Southern Africa* 70 (1990), 64-68
- _____, "Versöhnung, Stellvertretung und Sühne: semantische und traditions-geschichtliche Bemerkungen am Beispiel der paulinischen Briefe", *New Testament Studies* 39 (1993), 59-79
- _____, "Using Exegesis: On "Reconciliation" and "Forgiveness" in the Aftermath of the TRC", in Holness, Lyn and Wustenberg, Ralf K. (eds.), *Theology in Dialogue. The Impact of the Arts, Humanities and Science on Contemporary Religious Thought* (Cambridge, U.K. and Claremont, South Africa, 2002), 245-256
- _____, "God's Mercy and our Forgiveness. Reflections on the synoptic Tradition" in van der Watt, J.G, et al. (eds.), *Friendship and Love Where There Were None*,

- (University of Pretoria: Institute for Missiological and Ecumenical Research, Pretoria 2005), 84-95
- _____, “The ‘For Us’ Phrases in Pauline Soteriology: Considering Their Background and Use” in van der Watt, Jan G., *Salvation in the New Testament: Perspectives in Soteriology* (Leiden: E J Brill, 2005), 163-185
- _____, “Salvation of the Reconciled (with a Note on the Background of Paul’s Metaphor of Reconciliation)” in van der Watt, Jan G., *Salvation in the New Testament: Perspectives in Soteriology* (Leiden: E J Brill, 2005), 271-286
- Briggs, Sheila, “Paul on Bondage and Freedom in Imperial Roman Society”, in Horsley, Richard A., ed., *Paul and Politics: Ekklesia, Israel, Imperium, Interpretation – Essays in Honour of Krister Stendahl* (Harrisburg: Trinity Press International, 2000), 110-123
- Briggs Kittredge, Cynthia, “Corinthian Women Prophets and Paul’s Argumentation in 1 Corinthians”, in Horsley, Richard A., ed., *Paul and Politics: Ekklesia, Israel, Imperium, Interpretation – Essays in Honour of Krister Stendahl* (Harrisburg: Trinity Press International, 2000), 103-109
- Briscoe, Gordon, “Afterword” in Horner, Jack, *Seeking Racial Justice: An Insider’s Memoir of the Movement for Aboriginal Advancement, 1938-1978* (Canberra: Aboriginal Studies Press, 2004), 192-198
- Briskman, Linda, *The Black Grapevine: Aboriginal Activism and the Stolen Generations* (Sydney: The Federation Press, 2003)
- de Brito, Alexandra Barahona, “Passion, Constraint, Law and *Fortuna*: The Human Rights Challenge to Chilean Democracy”, in Nigel Biggar (ed.), *Burying the Past: Making Peace and Doing Justice after Civil Conflict* (Washington: Georgetown University Press, 2001), 150-183
- Brock, Peggy, ed., *Words and Silences: Aboriginal Women, Politics and Land* (Crow’s Nest: Allen & Unwin, 2001)
- _____, “Aboriginal Women, Politics and Land” in Brock, Peggy, ed., *Words and Silences: Aboriginal Women, Politics and Land* (Crow’s Nest: Allen & Unwin, 2001), 1-17, 175-176
- Brodie, Thomas L., “Luke’s Redesigning of Paul: Corinthian Division and Reconciliation (1 Corinthians 1-5) As One Component of Jerusalem Unity (Acts 1-5)” *Irish Biblical Studies* 17/7 (1995), 98-128
- Broome, Richard, *Aboriginal Australians: Black Responses to White Dominance, 1788-2001* (Sydney: Allen & Unwin, 2002, 3rd edition)
- Brother Emile of Taizé, *Never a Stranger: God’s Otherness in the Light of the Gospel* (Taizé: Les Presses de Taizé, 1991)
- Brown, Peter, *Power and Persuasion in Late Antiquity: Towards a Christian Empire* (Madison: The University of Wisconsin Press, 1992)
- Brueggemann, Walter, *The Land: Place as Gift, Promise and Challenge in Biblical Faith* (London: SPCK, 1977)
- _____, *Hopeful Imagination: Prophetic Voices in Exile* (London: SCM, 1986)
- _____, “Land: Fertility and Justice” in Evans, Bernard F., and Cusack, Gregory D., eds., *Theology of the Land* (Collegeville: Liturgical Press, 1987), 41-68
- _____, *The Psalms and the Life of Faith*, edited by Patrick D. Millar, (Minneapolis: Fortress, 1995)
- _____, *Theology of the Old Testament: Testimony, Dispute, Advocacy* (Minneapolis: Fortress Press, 1997)
- _____, *A Commentary on Jeremiah: Exile and Homecoming* (Grand Rapids: Eerdmans, 1998)
- Brümmer, Vincent, “Kairos, Reconciliation and the Doctrine of Atonement” *Journal of Theology for Southern Africa* 88 (1994), 42-60

- Brunt, P.A., “*Laus Imperii*”, in Horsley, Richard A., ed., *Paul and Empire: Religion and Power in Roman Imperial Society* (Harrisburg: Trinity Press International, 1997), 25-35
- Buber, Martin, *On the Bible: Exegetical Studies* (Syracuse University Press, 2000)
- Buchan, Bruce, “The ‘Tides of History’: The Yorta Yorta, Native Title, and Colonial Attitudes to Indigenous Sovereignty”, *Journal of Australian Indigenous Issues* 7/2 (June, 2004), 3-23
- Büchsel, “ἀλλάσσω, ἀντάλλαγμα, ἀπ-, δι-, καταλλάσσω, καταλλαγή, ἀποκατ-, μεταλλάσσω” in Kittel, G. and Friedrich, G, *Theological Dictionary of the New Testament* Volume 1, 251-259
- Budden, Chris, *Following Jesus in Invaded Space: Doing Theology on Aboriginal Land* (Eugene: Pickwick Publications, 2009)
- Bultmann, R., “ἀφίημι, ἄφεσις, παρίημι, πάρεσις” in Kittel, G. and Friedrich, G, *Theological Dictionary of the New Testament* Volume 1, 508-512
- Bunbury, Bill, *Unfinished Business: Reconciliation, The Republic and the Constitution* (Sydney, ABC Books, 1998)
- Burke, Trevor J., “Paul’s Role as ‘Father’ to His Corinthian ‘Children’ in Socio-Historical Context (1 Corinthians 4.14-21)” in Burke, Trevor J., and Elliott, J. Keith, ed., *Paul and the Corinthians: Studies on a Community in Conflict. Essays in Honour of Margaret Thrall* (Leiden: Brill, 2003), 95-113
- Burke, Trevor J., and Elliott, J. Keith, ed., *Paul and the Corinthians: Studies on a Community in Conflict. Essays in Honour of Margaret Thrall* (Leiden: Brill, 2003)
- Burney, Linda, “Not Just a Challenge, an Opportunity” in Grattan, Michelle, *Essays on Australian Reconciliation* (Melbourne: Black Inc, 2000), 65-73
- Butt, Peter and Eagleson, Robert, *Mabo, Wik & Native Title* (Sydney: The Federation Press, 2001, 4th edition)
- Byrne S.J., Brendan, “Homecoming: A Scriptural Reflection Upon a Process of Reconciliation” in Brennan S.J., Frank, ed., *Reconciling Our Differences: A Christian Approach to Recognising Aboriginal Land Rights* (Richmond, Victoria: Aurora Books, 1992), 78-92
- Byrne, David, “Sharing Country” in Research Institute for Humanities and Social Sciences, *Sharing Country: Land Rights, Human Rights, and Reconciliation After Wik – Proceedings of a Public Forum held at the University of Sydney on February 28, 1997* (The Research Institute for Humanities and Social Sciences, The University of Sydney, 1997), 101-114
- Byrne, Mark, “Reconciliation: Stalled, Fermenting, or Taken Out The Back and Shot?”, 30th November, 2005, available on web page (as at 7.12.06): <http://www.newmatilda.com/policytoolkit/policydetail.asp?PolicyID=229>
- Callaghan, Allen Dwight, “Paul, Ekklesia, and Emancipation at Corinth: A Coda on Liberation Theology”, in Horsley, Richard A., ed., *Paul and Politics: Ekklesia, Israel, Imperium, Interpretation – Essays in Honour of Krister Stendahl* (Harrisburg: Trinity Press International, 2000), 216-223
- _____, “Babylon Boycott: The Book of Revelation”, *Interpretation* 63/1 (January 2009), 48-54
- Campbell, Douglas A., “Reconciliation in Paul: The Gospel of Negation and Transcendence in Galatians 3.28”, in Gunton, Colin E, ed., *The Theology of Reconciliation* (London: T&T Clark 2003), 39-65
- Carroll SJ, John, “Socio-Political Dimensions of Reconciliation,” *East Asian Pastoral Review* 21 (1984), 213-225

- Carroll, Peter, "Uranium and Aboriginal Land Interests in the Alligator Rivers Region" in Peterson, Nicolas and Langton, Marcia, eds., *Aborigines, Land and Land Rights* (Canberra: Australian Institute of Aboriginal Studies, 1983), 339-357
- Carroll, Robert P, "The Myth of the Empty Land", *Semeia* 59 (1992), 79-93
- Carter, Julie, "'Am I Too Black To Go With You?'" in Keen, Ian, ed., *Being Black: Aboriginal Cultures in 'Settled' Australia* (Canberra: Aboriginal Studies Press, 1988), 65-76
- Carter, Warren, *Matthew and the Margins: A Sociopolitical and Religious Reading* (Maryknoll: Orbis, 2000)
- _____, *Matthew and Empire: Initial Explorations* (Harrisburg: Trinity Press International, 2001)
- _____, "Accommodating 'Jezebel' and Withdrawing John: Negotiating Empire in Revelation Then and Now". *Interpretation* 63/1 (January 2009), 32-47
- Cartwright Austin, Richard, "Rights for Life: Rebuilding Human Relationships with the Land" in Evans, Bernard F., and Cusack, Gregory D., eds., *Theology of the Land* (Collegeville: Liturgical Press, 1987), 103-126
- Cassidy, Richard J, *Paul in Chains: Roman Imprisonment and the Letters of Paul* (New York: Herder and Herder, 2001)
- Castelli, Elizabeth A., *Imitating Paul: A Discourse of Power* (Louisville: Westminster/John Knox Press, 1991)
- Cavanaugh, William T., *Torture and Eucharist* (Oxford: Blackwell, 1998)
- _____, "The World in a Wafer: a Geography of the Eucharist as Resistance to Globalization", *Modern Theology*, Issue 15 (1999)
- de Certeau, M, *The Practice of Everyday Life* (University of California Press, 2002)
- Chamarette, Christabel, "Terra Nullius Then and Now: Mabo, Native Title, and Reconciliation in 2000", *Australian Psychologist* 35/2 (July 2000), 167-172
- Chaney, Fred, "Developments in Australia: Native Title and Reconciliation", Paper delivered to the Canadian Aboriginal Minerals Association Conference: *Certainty Through Partnership: Aboriginal Community and Resource Sector Development*, Yellowknife, Canada, 26th October, 2004, available on web page (as at 17.4.06): <http://www.nntt.gov.au/metacard/files/Developments/Developments%20in%20Australia%20Native%20Title%20and%20Reconciliation.pdf>
- _____, "The Rules for Engagement" in Toussaint, Sandy, ed., *Crossing Boundaries: Cultural, Legal, Historical and Practice Issues in Native Title* (Melbourne: Melbourne University Press, 2004), 97-104, 213-214
- Chapman, Audrey R., "Truth Commissions as Instruments of Forgiveness and Reconciliation" in Helmick SJ, Raymond G., and Petersen, Rodney L., *Forgiveness and Reconciliation: Religion, Public Policy, and Conflict Transformation* (Pennsylvania: Templeton Foundation Press, 2001), 247-267
- Charlesworth, Max, ed., *Religious Business: Essays on Australian Aboriginal Spirituality* (Cambridge: Cambridge University Press, 1998)
- _____, "Introduction" in Charlesworth, Max, ed., *Religious Business: Essays on Australian Aboriginal Spirituality* (Cambridge: Cambridge University Press, 1998), xiii-xxvi
- Chartrand, Paul, (An Interview with), "Aboriginal Peoples in Canada: Aspirations for Distributive Justice as Distinct Peoples" in Havemann, Paul, ed., *Indigenous Peoples' Rights in Australia, Canada and New Zealand* (Melbourne: Oxford University Press, 1999), 88-107
- _____, "Toward Justice and Reconciliation: Treaty Recommendations of Canada's Royal Commission on Aboriginal Peoples (1996)" in Langton, Marcia; Tehan, Maureen; Palmer, Lisa; and Shain, Kathryn, eds., *Honour Among Nations?:*

- Treaties and Agreements with Indigenous People* (Melbourne: Melbourne University Press, 2004), 120-132
- Choo, Christine, "Working as a Historian on the Miriuwung Gajerrong Native Title Claim" in Toussaint, Sandy, ed., *Crossing Boundaries: Cultural, Legal, Historical and Practice Issues in Native Title* (Melbourne: Melbourne University Press, 2004), 195-201, 220
- Choo, Christine and O'Connell, Margaret, "Historical Narrative and Proof of Native Title" in Gray, Geoffrey and Paul, Mandy, *Through a Smoky Mirror: History and Native Title* (Canberra: AIATSIS, 2002), 11-21
- Chow, John K., "Patronage in Roman Corinth", in Horsley, Richard A., ed., *Paul and Empire: Religion and Power in Roman Imperial Society* (Harrisburg: Trinity Press International, 1997), 104-125
- Christensen, Will, "Working as an Anthropologist on the Miriuwung Gajerrong Native Title Claim" in Toussaint, Sandy, ed., *Crossing Boundaries: Cultural, Legal, Historical and Practice Issues in Native Title* (Melbourne: Melbourne University Press, 2004), 176-194, 220
- Clark, Geoff, "Not Much Progress" in Grattan, Michelle, *Essays on Australian Reconciliation* (Melbourne: Black Inc, 2000), 228-234
- Clark, Scott, and Cove, John J., "Canadian Commission of Inquiry into Aboriginal Peoples and Criminal Justice" in Havemann, Paul, ed., *Indigenous Peoples' Rights in Australia, Canada and New Zealand* (Melbourne: Oxford University Press, 1999), 302-315
- Clegg, Cecilia, "Between Embrace and Exclusion" in Tombs, David and Liechty, Joseph, eds., *Explorations in Reconciliation: New Directions in Theology* (Aldershot: Ashgate, 2006), 123-136
- Clément, Olivier, *On Being Human: A Spiritual Anthropology* (1986, ET: New York: New City Press, 2000)
- Clendinnen, Inga, "True Stories and What We Make of Them" in Grattan, Michelle, *Essays on Australian Reconciliation* (Melbourne: Black Inc, 2000), 242-253
- Clevenden, Avis and Martin, Troy, *Forgiveness: Finding Freedom Through Reconciliation* (New York: The Crossroad Publishing Company, 2002)
- Coates, Ken, "The 'Gentle' Occupation: The Settlement of Canada and the Dispossession of the First Nations" in Havemann, Paul, ed., *Indigenous Peoples' Rights in Australia, Canada and New Zealand* (Melbourne: Oxford University Press, 1999), 141-161
- Collins, J.N., *Diakonia: Re-interpreting the Ancient Sources* (Oxford, 1990)
- Coltheart, Lenore, "The Moment of Aboriginal History" in Beckett, Jeremy, ed., *Past and Present: The Construction of Aboriginality* (Canberra: Aboriginal Studies Press, 1988), 179-190
- Comblin, José, "The Theme of Reconciliation in Theology in Latin America" in Maclean, Iain S., ed., *Reconciliation, Nations and Churches in Latin America* (Aldershot: Ashgate, 2006), 135-170
- Congregation for the Doctrine of the Faith, "Instruction on Certain Aspects of the 'Theology of Liberation'", Vatican City, August 6, 1984, in A T Hennelly (ed.), *Liberation Theology: A Documentary History* (Maryknoll, New York: Orbis, 1990), 393-414
- Connor, Michael, *The Invention of Terra Nullius: Historical and Legal Fictions on the Foundation of Australia* (Sydney: Macleay Press, 2005)
- Corne, Aaron, and Neparrnga Gumbula, "Now Balanda Say We Lost Our Land in 1788': Challenges to the Recognition of Yolngu Law in Contemporary Australia" in Langton, Marcia; Tehan, Maureen; Palmer, Lisa; and Shain, Kathryn, eds.,

- Honour Among Nations?: Treaties and Agreements with Indigenous People* (Melbourne: Melbourne University Press, 2004), 101-114
- de Costa, Ravi, "Treaties in British Columbia: Comprehensive Agreement Making in a Democratic Context" in Langton, Marcia; Tehan, Maureen; Palmer, Lisa; and Shain, Kathryn, eds., *Honour Among Nations?: Treaties and Agreements with Indigenous People* (Melbourne: Melbourne University Press, 2004), 133-146
- Costello, Tim, "An Opening to New Seasons" in Grattan, Michelle, *Essays on Australian Reconciliation* (Melbourne: Black Inc, 2000), 152-157
- Council for Aboriginal Reconciliation, *Reconciliation: Australia's Challenge. Final Report of the Council for Aboriginal Reconciliation to the Prime Minister and the Commonwealth Parliament*, 2000 (available on 14.2.10: <http://www.austlii.edu.au/au/other/IndigLRes/car/2000/16/index.htm>)
- Cowlishaw, Gillian K., "Colour, Culture and the Aboriginalists", *Man* 22/2 (1986), 221-237
- _____, "The Materials for Identity Construction" in Beckett, Jeremy, ed., *Past and Present: The Construction of Aboriginality* (Canberra: Aboriginal Studies Press, 1988), 87-107
- _____, "Helping Anthropologists: Cultural Continuity in the Constructions of Aborigines", *Canberra Anthropology* 13/2 (1990), 1-28
- _____, "Studying Aborigines: Changing Canons in Anthropology and History" in Attwood, Bain and Arnold, John, eds, *Power, Knowledge and Aborigines* (Victoria: La Trobe University Press, 1992), 20-31
- _____, *blackfellas whitefellas and the hidden injuries of race* (Malden MA: Blackwell Publishing, 2004)
- Cradock, Fred B, *Luke* (Louisville: John Knox Press, 1990)
- Crafton, Jeffrey A, *The Agency of the Apostle: A Dramatic Analysis of Paul's Responses to Conflict in 2 Corinthians* (Sheffield: Sheffield Academic Press, Journal for the Study of the New Testament Supplement Series 51, 1991)
- Cranfield, C.E.B., *Romans Volume I I-VIII* (Edinburgh: T&T Clark, ICC Series, 1981)
- _____, *Romans Volume II IX-XVI* (Edinburgh: T&T Clark, ICC Series, 1980)
- Creamer, Howard, "Aboriginality in New South Wales: Beyond the Image of Cultureless Outcasts" in Beckett, Jeremy, ed., *Past and Present: The Construction of Aboriginality* (Canberra: Aboriginal Studies Press, 1988), 45-62
- Crocker, David A., "Reckoning with Past Wrongs: A Normative Framework" , *Ethics and International Affairs* 13 (1999), Carnegie Council on Ethics and International Affairs, 43-64
- Cronin, Darryl, "Indigenous Disadvantage, Indigenous Governance and the Notion of a Treaty in Australia: An Indigenous Perspective" in McGlade, Hannah, ed., *Treaty: Let's Get It Right! A Collection of Essays from ATSIC's Treaty Think Tank and Authors Commissioned by AIATSIS on Treaty Issues* (Canberra: Aboriginal Studies Press, 2003), 151-165, 200-216
- Crumlin, Rosemary, "Aboriginal Spirituality: Land as Holder of Story and Myth in Recent Aboriginal Art" in Charlesworth, Max, ed., *Religious Business: Essays on Australian Aboriginal Spirituality* (Cambridge: Cambridge University Press, 1998), 94-102
- Curr, E, *The Australian Race* 3 volumes, (Melbourne, 1886)
- Curthoys, Ann, "Mythologies" in Nile, Richard, ed., *The Australian Legend and Its Discontents* (Brisbane: University of Queensland Press, 2000), 11-41
- Curthoys, Ann and Docker, John, "Introduction – Genocide: Definitions, Questions, Settler Colonies", *Aboriginal History* 25 (2001), 1-15

- Dagmar, Hans, "Land and a Fringe-Dwelling Community: A Case Study from Western Australia" in Peterson, Nicolas and Langton, Marcia, eds., *Aborigines, Land and Land Rights* (Canberra: Australian Institute of Aboriginal Studies, 1983), 180-191
- Dahl, Nils Alstrup, "Paul and the Church at Corinth according to 1 Corinthians 1.10-4.21" in Farmer, W R, Moule, C F D, and Niebuhr, R R, eds., *Christian History and Interpretation: Studies Presented to John Knox* (Cambridge: Cambridge University Press, 1967), 313-315. An extract is reprinted in Adams, Edward, and Horrell, David G, eds., *Christianity at Corinth: The Quest for the Pauline Church* (Louisville: Westminster John Knox Press, 2004), 85-95
- _____, "The Atonement – An Adequate Reward of the Aqedah? (Ro. 8.32)" in Ellis, E E, and Wilcox, M, eds., *Neutestamentica et Semitica: Studies in Honour of Mattheus Black* (1969), 15-29
- Dalglisch, Edward R., *Psalm Fifty-One In the Light of Ancient Near Eastern Patternism*(Leiden: E. J. Brill, 1962)
- Daniel SJ, William, "Aboriginal Land Rights and Catholic Social Teaching" in Brennan SJ, Frank , Daniel SJ, William, Egan SJ, John, and Honner SJ, John, *Finding Common Ground: An Assessment of Aboriginal Land Rights* (Blackburn, Victoria: Collins Dove, 1986, 2nd edition), 75-93
- _____, "Aboriginal Self-Determination" in Brennan S.J., Frank, ed., *Reconciling Our Differences: A Christian Approach to Recognising Aboriginal Land Rights* (Richmond, Victoria: Aurora Books, 1992), 53-62
- Danker, Frederick W., *Benefactor: Epigraphic Study of a Graeco-Roman and New Testament Semantic Field* (St Louis, Missouri: Clayton Publishing House, 1982)
- _____, "The Theology of 2 Corinthians 5.14-21" in Lewis, Jack P. ed., *Interpreting 2 Corinthians 5.14-21: An Exercise in Hermeneutics* (Lewiston, New York: The Edwin Mellen Press 1989), 87-102
- _____, "Exegesis" in Lewis, Jack P. ed., *Interpreting 2 Corinthians 5.14-21: An Exercise in Hermeneutics* (Lewiston, New York: The Edwin Mellen Press 1989), 105-128
- Dann, Lucy, "Yearning of the Hearts" in Edwards, Penny and Yuafang, Shen, eds., *Lost in the Whitewash: Aboriginal-Asian Encounters in Australia, 1901-2001* (Canberra: The Australian National University Humanities Research Centre, 2003), 59-63
- Davidson, G., Dudgeon, P., Garton, A., Garvey, D., and Kidd, G., *Guidelines for the Provision of Psychological Services for and the Conduct of Psychological Research with Aboriginal and Torres Strait Islander People* (Melbourne: Australian Psychological Society, 1995)
- Davies, A.F., "Guilt in Politics" in his *Essays – The Human Element: Three Essays in Political Psychology* (Victoria: McPhee Gribble/Penguin Books, 1988), 47-87
- Davies, W D, *The Gospel and the Land: Early Christianity and Jewish Territorial Doctrine* (Sheffield: Sheffield Academic Press, 1994)
- Davis, Megan, "International Human Rights Law and the Domestic Treaty Process" in McGlade, Hanna, ed., *Treaty: Let's Get It Right! A Collection of Essays from ATSIAC's Treaty Think Tank and Authors Commissioned by AIATSIS on Treaty Issues* (Canberra: Aboriginal Studies Press, 2003), 137-150, 200-216
- Davis, Richard, "Identity and Economy in Aboriginal Pastoralism" in Taylor, Luke; Ward, Graeme K.; Henderson, Graham; Davis, Richard; and Wallis, Lynley A., eds., *The Power of Knowledge, The Resonance of Tradition* (Canberra: Aboriginal Studies Press, 2005), 49-60
- Dawson, John, "Hatred's End: A Christian Proposal" in Helmick SJ, Raymond G., and Petersen, Rodney L., *Forgiveness and Reconciliation: Religion, Public Policy,*

- and Conflict Transformation* (Pensylvania: Templeton Foundation Press, 2001), 219-243
- Day, Bill, *Bunji: A Story of the Gwalwa Daraniki Movement* (Canberra: Aboriginal Studies Press, 1994)
- Deissmann, Adolf, *Light From the Ancient East: The New Testament Illustrated by Recently Discovered Texts of the Graeco-Roman World* (London: Hodder and Stoughton, 1927)
- van Deusen Hunsinger, Deborah, "Forgiving Abusive Parents: Psychological and Theological Considerations", in *Forgiveness and Truth*, edited by Alistair McFadyen and Marcel Sarot, 71-98
- Dick, Darren, and Donaldson, Margaret, "The compatibility of the amended *Native Title Act 1993* (Cth) with the United Nations Convention on the Elimination of All Forms of Racial Discrimination", *Land, Rights, Laws: Issues of native Title 1/29* (August 1999), available on web page (as at 17.4.06): <http://ntru.aiatsis.gov.au/ntpapers/ip29web.pdf>
- Dodd, C.H., *Christianity and the Reconciliation of the Nations* (London: SCM 1952)
- Dodson, Mick, "Power and Cultural Difference in Native Title Mediation", *Aboriginal Law Bulletin* 3/84 (September 1996), 8-11
- _____, "Unfinished Business: A Shadow Across Our Relationships" in McGlade, Hannah, ed., *Treaty: Let's Get It Right! A Collection of Essays from ATSI's Treaty Think Tank and Authors Commissioned by AIATSIS on Treaty Issues* (Canberra: Aboriginal Studies Press, 2003), 30-40, 200-216
- Dodson, Patrick, "Lingiari: Until the Chains are Broken" in Grattan, Michelle, *Essays on Australian Reconciliation* (Melbourne: Black Inc, 2000), 264-274. Also available on the web page (as at 17.4.06): www.austlii.edu.au/au/other/IndigLRes/car/1999/2708.html
- Domeris, W. R., "Biblical Perspectives on Reconciliation", *Journal of Theology for Southern Africa* 60 (1987), 77-80
- Donfried, Karl P., ed., *The Romans Debate* (Edinburgh: T&T Clark, 1991, 2nd edn)
- _____, "The Imperial Cults of Thessalonica and Political Conflict in 1 Thessalonians", in Horsley, Richard A., ed., *Paul and Empire: Religion and Power in Roman Imperial Society* (Harrisburg: Trinity Press International, 1997), 215-223
- Donovan, V J, *Christianity Rediscovered: An Epistle from the Masai*, (London: SCM, 1978)
- Dorsett, Shaunnagh and Godden, Lee, *A Guide to Overseas Precedents of Relevance to Native Title* (Canberra: AIATSIS, 1998)
- Downing, Jim, "Cross-Culture Education Methods in Community Development Education" in Walsh, Fiona and Mitchell, Paul, eds., *Planning for Country: Cross-Cultural Approaches to Decision-Making on Aboriginal Lands* (Alice Springs: Jukurrpa Press, 2002), 107-113
- Doxtader, Erik, "Reconciliation in a State of Emergency: The Middle Voice of 2 Corinthians," *Journal for the Study of Religion* 14/1(2001), 47-65
- Duchrow, Ulrich and Hinkelammert, Franz J, *Property for People, Not for Profit: Alternatives to the Global Tyranny of Capital* (Geneva: World Council of Churches, 2004)
- Dudgeon, Pat and Pickett, Harry, "Psychology and Reconciliation: Australian Perspectives", *Australian Psychologist* 35/2 (July 2000), 82-87
- Dudgeon, Pat and Pickett, Harry, eds., *Working with Indigenous Australians: A Handbook for Psychologists* (Gunada Press, 2000)
- Duelke, Britta, "Knowing Tradition, Dealing with History? On Concepts, Strategies and Practices" in Taylor, Luke; Ward, Graeme K.; Henderson, Graham; Davis,

- Richard; and Wallis, Lynley A., eds., *The Power of Knowledge, The Resonance of Tradition* (Canberra: Aboriginal Studies Press, 2005), 199-213
- Dunn, J D G, *Romans 1-8* (Word Biblical Commentary, 1988)
- _____, *Romans 9-16* (Word Biblical Commentary, 1988)
- _____, “The Justice of God: A Renewed Perspective on Justification by Faith” *Journal of Theological Studies* NS 43/1 (April 1992), 1-22
- _____, *The Theology of Paul the Apostle* (Edinburgh: T&T Clark, 1998)
- Dwyer, Susan, “Reconciliation for Realists”, *Ethics and International Affairs* 13 (1999), Carnegie Council on Ethics and International Affairs, 81-98
- Eades, Diana, “They Don’t Speak an Aboriginal Language, Or Do They?” in Keen, Ian, ed., *Being Black: Aboriginal Cultures in ‘Settled’ Australia* (Canberra: Aboriginal Studies Press, 1988), 97-115
- Eames, Geoff, “The Central Land Council: The Politics of Change” in Peterson, Nicolas and Langton, Marcia, eds., *Aborigines, Land and Land Rights* (Canberra: Australian Institute of Aboriginal Studies, 1983), 268-277
- Eddy S.J., John, “Recognition, Reconciliation and History” in Brennan S.J., Frank, ed., *Reconciling Our Differences: A Christian Approach to Recognising Aboriginal Land Rights* (Richmond, Victoria: Aurora Books, 1992), 5-18
- Edmunds, M, “Conflict in native title claims”, *Land Rights, Laws: Issues of Native title*, 1995, Issues Paper No 7, AIATSIS (available as at 6.4.09: http://ntru.aiatsis.gov.au/publications/issue_papers.html)
- Edwards, Bill, “Pitjantjatjara Land Rights” in Peterson, Nicolas and Langton, Marcia, eds., *Aborigines, Land and Land Rights* (Canberra: Australian Institute of Aboriginal Studies, 1983), 294-304
- Edwards, Bill and Clarke, Bernard, “From Missions to Aboriginal Churches” in Swain, Tony and Bird Rose, Deborah, *Aboriginal Australians and Christian Missions: Ethnographic and Historical Studies* (The Australian Association for the Study of Religions, 1988), 185-200
- Edwards, Penny and Yuafang, Shen, eds., *Lost in the Whitewash: Aboriginal-Asian Encounters in Australia, 1901-2001* (Canberra: The Australian National University Humanities Research Centre, 2003)
- _____, “Something More: Towards Reconfiguring Australian History, in Edwards, Penny and Yuafang, Shen, eds., *Lost in the Whitewash: Aboriginal-Asian Encounters in Australia, 1901-2001* (Canberra: The Australian National University Humanities Research Centre, 2003), 1-22
- Egan SJ, John, “The Moral Basis of Land Rights” in Brennan SJ, Frank , Daniel SJ, William, Egan SJ, John, and Honner SJ, John, *Finding Common Ground: An Assessment of Aboriginal Land Rights* (Blackburn, Victoria: Collins Dove, 1986, 2nd edition), 51-74
- Ehrensperger, Kathy, *Paul and the Dynamics of Power: Communication and Interaction in the Early Christ-Movement* (London: T&T Clark, 2009)
- Eisenbaum, Pamela, “Paul as the New Abraham”, in Horsley, Richard A., ed., *Paul and Politics: Ekklesia, Israel, Imperium, Interpretation – Essays in Honour of Krister Stendahl* (Harrisburg: Trinity Press International, 2000), 130-145
- Ellingworth, Paul, *The Epistle to the Hebrews: A Commentary on the Greek Text* (Grand Rapids: Eerdmans, 1993; New International Greek Testament Commentary)
- Elliot, Neil, “Paul and the Politics of Empire: Problems and Prospects”, in Horsley, Richard A., ed., *Paul and Politics: Ekklesia, Israel, Imperium, Interpretation – Essays in Honour of Krister Stendahl* (Harrisburg: Trinity Press International, 2000), 17-30
- Ellis, George F. R., “Afterword: Exploring the Unique Role of Forgiveness” in Helmick SJ, Raymond G., and Petersen, Rodney L., *Forgiveness and Reconciliation:*

- Religion, Public Policy, and Conflict Transformation* (Pensylvania: Templeton Foundation Press, 2001), 385-400
- Engberg-Pederson, Troels, *Paul and the Stoics* (Louisville: Westminster John Knox Press, 2000)
- _____, ed., *Paul Beyond the Judaism/Hellenism Divide* (Louisville: Westminster John Knox Press, 2001)
- English, Peter B., *Land Rights and Birth Rights (The Great Australian Hoax)*, (Bullsbrook, Western Australia: Veritas Publishing, 1985)
- Estherhuysen, Willie, "Truth as a Trigger for Transformation: From Apartheid Injustice to Transformational Justice" in Villa-Vicencio, Charles and Verwoerd, Wilhelm, ed., *Looking Back Reaching Forward: Reflections on the Truth and Reconciliation Commission of South Africa* (Cape Town: University of Cape Town Press 2000), 144-154
- Etherington, Norman, "Writing Truth and Reconciliation History for Nelson Mandela's South Africa" in Manderson, Lenore, ed. *Reconciliation: Voices from the Academy (1998 Annual Symposium of the Academy of the Social Sciences in Australia)* (Canberra: Academy of the Social Sciences in Australia Occasional Paper Series 2/1999), 5-14
- Evans, Bernard F., and Cusack, Gregory D., eds., *Theology of the Land* (Collegeville: Liturgical Press, 1987)
- Evans, Craig A., *Mark 8.27-16.20* (Word Biblical Commentary) (Nashville: Thomas Nelson, 2001)
- Evans, C F, *Saint Luke* (London: SCM 1990)
- Evans, Julie, "The Formulation of Privilege and Exclusion in Settler States: Land, Law, Political Rights and Indigenous Peoples in Nineteenth-century Australia and Natal" in Langton, Marcia; Tehan, Maureen; Palmer, Lisa; and Shain, Kathryn, eds., *Honour Among Nations?: Treaties and Agreements with Indigenous People* (Melbourne: Melbourne University Press, 2004), 69-82
- Farley, Rick, "What's the Alternative?" in Grattan, Michelle, *Essays on Australian Reconciliation* (Melbourne: Black Inc, 2000), 105-112
- Farrow, Douglas, "Ascension and Atonement", in Gunton, Colin E, ed., *The Theology of Reconciliation* (London: T&T Clark 2003), 67-91
- Feary, Sue, "Moving Towards Joint Management in New South Wales: A Jervis Bay Case Study" in Baker, Richard; Davies, Jocelyn; and Young, Elspeth, eds., *Working on Country: Contemporary Indigenous Management of Australia's Lands and Coastal Regions* (Melbourne: Oxford University Press, 2001), 276-294
- Finlayson, Julie and Nugent, James, "Outsourced Professionals in Native Title Claim Research" in Toussaint, Sandy, ed., *Crossing Boundaries: Cultural, Legal, Historical and Practice Issues in Native Title* (Melbourne: Melbourne University Press, 2004), 77-85, 213
- Fitzgerald, John T., "Paul and Paradigm Shifts: Reconciliation and Its Linkage Group" in Engberg-Pederson, Troels, ed., *Paul Beyond the Judaism/Hellenism Divide* (Louisville: Westminster John Knox Press, 2001), 241-262, 316-325
- _____, "Paul and Friendship" in Sampley, J. P., ed., *Paul in the Greco-Roman World: A Handbook* (Harrisburg: Trinity Press International, 2003), 319-343
- Fitzmyer, Joseph A., *The Gospel According to Luke X-XXIV* (New York: Doubleday, Anchor Bible, 1985)
- _____, *Romans*, (London: Geoffrey Chapman, Anchor Bible Commentary Series, 1993)
- Flanagan, Frances, "Pastoral Access Protocols: The Corrosion of Native Title by Contract", *Land, Rights, Laws: Issues of Native Title* 2/19 (November, 2002),

- available on web page (as at 17.4.06):
<http://ntru.aiatsis.gov.au/ntpapers/IP19v2.pdf>
- Fleras, Augie, "Politicising Identity" in Havemann, Paul, ed., *Indigenous Peoples' Rights in Australia, Canada and New Zealand* (Melbourne: Oxford University Press, 1999), 187-234
- Fletcher, Christine, "Living Together But Not Neighbours" in Havemann, Paul, ed., *Indigenous Peoples' Rights in Australia, Canada and New Zealand* (Melbourne: Oxford University Press, 1999), 335-350
- Foley, Charmaine, and Watson, Ian, *A People's Movement: Reconciliation in Queensland* (Southport: Keeaira Press, 2001)
- Fong, Bruce W., "Addressing the Issue of Racial Reconciliation According to the Principles of Eph. 2.11-22," *Journal of the Evangelical Theological Society* 38/4 (December 1995), 565-580
- Forrester, Duncan B., *Christian Justice and Public Policy* (Cambridge: Cambridge University Press, 1997)
- Forsberg, Tuomas, "The Philosophy and Practice of Dealing with the Past: Some Conceptual and Normative Issues", in Nigel Biggar (ed.), *Burying the Past: Making Peace and Doing Justice after Civil Conflict* (Washington: Georgetown University Press, 2001), 57-72
- Foster, David, *Gurig National Park: The First Ten Years of Joint Management* (Canberra: AIATSIS, 1997)
- Forster, F., "'Reconcile,' 2 Cor. 5.18-20," *Concordia Theological Monthly* 21/3 (1950), 296-98
- Foster, Hamar, "Canada: 'Indian Administration' from the Royal Proclamation of 1763 to Constitutionally Entrenched Aboriginal Rights" in Havemann, Paul, ed., *Indigenous Peoples' Rights in Australia, Canada and New Zealand* (Melbourne: Oxford University Press, 1999), 351-377
- Frederickson, David E., "Paul, Hardships, and Suffering" in 11. Fitzgerald, John T., "Paul and Friendship" in Sampley, J. P., ed., *Paul in the Greco-Roman World: A Handbook* (Harrisburg: Trinity Press International, 2003), 172-197
- _____, "The Evolving Law of Native Title" in Toussaint, Sandy, ed., *Crossing Boundaries: Cultural, Legal, Historical and Practice Issues in Native Title* (Melbourne: Melbourne University Press, 2004), 86-96, 213
- French, Robert S, "Pathways to Agreement", in Meyers, Gary D., ed., *The Way Forward: Collaboration and Cooperation 'In Country' (Proceedings of the Indigenous Land Use Agreements Conference, 26-29 September, 1995, Darwin, Northern Territory, Australia)*, (Native Title Tribunal, 1996), 16-33
- _____, "A Moment of Change – Personal Reflections on the National Native Title Tribunal 1994-98", *Melbourne University Law Review* 27/2(2003), 488-522
- Freudenberger, C. Dean, "Implications of a New Land Ethic" in Evans, Bernard F., and Cusack, Gregory D., eds., *Theology of the Land* (Collegeville: Liturgical Press, 1987), 69-84
- Frör, Hans, *You Wretched Corinthians* (London: SCM, 1995)
- Fulcher, Jonathan, "Sui Generis History?: The Use of History in *Wik*" in Hiley QC, Graham, ed., *The Wik Case: Issues and Implications* (Sydney: Butterworths, 1997), 51-56
- Furnish, Victor P., *II Corinthians: A New Translation with Introduction and Commentary* (New York: Doubleday and Company, 1984)
- Gambold, Nic, "Participatory Land Assessment: Integrating Perceptions of Country Through Mapping" in Baker, Richard; Davies, Jocelyn; and Young, Elspeth, eds., *Working on Country: Contemporary Indigenous Management of Australia's Lands and Coastal Regions* (Melbourne: Oxford University Press, 2001), 171-186

- _____, “Responsibilities and Ethics in Participatory Planning: A Personal View” in Walsh, Fiona and Mitchell, Paul, eds., *Planning for Country: Cross-Cultural Approaches to Decision-Making on Aboriginal Lands* (Alice Springs: Jukurrpa Press, 2002), 88-93
- _____, “The Role of Traditional Ecological Knowledge and Skills in ‘Modern’ Aboriginal Land Management and Education” in Walsh, Fiona and Mitchell, Paul, eds., *Planning for Country: Cross-Cultural Approaches to Decision-Making on Aboriginal Lands* (Alice Springs: Jukurrpa Press, 2002), 142-147
- Ganter, Regina, “Mixed Relations: Towards Reconfiguring Australian History” in Edwards, Penny and Yuafang, Shen, eds., *Lost in the Whitewash: Aboriginal-Asian Encounters in Australia, 1901-2001* (Canberra: The Australian National University Humanities Research Centre, 2003), 69-83
- Gara, Tom, “History, Anthropology and Native Title” in Gray, Geoffrey and Paul, Mandy, *Through a Smoky Mirror: History and Native Title* (Canberra: AIATSIS, 2002), 65-80
- Garland, David E., *Reading Matthew: A Literary and Theological Commentary on the First Gospel* (New York: Crossroad, 1995)
- Garnsey, Peter and Saller, Richard, “Patronal Power Relations”, in Horsley, Richard A., ed., *Paul and Empire: Religion and Power in Roman Imperial Society* (Harrisburg: Trinity Press International, 1997), 96-103
- Garrett, Peter, “A Humbug-free Zone” in Grattan, Michelle, *Essays on Australian Reconciliation* (Melbourne: Black Inc, 2000), 182-190
- Gatens, Moira, *Imaginary Bodies: Ethics, Power and Corporeality* (London: Routledge, 1996)
- Gatjil, Djerrkura, “At the Crossroads: Native Title, Economic Development and their Impact on Reconciliation”, *1997 David Unaipon Lecture*, Adelaide, 24th October, 1997 (available in the AIATSIS Library)
- Gempf, Conrad, “Luke’s Story of Paul’s Reception in Rome” in Oakes, Peter, ed., *Rome in the Bible and In the Early Church* (Carlisle: Paternoster Press, 2002), 42-66
- Georgi, Dieter, *The Opponents of Paul in Second Corinthians* (Philadelphia: Fortress Press, 1986)
- _____, *Theocracy in Paul’s Praxis and Theology* (Minneapolis: Fortress Press, 1991)
- _____, “Who is the True Prophet”, in Horsley, Richard A., ed., *Paul and Empire: Religion and Power in Roman Imperial Society* (Harrisburg: Trinity Press International, 1997), 36-46
- _____, “God Turned Upside Down”, in Horsley, Richard A., ed., *Paul and Empire: Religion and Power in Roman Imperial Society* (Harrisburg: Trinity Press International, 1997), 148-157
- Gese, Hartmut, “IV The Atonement” in his *Essays on Biblical Theology* (Minneapolis: Augsburg Publishing House, 1981), tr. Keith Crim, 93-116
- Giles, Lizzie, “I didn’t say that. I’m the interpreter.” in Walsh, Fiona and Mitchell, Paul, eds., *Planning for Country: Cross-Cultural Approaches to Decision-Making on Aboriginal Lands* (Alice Springs: Jukurrpa Press, 2002), 114-117
- _____, “Is Participatory Planning Heading in the Right Direction?” in Walsh, Fiona and Mitchell, Paul, eds., *Planning for Country: Cross-Cultural Approaches to Decision-Making on Aboriginal Lands* (Alice Springs: Jukurrpa Press, 2002), 180
- Girard, R., *Violence and the Sacred* (ET Baltimore, Maryland: The John Hopkins University Press, 1977)
- _____, *The Scapegoat* (ET London: Athlone Press, 1986)
- Gloer, W. Hulitt, “2 Corinthians 5.14-21” *Review and Expositor* 86 (1989), 397-405

- _____, *An Exegetical and Theological Study of Paul's Understanding of New Creation and Reconciliation in 2 Cor. 5.14-21* (Lampeter: The Edwin Mellin Press 1996)
- Goodale, Jane C., "Production and Reproduction of Key Resources Among the Tiwi of North Australia" in in Williams, Nancy M, and Hunn, Eugene S, eds., *Resource Managers: North American and Australian Hunter-Gatherers* (Colorado: Westview Press Ltd, 1982, American Association for the Advancement of Science Selected Symposium 67), 197-210
- Goodall, Heather, "'The Whole Truth and Nothing But ...': Some Interactions of Western Law, Aboriginal History and Community Memory" in Attwood, Bain and Arnold, John, eds, *Power, Knowledge and Aborigines* (Victoria: La Trobe University Press, 1992), 104-119
- _____, "'Speaking What Our Mothers Want Us to Say': Aboriginal Women, Land, and the Western Women's Council in New South Wales, 1984-85" in Brock, Peggy, ed., *Words and Silences: Aboriginal Women, Politics and Land* (Crows Nest: Allen & Unwin, 2001), 18-55, 176-180
- Gopin, Marc, "The Heart of the Stranger" in Tombs, David and Liechty, Joseph, eds., *Explorations in Reconciliation: New Directions in Theology* (Aldershot: Ashgate, 2006), 3-21
- Gordon, Michael, *Reconciliation: A Journey* (Sydney: University of New South Wales Press, 2001)
- Gordon, Richard, "The Veil of Power", in Horsley, Richard A., ed., *Paul and Empire: Religion and Power in Roman Imperial Society* (Harrisburg: Trinity Press International, 1997), 126-137
- Gorringe, T J, *God's Just Vengeance: Crime, Violence and the Rhetoric of Salvation* (Cambridge: Cambridge University Press, 2002)
- _____, *A Theology of the Built Environment: Justice, Empowerment, Redemption* (Cambridge: Cambridge University Press, 2002)
- Gostin, Olga, "Accessing the Dreaming: Indigenous Student Response to Mungo National Park" in Baker, Richard; Davies, Jocelyn; and Young, Elspeth, eds., *Working on Country: Contemporary Indigenous Management of Australia's Lands and Coastal Regions* (Melbourne: Oxford University Press, 2001), 213-243
- Gould, Richard A., "To Have and Have Not: The Ecology of Sharing Among Hunter-Gatherers in Williams, Nancy M, and Hunn, Eugene S, eds., *Resource Managers: North American and Australian Hunter-Gatherers* (Colorado: Westview Press Ltd, 1982, American Association for the Advancement of Science Selected Symposium 67), 69-91
- Graham, Martin, *Sizzling Faith: The Dream that Got the Church On the Move!* (Eastbourne: Kingsway, 2006)
- Grattan, Michelle, *Essays on Australian Reconciliation* (Melbourne: Black Inc, 2000)
- Gray, Geoffrey, "The Past is Never Finished" in Manderson, Lenore, ed. *Reconciliation: Voices from the Academy (1998 Annual Symposium of the Academy of the Social Sciences in Australia)* (Canberra: Academy of the Social Sciences in Australia Occasional Paper Series 2/1999), 15-29
- _____, "History in the Courtroom: A Brief Consideration of Some Issues" in Gray, Geoffrey and Paul, Mandy, *Through a Smoky Mirror: History and Native Title* (Canberra: AIATSIS, 2002), 23-34
- Green, "The Cry for Justice and Equality: Some Exceptional Protestant Missionaries in Western Australia" in Swain, Tony and Bird Rose, Deborah, *Aboriginal Australians and Christian Missions: Ethnographic and Historical Studies* (The Australian Association for the Study of Religions, 1988), 156-173

- Green, Neville, "Three-legged Elephants: Native Title Histories" in Toussaint, Sandy, ed., *Crossing Boundaries: Cultural, Legal, Historical and Practice Issues in Native Title* (Melbourne: Melbourne University Press, 2004), 152-158, 219
- Greider, Brett, "The Maya 'Greening Road' and Reconciliation: The Pan-Maya Movement in Guatemala" in Maclean, Iain S., ed., *Reconciliation, Nations and Churches in Latin America* (Aldershot: Ashgate, 2006), 85-109
- Grey, Mary C., *The Outrageous Pursuit of Hope: Prophetic Dreams for the Twenty-first Century* (London: DLT, 2000)
- Gridley, H., Davidson, G., Dudgeon, P., Pickett, H. and Sanson, A. "The Australian Psychological Society and Australia's Indigenous People: A Decade of Action", *Australian Psychologist* 35/2 (July 2000), 88-91
- Grieb, A. Katherine, "Philippians and the Politics of God", *Interpretation* 61/3 (July 2007), 256-269
- Griffiths, Max, *Aboriginal Affairs 1967-2005: Seeking a Solution* (Dural: Rosenberg Publishing, 2006)
- Grim, John A., ed., *Indigenous Traditions and Ecology: The Interbeing of Cosmology and Community* (Cambridge, Massachusetts: Harvard University Press, 2001)
- Griswold, Charles L., *Forgiveness: A Philosophical Exploration* (New York: Cambridge University Press, 2007)
- Grossman, Michele, "A Sovereign Text? Copyright, Publishing Agreements and Intellectual Property Issues for Aboriginal and Torres Strait Islander Authors" in Langton, Marcia; Tehan, Maureen; Palmer, Lisa; and Shain, Kathryn, eds., *Honour Among Nations?: Treaties and Agreements with Indigenous People* (Melbourne: Melbourne University Press, 2004), 288-302
- de Gruchy, John W., *Reconciliation: Restoring Justice* (Minneapolis: Fortress Press, 2002)
- Guider, Margaret Eletta "Reinventing Life and Hope: Coming to Terms with Truth and Reconciliation Brazilian Style" in Maclean, Iain S., ed., *Reconciliation, Nations and Churches in Latin America* (Aldershot: Ashgate, 2006), 111-131
- Gumbert, M., *Neither Justice Nor Reason: A Legal and Anthropological Analysis of Aboriginal Land Rights* (St Lucia, Queensland: University of Queensland Press, 1984)
- Gunstone, Andrew, "The Responses of Australian Governments to Indigenous Challenges to the Australian State: 1967-2003", *Journal of Australian Indigenous Issues* 6/2 (June, 2003), 3-25
- _____, "The Formal Australian Reconciliation Process: 1991-2000", Paper prepared for the National Reconciliation Planning Workshop, Old Parliament House, Canberra, 30-31 May, 2005, available on web page (as at June 2005): www.reconciliationaustralia.org/docs/planning_workshop/background/andrew_gunstone_paper.pdf.
- Gunton, Colin E., *God and Freedom: Essays in Historical and Systematic Theology* (Edinburgh: T&T Clark, 1995)
- _____, ed., *The Theology of Reconciliation* (London: T&T Clark 2003)
- _____, "Towards a Theology of Reconciliation", in Gunton, Colin E., ed., *The Theology of Reconciliation* (London: T&T Clark 2003), 167-174
- Habel, Norman C., *The Land is Mine: Six Biblical Land Ideologies* (Minneapolis: Fortress Press, 1995)
- _____, *Reconciliation: Searching for Australia's Soul* (Pymble, New South Wales: HarperCollins, 1999) *Note: The version I have is a pre-publication review copy, and so the page numbers will not be the same as in the final book.*
- Hagen, Rod, "Ethnographic Information and Anthropological Interpretations in a Native Title Claim: The Yorta Yorta Experience", *Aboriginal History* 25 (2001), 216-227

- Hamber, Brandon "Does the Truth Heal? A Psychological Perspective on Political Strategies for Dealing with the Legacy of Violence", in Nigel Biggar (ed.), *Burying the Past: Making Peace and Doing Justice after Civil Conflict* (Washington: Georgetown University Press, 2001), 131-148
- Harakas, Stanley S., "Forgiveness and Reconciliation: An Orthodox Perspective" in Helmick SJ, Raymond G., and Petersen, Rodney L., *Forgiveness and Reconciliation: Religion, Public Policy, and Conflict Transformation* (Pennsylvania: Templeton Foundation Press, 2001), 51-78
- Hardy, D W, "Created and Redeemed Sociality", in Gunton and Hardy, chapter 1, 21-47
- Harris, Harriet A., "Should we Say that Personhood is Relational?", *Scottish Journal of Theology* 51/2 (1998), 214-234
- Harris, John, "North Australian Kriol and the Kriol 'Holi Baibul'" in Swain, Tony and Bird Rose, Deborah, *Aboriginal Australians and Christian Missions: Ethnographic and Historical Studies* (The Australian Association for the Study of Religions, 1988), 412-421
- _____, *One Blood: Two Hundred Years of Aboriginal Encounter with Christianity: A Story of Hope* (Sutherland: Albatross Books, 1990)
- Harrison, J.R., "Paul and the Imperial Gospel at Thessaloniki", *Journal for the Study of the New Testament* 25/1 (2002), 71-96
- Hart, John, "Land, Theology, and the Future" in Evans, Bernard F., and Cusack, Gregory D., eds., *Theology of the Land* (Collegeville: Liturgical Press, 1987), 85-102
- Harvey, Anthony E, *Renewal Through Suffering: A Study of 2 Corinthians* (Edinburgh: T&T Clark, 1996)
- Harvey, Bruce, "Rio Tinto's Agreement Making in Australia in a Context of Globalisation" in Langton, Marcia; Tehan, Maureen; Palmer, Lisa; and Shain, Kathryn, eds., *Honour Among Nations?: Treaties and Agreements with Indigenous People* (Melbourne: Melbourne University Press, 2004), 237-247
- Hastings, Adrian, *The Construction of Nationhood: Ethnicity, Religion and Nationalism* (Cambridge: Cambridge University Press, 1997)
- Hauerwas, Stanley "Peacemaking: The Virtue of the Church" in his *Christian Existence Today: Essays on the Church, World and Living In Between* (Grand Rapids: Baker Books, 1995), 89-97
- _____, "The Liturgical Shape of the Christian Life: Teaching Christian Ethics as Worship" in Hauerwas, S., *In Good Company: The Church as Polis* (Notre Dame: University of Notre Dame Press, 1995), 153-168, 247-252
- Hauerwas, Stanley, and Willimon, William H., *Resident Aliens: A Provocative Christian Assessment of Culture and Ministry for People Who Know That Something is Wrong* (Nashville: Abingdon Press, 1989)
- Havemann, Paul, ed., *Indigenous Peoples' Rights in Australia, Canada and New Zealand* (Melbourne: Oxford University Press, 1999)
- _____, "Indigenous Peoples, the State and the Challenge of Differential Citizenship" in Havemann, Paul, ed., *Indigenous Peoples' Rights in Australia, Canada and New Zealand* (Melbourne: Oxford University Press, 1999), 468-475
- Haws, Charles G., "Suffering, Hope and Forgiveness: The Ubuntu Theology of Desmond Tutu", *Scottish Journal of Theology* 62/4 (2009), 477-489
- Hay, David M, *Pauline Theology, Volume II, 1 and 2 Corinthians* (Atlanta: Society of Biblical Literature Symposium Series, no. 22, 2002)
- Hayner, Priscilla, "Same Species, Different Animal: How South Africa Compares to Truth Commissions Worldwide" in Villa-Vicencio, Charles and Verwoerd, Wilhelm, ed., *Looking Back Reaching Forward: Reflections on the Truth and*

- Reconciliation Commission of South Africa* (Cape Town: University of Cape Town Press 2000), 32-41
- Hays, Richard B., *The Moral Vision of the New Testament: A Contemporary Introduction to New Testament Ethics* (Edinburgh: T&T Clark, 1996)
- Healy, Chris, *Forgetting Aborigines* (Sydney: University of NSW Press, 2008)
- Helmick, Raymond J, “Does Religion Fuel or Heal in Conflicts?” in Helmick SJ, Raymond G., and Petersen, Rodney L., *Forgiveness and Reconciliation: Religion, Public Policy, and Conflict Transformation* (Pennsylvania: Templeton Foundation Press, 2001), 81-95
- Helmick SJ, Raymond G., and Petersen, Rodney L., *Forgiveness and Reconciliation: Religion, Public Policy, and Conflict Transformation* (Pennsylvania: Templeton Foundation Press, 2001)
- Hemming, Steve, “Inventing Ethnography”, *Journal of Australian Studies* 48 (1996), 25-39
- _____, “Taming the Colonial Archive: History, Native Title and Colonialism” in Gray, Geoffrey and Paul, Mandy, *Through a Smoky Mirror: History and Native Title* (Canberra: AIATSIS, 2002), 49-64
- Hepburn, Samantha, “Disinterested Truth: Legitimation of the Doctrine of Tenure Post-Mabo”, *Melbourne University Law Review* 29/1 (April, 2005),
- _____, *Principles of Property Law* (Coogee: Routledge Cavendish, 2006, 3rd edition)
- Herbert, David, “Islam and Reconciliation: A Hermeneutical and Sociological Approach” in Tombs, David and Liechty, Joseph, eds., *Explorations in Reconciliation: New Directions in Theology* (Aldershot: Ashgate, 2006), 22-33
- Herbert, Eileen, “Reconciliation in Cape York Peninsula”, *Chain Reaction* 75 (July 1996), 34-36
- Hicks, Donna, “The Role of Identity Reconstruction in Promoting Reconciliation” in Helmick SJ, Raymond G., and Petersen, Rodney L., *Forgiveness and Reconciliation: Religion, Public Policy, and Conflict Transformation* (Pennsylvania: Templeton Foundation Press, 2001), 129- 149
- Hiley QC, Graham, ed., *The Wik Case: Issues and Implications* (Sydney: Butterworths, 1997)
- _____, “Introduction” in Hiley QC, Graham, ed., *The Wik Case: Issues and Implications* (Sydney: Butterworths, 1997), 1-5
- Hill, Robert C., see Theodoret of Cyrus
- Hinkson, Melinda, “Exploring ‘Aboriginal’ Sites in Sydney: A Shifting Politics of Place?”, *Aboriginal History* 26 (2002), 62-77
- _____, “New Media Projects at Yuendumu: Towards a History and Analysis of Intercultural Engagement” in Taylor, Luke; Ward, Graeme K.; Henderson, Graham; Davis, Richard; and Wallis, Lynley A., eds., *The Power of Knowledge, The Resonance of Tradition* (Canberra: Aboriginal Studies Press, 2005), 157-168
- Hinkson, Melinda, and Harris, Alana, *Aboriginal Sydney: A Guide to Important Places of the Past and Present* (with photographs by Alana Harris) (Canberra: Aboriginal Studies Press, 2001)
- Hoch (Jr.), Carl B., “The Significance of the Syn-Compounds for Jew-Gentile Relationships in the Body of Christ,” *Journal of the Evangelical Theological Society* 25/2 (June 1982), 175-183
- Hock, Ronald, F., “Paul and Greco-Roman Education” in Sampley, J. P., ed., *Paul in the Greco-Roman World: A Handbook* (Harrisburg: Trinity Press International, 2003), 198-227
- Hokari, Minouri, “Anti-Minorities History: Perspectives on Aboriginal-Asian Relations” in Edwards, Penny and Yuafang, Shen, eds., *Lost in the Whitewash:*

- Aboriginal-Asian Encounters in Australia, 1901-2001* (Canberra: The Australian National University Humanities Research Centre, 2003), 85-101
- _____, “Gurindji Mode of Historical Practice” in Taylor, Luke; Ward, Graeme K.; Henderson, Graham; Davis, Richard; and Wallis, Lynley A., eds., *The Power of Knowledge, The Resonance of Tradition* (Canberra: Aboriginal Studies Press, 2005), 214-222
- Holliday, Adrian, *Doing and Writing Qualitative Research* (London: Sage Publications, 2002)
- Holt, Lillian, “Reflections on Race and Reconciliation” in Grattan, Michelle, *Essays on Australian Reconciliation* (Melbourne: Black Inc, 2000), 146-151
- Honner SJ, John, “The Theology of Hugh M. Morgan, Miner” in Brennan SJ, Frank, Daniel SJ, William, Egan SJ, John, and Honner SJ, John, *Finding Common Ground: An Assessment of Aboriginal Land Rights* (Blackburn, Victoria: Collins Dove, 1986, 2nd edition), 95-110
- Hooker, Morna D., *The Gospel According to St Mark* (Black’s New Testament Commentary) (London: A & C Black, 1991)
- _____, “From God’s Faithfulness to Ours” in Burke, Trevor J., and Elliott, J. Keith, ed., *Paul and the Corinthians: Studies on a Community in Conflict. Essays in Honour of Margaret Thrall* (Leiden: Brill, 2003), 233-239
- Hooper, Chloe, *Tall Man: Death and Life on Palm Island* (Jonathan Cape Ltd, 2009)
- Horne, Brian, “The Cross and the Comedy: Dante’s Understanding of the Atonement”, in Gunton, Colin E, ed., *The Theology of Reconciliation* (London: T&T Clark 2003), 141-157
- Horner, Jack, *Seeking Racial Justice: An Insider’s Memoir of the Movement for Aboriginal Advancement, 1938-1978* (Canberra: Aboriginal Studies Press, 2004)
- Horrell, David G., *The Social Ethos of the Corinthian Correspondence: Interests and Ideology from 1 Corinthians to 1 Clement* (Edinburgh: T&T Clark, 1996)
- _____, “Restructuring Human Relationships: Paul’s Corinthian Letters and Habermas’ Discourse Ethics”, *Expository Times* 110/10 (July, 1999), 321-325
- _____, “The Green Bible: A Timely Idea Deeply Flawed”, *The Expository Times* 121/4 (January 2010), 180-186
- Horsley, Richard A., ed., *Paul and Empire: Religion and Power in Roman Imperial Society* (Harrisburg: Trinity Press International, 1997)
- _____, “1 Corinthians: A Case Study of Paul’s Assembly as an Alternative Society”, in Horsley, Richard A., ed., *Paul and Empire: Religion and Power in Roman Imperial Society* (Harrisburg: Trinity Press International, 1997), 242-252
- _____, ed., *Paul and Politics: Ekklesia, Israel, Imperium, Interpretation – Essays in Honour of Krister Stendahl* (Harrisburg: Trinity Press International, 2000)
- _____, “Rhetoric and Empire – and 1 Corinthians”, in Horsley, Richard A., ed., *Paul and Politics: Ekklesia, Israel, Imperium, Interpretation – Essays in Honour of Krister Stendahl* (Harrisburg: Trinity Press International, 2000), 72-102
- _____, *Paul and the Roman Imperial Order* (Harrisburg: Trinity Press International, 2004)
- Horstman, Mark, “Black Shadows, White Shadows, Grey Shadows: Does the Cape York Regional Agreement Provide a Model for the Reconciliation Process?”, *Arena Magazine* 22 (April-May 1996), 26-31
- Horton, David, compiler, *Aboriginal Australia* (a map of Aboriginal Countries), (Canberra: AIATSIS, 3rd edition)
- Howard, John, “Practical Reconciliation” in Grattan, Michelle, *Essays on Australian Reconciliation* (Melbourne: Black Inc, 2000), 88-96
- Howard-Brooke, Wes and Gwyther, Anthony, *Unveiling Empire: Reading Revelation Then and Now* (Maryknoll: Orbis Books, 1999)

- Howley, Pat, *Breaking Spears and Mending Hearts: Peacemakers and Restorative Justice in Bougainville* (London: Zed Books, 2002)
- Howson, Peter, "Land Rights – The Next Battleground", *Quadrant* (June 2005), 24-29
- Huggins, Jackie, "Reconciliation and Native Title", *Balayi: Culture, Law and Colonialism* 4 (2002), 35-43
- Huggins, Rita and Huggins, Jackie, *Auntie Rita* (Canberra: Aboriginal Studies Press, 1994)
- Hughes, Helen and Warin, Jenness, "A New Deal for Aborigines and Torres Strait Islanders in Remote Communities" (Centre for Independent Studies, Issue Analysis No. 54, 1st March, 2005) (Available on the website www.cis.org.au.)
- Hume, Lynne, "Christianity Full Circle: Aboriginal Christianity on Yarrabah Reserve" in Swain, Tony and Bird Rose, Deborah, *Aboriginal Australians and Christian Missions: Ethnographic and Historical Studies* (The Australian Association for the Study of Religions, 1988), 250-262
- Hunsinger, George, "The Politics of the Nonviolent God: Reflections on René Girard and Karl Barth", *SJT* 51/1 (1998), 61-85
- _____, "Baptism and the Soteriology of Forgiveness," *International Journal of Systematic Theology*, volume 2, number 3, November 2000, 247-269
- Hunt, Constance, "The *Aboriginal Land Rights (Northern Territory) Act* 1976: An Outsider's Perspective" in Peterson, Nicolas and Langton, Marcia, eds., *Aborigines, Land and Land Rights* (Canberra: Australian Institute of Aboriginal Studies, 1983), 455-462
- Hunter, J, *An Historical Journal* (London, 1793)
- Hunter, Philip, "The Wik Decision: Unnecessary Extinguishment" in Hiley QC, Graham, ed., *The Wik Case: Issues and Implications* (Sydney: Butterworths, 1997), 6-18
- Inge, John, *A Christian Theology of Place* (Aldershot: Ashgate Publishing, 2003)
- Iorns Magallanes, Catherine J., "International Human Rights and their Impact on Domestic Law on Indigenous Peoples' Rights in Australia, Canada and New Zealand" in Havemann, Paul, ed., *Indigenous Peoples' Rights in Australia, Canada and New Zealand* (Melbourne: Oxford University Press, 1999), 235-276
- Isasi-Díaz, Ada María, "Reconciliation: An Intrinsic Element of Justice" in Tombs, David and Liechty, Joseph, eds., *Explorations in Reconciliation: New Directions in Theology* (Aldershot: Ashgate, 2006), 69-84
- Jackson, Sue, "Maritime Agreements and the Recognition of Customary Marine Tenure in the Northern Territory" in Langton, Marcia; Tehan, Maureen; Palmer, Lisa; and Shain, Kathryn, eds., *Honour Among Nations?: Treaties and Agreements with Indigenous People* (Melbourne: Melbourne University Press, 2004), 220-236
- Jacobs, Jane M., "The Construction of Identity" in Beckett, Jeremy, ed., *Past and Present: The Construction of Aboriginality* (Canberra: Aboriginal Studies Press, 1988), 31-43
- _____, *Edge of Empire: Postcolonialism and the City* (New York: Routledge, 1996)
- Jennett, Christine, "Aboriginal Affairs Policy" in Jennet, C, and Stewart, Randal G, *Hawke and Australian Public Policy: Consensus and Restructuring* (Melbourne: The Macmillian Company of Australia, 1990), 245-283
- Jenson, Robert W., "Reconciliation in God", in Gunton, Colin E, ed., *The Theology of Reconciliation* (London: T&T Clark 2003), 159-166
- Jewett, Robert, *The Thessalonian Correspondence: Pauline Rhetoric and Millenarian Piety* (Philadelphia: Fortress Press, 1986)
- _____, "Response: Exegetical Support from Romans and Other Letters", in Horsley, Richard A., ed., *Paul and Politics: Ekklesia, Israel, Imperium, Interpretation –*

- Essays in Honour of Krister Stendahl* (Harrisburg: Trinity Press International, 2000), 58-71
- _____, "Paul, Shame and Honour" in Sampley, J. P., ed., *Paul in the Greco-Roman World: A Handbook* (Harrisburg: Trinity Press International, 2003), 551-574
- Johnson, Dianne, *Lighting the Way: Reconciliation Stories* (Sydney: The Federation Press, 2002)
- Johnson, Louise with Huggins, Jackie and Jacobs, Jane, *Placebound: Australian Feminist Geographies* (Melbourne: Oxford University Press, 2000), especially chapter 5, "Postcolonial Feminist Geographies"
- Johnston, Douglas M., "Religion and Foreign Policy" in Helmick SJ, Raymond G., and Petersen, Rodney L., *Forgiveness and Reconciliation: Religion, Public Policy, and Conflict Transformation* (Pensylvania: Templeton Foundation Press, 2001), 117-128
- Johnston, Douglas and Sampson, Cynthia, ed., *Religion: The Missing Dimension of Statecraft* (New York: Oxford University Press, 1994)
- Jonas, Bill, "Promoting Economic and Social Development through Native Title", *National Native Title Conference*, Adelaide, 3rd-4th June, 2004, available on web page (as at 17.4.06): <http://ntru.aiatsis.gov.au/conf2004/papers/pdfs/BillJonas.pdf>
- Jones, Christopher, "Loosing and Binding: The Liturgical Mediation of Forgiveness", in *Forgiveness and Truth*, edited by Alistair McFadyen and Marcel Sarot, 31-52
- Jones, Jilpia Nappaljari, "We may have the Spirit, but do men have all the land? Women and Native Title", *National Native Title Conference*, Coffs Harbour, 1st-3rd June, 2005, available on the web page (as at 17.4.06): <http://ntru.aiatsis.gov.au/conf2005/papers/JonesJ.pdf>
- Jones, L. Gregory, *Embodying Forgiveness: A Theological Analysis* (Grand Rapids: Eerdmans, 1995)
- Jones, Philip, "Ideas Linking Australian Aborigines and Fuegians – From Cook to the Kulturkreis School", *Australian Aboriginal Studies* no. 2 (1989), 2-13
- _____, "The Boomerang's Erratic Flight: The Mutability of Ethnic Objects" in Attwood, Bain and Arnold, John, eds, *Power, Knowledge and Aborigines* (Victoria: La Trobe University Press, 1992), 59-71
- Jones, R., "Fire Stick Farming", *Australian Natural History* 16 (1969), 224-228
- Jones, Tobias, *Utopian Dreams: In Search of the Good Life* (London: Faber and Faber, 2007)
- Jordan, Deidre F., "Aboriginal Identity: Uses of the Past, Problems for the Future?" in Beckett, Jeremy, ed., *Past and Present: The Construction of Aboriginality* (Canberra: Aboriginal Studies Press, 1988), 109-130
- Joyce, Paul M, *Divine Initiative and Human Response in Ezekiel* (Sheffield: SAP JSOT Supplement Series 51, 1989)
- Judge, E. A., "The Conflict of Educational Aims in New Testament Thought" *Journal of Christian Education* 9 (1966), 32-45
- The Kairos Document: Challenge to the Church*, (Johannesburg: ICT, 1986, 2nd edition)
- Kaminsky, Joel S, *Corporate Responsibility in the Hebrew Bible* (Sheffield: Sheffield Academic Press, 1995; *Journal for the Study of the Old Testament Supplement Series* 196)
- _____, "The Sins of the Fathers: A Theological Investigation of the Biblical Tension Between Corporate and Individualized Retribution", *Judaism*, Summer 1997, available, as at 24.2.10: http://findarticles.com/p/articles/mi_m0411/is_n3_v46/ai_20119166/?tag=content:coll
- Kanamori, Mayu, "Lucy's Journey: A Photo-Essay by Mayu Kanamori" in Edwards, Penny and Yuafang, Shen, eds., *Lost in the Whitewash: Aboriginal-Asian*

- Encounters in Australia, 1901-2001* (Canberra: The Australian National University Humanities Research Centre, 2003), 65-68
- Käsemann, Ernst, "Some Thoughts on the Theme 'The Doctrine of Reconciliation in the New Testament'" in Robinson, J M (ed.) and Carlston, Charles E (tr.), *The Future of Our Religious Past: Essays in Honour of Rudolf Bultmann* (London: SCM Press, 49-64
- Kauffman, Paul, *Wik, Mining and Aborigines* (Sydney: Allen & Unwin, 1998)
- _____, *Travelling Aboriginal Australia: Discovery and Reconciliation* (Flemington: Hyland House Publishing, 2000)
- Kawharu, I H, ed., *Waitangi: Maori and Pakeha Perspectives of the Treaty of Waitangi* (Auckland: Oxford University Press, 1989)
- Keating, Paul, "The Redfern Park Speech" in Grattan, Michelle, *Essays on Australian Reconciliation* (Melbourne: Black Inc, 2000), 60-64
- Kecke, Leander E., "God the Other Who Acts Otherwise: An Exegetical Essay on 1 Cor. 1.26-31", *Word & World* XVI/4 (Fall 1996), 437-443
- Kee, Alistair, Review of Tombs, David and Liechty, Joseph, *Explorations in Reconciliation, Theology* vol. CX1 No. 859 (January/February, 2008), 46-47
- Keeffe, Kevin, *Paddy's Road: Life Stories of Patrick Dodson* (Canberra: Aboriginal Studies Press, 2003)
- Keely, A., "Women and the Land: The Problems Aboriginal Women Face in Providing Gender Restricted Evidence", *Aboriginal Law Bulletin* 87(1996), 4-7, (also as at 6.4.09: <http://www.austlii.edu.au/au/journals/AboriginalLB/1996/89.html>)
- Keen, Ian, ed., *Being Black: Aboriginal Cultures in 'Settled' Australia* (Canberra: Aboriginal Studies Press, 1988)
- _____, "Introduction" in Keen, Ian, ed., *Being Black: Aboriginal Cultures in 'Settled' Australia* (Canberra: Aboriginal Studies Press, 1988), 1-26
- _____, *Knowledge and Secrecy in an Aboriginal Religion* (Oxford: Clarendon Press, 1994)
- Kell, Peter, "Aussie! Aussie! Aussie! Who? Who? Who?: How diversity ran last at the 2000 Olympics" in Phillips, Scott K., *Everyday Diversity: Australian Multiculturalism and Reconciliation in Practice* (Altona: Common Ground Publishing Ltd, 2001), 69-88
- Keon-Cohen, B.A., "Some Problems of Proof: The Admissability of Traditional Evidence" in Stephenson, M.A. and Ratnapala, Suri, eds., *Mabo: A Judicial Revolution* (St Lucia: University of Queensland Press, 1993), 185-205
- _____, ed., *Native Title in the New Millennium: A Selection of Papers from the Native Title Representative Bodies Legal Conference 16-20 April 2000, Melbourne, Victoria* (Canberra: Aboriginal Studies Press, 2001)
- Kesteven, Sue, "The Effects on Aboriginal Communities of Monies Paid Out Under the Ranger and Naborlek Agreements" in Peterson, Nicolas and Langton, Marcia, eds., *Aborigines, Land and Land Rights* (Canberra: Australian Institute of Aboriginal Studies, 1983), 358-384
- Khiok-Khng, Yeo, "A Political Reading of Paul's Eschatology in 1 and II Thessalonians," *Asia Journal of Theology* 12/1 (1998), pp.77-88
- Kim, Kirsteen, ed., *Reconciling Mission: The Ministry of Healing and Reconciliation in the Church Worldwide* (Birmingham: United College of the Ascension, 2005)
- Kim, Seyoon, *The Origins of Paul's Gospel* (Tübingen: Mohr-Siebeck, 1984, 2nd edition)
- _____, "2 Cor. 5.11-21 and the Origin of Paul's Concept of 'Reconciliation'" *Novum Testamentum* XXXIX/4, 360-384
- _____, *Christ and Caesar: The Gospel and the Roman Empire in the Writings of Paul and Luke* (Grand Rapids: Eerdmans, 2008)

- Kimber, Richard, "Diane Bell, the Ngarrindjeri and the Hindmarsh Island Affair: 'Value-free' ethnography", *Aboriginal History* 21 (1997), 202-232
- King, R J, "Terra Australis: Terra Nullius aut Terra Aboriginum", *Journal Royal Australian Historical Society* 72(2), Oct. 1986, 75-91
- Kirby, Michael, "Judicial Dissent is an Appeal to the Future", Speech to the Law Students' Society of James Cook University at Cairns, 26th February, 2005 (available <http://webdiary.smh.com.au/archives/000735.html>)
- Knapp, Steven, "Collective Memory and the Actual Past", *Representations* No. 26 (Spring 1989), 123-149
- Koch, Grace, ed., and Koch, Harold, tr., *Katetye Country: An Aboriginal History of the Barrow Creek Area* (Alice Springs: Institute for Aboriginal Development, 1993)
- Koepping, Klaus-Peter, "Nativistic Movements in Aboriginal Australia: Creative Adjustment, Protest or Regeneration of Tradition" in Swain, Tony and Bird Rose, Deborah, *Aboriginal Australians and Christian Missions: Ethnographic and Historical Studies* (The Australian Association for the Study of Religions, 1988), 397-411
- Koester, Craig R, "Revelation's Visionary Challenge to Ordinary Empire", *Interpretation* 63/1 (January 2009), 5-18
- Koester, Helmut, "Imperial Ideology and Paul's Eschatology in 1 Thessalonians", in Horsley, Richard A., ed., *Paul and Empire: Religion and Power in Roman Imperial Society* (Harrisburg: Trinity Press International, 1997), 158-166
- Kolig, Erich, "Mission not Accomplished: Christianity in the Kimberleys" in Swain, Tony and Bird Rose, Deborah, *Aboriginal Australians and Christian Missions: Ethnographic and Historical Studies* (The Australian Association for the Study of Religions, 1988), 376-390
- Koolmatie, J. and Williams, Ross, "Unresolved Grief and the Removal of Indigenous Australian Children", *Australian Psychologist* 35/2 (July 2000), 158-166
- Krentz, Edgar, "Paul, Games, and the Military" in Sampley, J. P., ed., *Paul in the Greco-Roman World: A Handbook* (Harrisburg: Trinity Press International, 2003), 344-383
- de Kruijf, Gerrit, "The Function of Romans 13 in Christian Ethics", in Bartholomew, C., Chaplin, J., Song, R., and Wolters, A., eds, *A Royal Priesthood?: The Use of the Bible Ethically and Politically, A Dialogue with Oliver O'Donovan* (Grand Rapids: Zondervan, 2002), 225-237
- Kwan, Donna; Dews, Geoff; Bishop, Mick; and Garnier, Henry, "Towards Community-based Management of Natural Marine Resources in Torres Strait" in Baker, Richard; Davies, Jocelyn; and Young, Elspeth, eds., *Working on Country: Contemporary Indigenous Management of Australia's Lands and Coastal Regions* (Melbourne: Oxford University Press, 2001), 214-230
- Lambrecht, J., "'Reconcile yourselves ...': A Reading of 2 Corinthians 5,11-21" *Benedictina* 10 (1989), 161-209, reprinted in Bieringer, R. and Lambrecht, J., *Studies in 2 Corinthians* (Leuven: Leuven University Press, 1994), 363-412
- _____, *Second Corinthians*, (Collegeville: The Liturgical Press, Sacra Pagina Series, 1999)
- Lampe, Peter, *From Paul to Valentinus: Christians at Rome in the First Two Centuries* (Minneapolis: Fortress Press, 2003) (translated by Michael Steinhauser)
- _____, "Paul, Patrons, and Clients" in Sampley, J. P., ed., *Paul in the Greco-Roman World: A Handbook* (Harrisburg: Trinity Press International, 2003), 488-523
- Lane, Belden C., *The Solace of a Fierce Landscape: Exploring Desert and Mountain Spirituality* (Oxford: Oxford University Press, 1998)
- de Lange, Johnny, "The Historical Context, Legal Origins and Philosophical Foundation of the South African Truth and Reconciliation Commission" in Villa-Vicencio,

- Charles and Verwoerd, Wilhelm, ed., *Looking Back Reaching Forward: Reflections on the Truth and Reconciliation Commission of South Africa* (Cape Town: University of Cape Town Press 2000), 14-31
- Langton, Marcia, "A National Strategy to Deal with Exploration and Mining In or Near Aboriginal Land" in Peterson, Nicolas and Langton, Marcia, eds., *Aborigines, Land and Land Rights* (Canberra: Australian Institute of Aboriginal Studies, 1983), 385-402
- _____, "Medicine Square" in Keen, Ian, ed., *Being Black: Aboriginal Cultures in 'Settled' Australia* (Canberra: Aboriginal Studies Press, 1988), 201-225
- _____, "Grandmothers' Law, Company Business and Succession in Changing Aboriginal Land Tenure Systems", in Yunupingu, Galarrwuy (ed.), *Our Land is Our Life: Land Rights – Past, Present and Future* (St Lucia, Queensland: University of Queensland Press, 1997), 84-116
- _____, "Estate of Mind: The Growing Cooperation Between Indigenous and Mainstream Managers of Northern Australian Landscapes and the Challenge for Educators and Researchers" in Havemann, Paul, ed., *Indigenous Peoples' Rights in Australia, Canada and New Zealand* (Melbourne: Oxford University Press, 1999), 71-87
- _____, "Introduction: Unsettling Sovereignties" in Langton, Marcia; Tehan, Maureen; Palmer, Lisa; and Shain, Kathryn, eds., *Honour Among Nations?: Treaties and Agreements with Indigenous People* (Melbourne: Melbourne University Press, 2004), 29-33
- Langton, Marica, and Palmer, Lisa, "Treaties, Agreement Making and the Recognition of Indigenous Customary Polities" in Langton, Marcia; Tehan, Maureen; Palmer, Lisa; and Shain, Kathryn, eds., *Honour Among Nations?: Treaties and Agreements with Indigenous People* (Melbourne: Melbourne University Press, 2004), 34-49
- Langton, Marcia; Tehan, Maureen; and Palmer, Lisa, "Introduction" in Langton, Marcia; Tehan, Maureen; Palmer, Lisa; and Shain, Kathryn, eds., *Honour Among Nations?: Treaties and Agreements with Indigenous People* (Melbourne: Melbourne University Press, 2004), 1-26
- Langton, Marcia; Tehan, Maureen; Palmer, Lisa; and Shain, Kathryn, eds., *Honour Among Nations?: Treaties and Agreements with Indigenous People* (Melbourne: Melbourne University Press, 2004)
- Lattas, Andrew, "Aborigines and Contemporary Australian Nationalism: Primordality and the Cultural Politics of Otherness", *Social Analysis* 27 (1990), 50-69
- _____, "Primitivism, Nationalism and Individualism in Australian Popular Culture" in Attwood, Bain and Arnold, John, eds., *Power, Knowledge and Aborigines* (Victoria: La Trobe University Press, 1992), 45-58
- Layton, Robert, "Ambilineal Descent and Traditional Pitjantjatjara Rights to Land" in Peterson, Nicolas and Langton, Marcia, eds., *Aborigines, Land and Land Rights* (Canberra: Australian Institute of Aboriginal Studies, 1983), 15-32
- _____, "Pitjantjatjara Processes and The Structure of the Land Rights Act" in Peterson, Nicolas and Langton, Marcia, eds., *Aborigines, Land and Land Rights* (Canberra: Australian Institute of Aboriginal Studies, 1983), 226-237
- Leaves, Nigel, "An Australian Perspective on the Current Demise of the Churches", *Theology* CVII/838 (July/August 2004), 257-264
- Lederach, John Paul, *Building Peace: Sustainable Reconciliation in Divided Societies* (Washington: United States Institute of Peace Press, 1997)
- _____, "Five Qualities of Practice in Support of Reconciliation Processes" in Helmick SJ, Raymond G., and Petersen, Rodney L., *Forgiveness and*

- Reconciliation: Religion, Public Policy, and Conflict Transformation* (Pensylvania: Templeton Foundation Press, 2001), 183-193
- Lehman, Greg, "Turning Back the Clock: Fire, Biodiversity, and Indigenous Community Development in Tasmania" in Baker, Richard; Davies, Jocelyn; and Young, Elspeth, eds., *Working on Country: Contemporary Indigenous Management of Australia's Lands and Coastal Regions* (Melbourne: Oxford University Press, 2001), 308-319
- Lerory, H. "ἄφιημι", in Balz, Horst and Schneider, G, *Exegetical Dictionary of the New Testament Volume 1* (Grand Rapids: Eerdmans, 1990), 181-183
- Lewes, Nigel, "An Australian Perspective on the Current Demise of the Churches", *Theology* CVII/838 (July/August 2004), 257-264
- Lewis, Henry T., "Fire Technology and Resource Management in Aboriginal North America and Australia" in Williams, Nancy M, and Hunn, Eugene S, eds., *Resource Managers: North American and Australian Hunter-Gatherers* (Colorado: Westview Press Ltd, 1982, American Association for the Advancement of Science Selected Symposium 67), 45-67
- Lewis, Jack P. ed., *Interpreting 2 Corinthians 5.14-21: An Exercise in Hermeneutics* (Lewiston, New York: The Edwin Mellen Press 1989)
- _____, "Significant Issues in the Interpretation of 2 Corinthians 5.14-21 in Lewis, Jack P. ed., *Interpreting 2 Corinthians 5.14-21: An Exercise in Hermeneutics* (Lewiston, New York: The Edwin Mellen Press 1989), 29-64
- _____, "Exegesis" in Lewis, Jack P. ed., *Interpreting 2 Corinthians 5.14-21: An Exercise in Hermeneutics* (Lewiston, New York: The Edwin Mellen Press 1989), 129-141
- Lewis, John G, *Looking for Life: The Role of 'Theo-Ethical Reasoning' in Paul's Religion* (London: T&T Clark, 2005)
- Lewis, Louise J., "Being 'Hefted': Reflections on Place, Stories and Contextual Bible Study", *Theology* 118/11 (August 2007), 530-535
- Liddle, Lynette (with Elspeth Young), "Bridging the Communication Gap': Transferring Information between Scientists and Aboriginal Land Managers" in Baker, Richard; Davies, Jocelyn; and Young, Elspeth, eds., *Working on Country: Contemporary Indigenous Management of Australia's Lands and Coastal Regions* (Melbourne: Oxford University Press, 2001), 147-155
- Lightfoot, J.B., *Saint Paul's Epistle to the Galatians: A Revised Text with Introduction, Notes, and Dissertations* (London: MacMillan and Co., 10th edn, 1890)
- _____, *Notes on the Epistles of St Paul from Unpublished Commentaries* (London: MacMillan and Co., 1904)
- Lilburne, Geoffrey R., *A Sense of Place: A Christian Theology of the Land* (Nashville: Abingdon Press, 1989)
- Lincoln, Andrew T, "Liberation from the Powers: Supernatural Spirits or Social Structures", in M Daniel Carroll R, D J A Clines and P R Davies (ed.), *The Bible in Human Society: Essays in Honour of John Rogerson* (Sheffield: Sheffield Academic Press, JSOTS 200), 335-354
- _____, "Power, Judgement and Possession: John's Gospel in Political Perspective" in Bartholomew, C., Chaplin, J., Song, R., and Wolters, A., eds, *A Royal Priesthood?: The Use of the Bible Ethically and Politically, A Dialogue with Oliver O'Donovan* (Grand Rapids: Zondervan, 2002), 147-169
- Lindsey, Keith, *Making Peace: Biblical Principles and the Experience of CHIPS* (CHIPS (Christian International Peace Service) Bix Bottom Farm, Henley-on-Thames, Oxfordshire, RG9 6BH, 2002)
- Linn, Dennis and Linn, Sheila Fabricant and Linn, Matthew, *Don't Forgive Too Soon: Extending the Two Hands that Heal* (New York: Paulist Press, 1997)

- Litchfield, John and Jackson, Lance, "History and the Native Title Act" in Gray, Geoffrey and Paul, Mandy, *Through a Smoky Mirror: History and Native Title* (Canberra: AIATSIS, 2002), 93-99
- Lloyd-Jones, D. Martyn, *God's Way of Reconciliation: An Exposition of Ephesians 2* (Grand Rapids: Baker Book House, 1972)
- Loader, William, "Australia's Day of Apology to the Stolen Generations of its Indigenous Peoples (13th February 2008)", *The Expository Times* 119/8 (May 2008), 385-386
- Loening, Thomas C, *The Reconciliation Agreement of 403/402 B.C. in Athens: Its Content and Application* (Stuttgart: Franz Steiner Verlag Wiesbaden, 1987)
- Loos, Noel, "Concern and Contempt: Church Missionary Attitudes Towards Aborigines in North Queensland in the Nineteenth Century" in Swain, Tony and Bird Rose, Deborah, *Aboriginal Australians and Christian Missions: Ethnographic and Historical Studies* (The Australian Association for the Study of Religions, 1988), 100-120
- Loos, Noel, and Mabo, Koiki, *Edward Koiki Mabo: His Life and Struggle for Land Rights* (St Lucia: University of Queensland Press, 1996)
- de Lorenzo, Catherine, "Remembering: Aboriginality, Public Art and Urban Design", *Australian and New Zealand Journal of Art* 2 (2000), 130-145
- _____, "Confronting Amnesia: Aboriginality and Public Space", *Visual Studies* 20/2 (October 2005), 107-123
- Loubser, J.A., "Paul and the Politics of Apocalyptic Mysticism: An Exploration of 2 Cor. 11.30-12.10," *Neotestamentica* 34/1 (2000), 191-206
- Louw, Johannes P. and Nida, Eugene A., *Greek-English Lexicon of the New Testament Based on Semantic Domains Volume 1* (Cape Town: Bible Society of South Africa, 1989)
- Love, Mark, "The Farmgate Effect" in Hiley QC, Graham, ed., *The Wik Case: Issues and Implications* (Sydney: Butterworths, 1997), 40-44
- Lowe, Chuck, *Territorial Spirits and World Evangelisation?: A Biblical, Historical and Missiological Critique of Strategic-Level Spiritual Warfare* (OMF International, 1998)
- Lowe, Delia, and Davies, Jocelyn, "Bundarra, Berri-werri, and the By: Traditional Rights and Bureaucratic Boundaries" in Baker, Richard; Davies, Jocelyn; and Young, Elspeth, eds., *Working on Country: Contemporary Indigenous Management of Australia's Lands and Coastal Regions* (Melbourne: Oxford University Press, 2001), 257-275
- Lyon, Richard, *Towards Aboriginal Reconciliation, Book 1: For Junior Primary Classes* (Wembley Downs, Western Australia: Elton Publications, 2000)
- _____, *Towards Aboriginal Reconciliation, Book 2: For Middle Primary Classes* (Wembley Downs, Western Australia: Elton Publications, 2000)
- _____, *Towards Aboriginal Reconciliation, Book 3: For Upper Primary Classes* (Wembley Downs, Western Australia: Elton Publications, 2000)
- MacDonald, Gaynor, "A Wiradjuri Fight Story" in Keen, Ian, ed., *Being Black: Aboriginal Cultures in 'Settled' Australia* (Canberra: Aboriginal Studies Press, 1988), 179-199
- MacDonald, Margaret Y, "The Politics of Identity in Ephesians", *Journal for the Study of the New Testament* 26/4 (2004), 419-444
- MacIntyre, Alasdair, *After Virtue: A Study in Moral Theology* (Gerald Duckworth & Co Ltd; 3rd edition, 2007)
- Maclean, Iain S., ed., *Reconciliation, Nations and Churches in Latin America* (Aldershot: Ashgate, 2006)

- _____, "Truth and Reconciliation: Hope for the Nations or Only as Much as is Possible?" in Maclean, Iain S., ed., *Reconciliation, Nations and Churches in Latin America* (Aldershot: Ashgate, 2006), 3-39
- Maddison, Sarah, *Black Politics: Inside the Complexity of Aboriginal Political Culture* (Crows Nest: Allen & Unwin, 2009)
- Maddock, Kenneth, "Owners', 'Managers' and The Choice of Statutory Traditional Owners by Anthropologists and Lawyers" in Peterson, Nicolas and Langton, Marcia, eds., *Aborigines, Land and Land Rights* (Canberra: Australian Institute of Aboriginal Studies, 1983), 211-225
- _____, "Myth, History, and Sense of Oneself" in Beckett, Jeremy, ed., *Past and Present: The Construction of Aboriginality* (Canberra: Aboriginal Studies Press, 1988), 11-30
- Magowan, Fiona, "Crying to Remember: Reproducing Personhood and Community" in Attwood, Bain and Magowan, Fiona, eds., *Telling Stories: Indigenous History and Memory in Australia and New Zealand* (Crows Nest: Allen & Unwin, 2001), 41-60, 223-227
- _____, "A Sea Has Many Faces: Multiple and Contested Communities in Yolngu Coastal Waters" in Taylor, Luke; Ward, Graeme K.; Henderson, Graham; Davis, Richard; and Wallis, Lynley A., eds., *The Power of Knowledge, The Resonance of Tradition* (Canberra: Aboriginal Studies Press, 2005), 74-85
- Mahney, Terry, "How We Did Land Assessment and Planning Work on Loves Creek Station" in Walsh, Fiona and Mitchell, Paul, eds., *Planning for Country: Cross-Cultural Approaches to Decision-Making on Aboriginal Lands* (Alice Springs: Jukurrpa Press, 2002), 122-128
- Maier, Harry O., "A Sly Civility: Colossians and Empire", *Journal for the Study of the New Testament* 27/3 (2005), 323-349
- Maitland, Sara, *A Book of Silence* (London: Granta, 2008)
- Maldonado-Torres, Nelson, "Reconciliation as a Contested Future: Decolonization as Project or Beyond the Paradigm of War" in Maclean, Iain S., ed., *Reconciliation, Nations and Churches in Latin America* (Aldershot: Ashgate, 2006), 225-245
- Malina, Bruce J. and Rohrbaugh, Richard L., *Social Science Commentary on the Synoptic Gospels*, (Minneapolis : Fortress Press , 1992)
- Manderson, Lenore, ed. *Reconciliation: Voices from the Academy (1998 Annual Symposium of the Academy of the Social Sciences in Australia)* (Canberra: Academy of the Social Sciences in Australia Occasional Paper Series 2/1999)
- Manne, Robert, "The Stolen Generations" in Grattan, Michelle, *Essays on Australian Reconciliation* (Melbourne: Black Inc, 2000), 129-139
- _____, Manne, Robert, *Left, Right, Left: Political Essays 1977-2005* (Melbourne: Black Inc, 2005)
- _____, "On Reconciliation", in Manne, Robert, *Left, Right, Left: Political Essays 1977-2005* (Melbourne: Black Inc, 2005), 199-206
- _____, "Windschuttle II", in Manne, Robert, *Left, Right, Left: Political Essays 1977-2005* (Melbourne: Black Inc, 2005), 315-326
- _____, "Noel Pearson", in Manne, Robert, *Left, Right, Left: Political Essays 1977-2005* (Melbourne: Black Inc, 2005), 327-332
- Mansell, Michael, "Citizenship, Assimilation and a Treaty" in McGlade, Hannah, ed., *Treaty: Let's Get It Right! A Collection of Essays from ATSIC's Treaty Think Tank and Authors Commissioned by AIATSIS on Treaty Issues* (Canberra: Aboriginal Studies Press, 2003), 5-17, 200-216
- _____, "The Decline of a Movement", *Journal of Australian Indigenous Issues* 6/4 (December, 2003), 27-29

- Marchal, Joseph A., *Hierarchy, Unity, and Imitation: A Feminist Rhetorical Analysis of Power Dynamics in Paul's Letter to the Philippians* (Atlanta: Society of Biblical Literature, 2006)
- _____, "Expecting a Hymn, Encountering An Argument: Introducing the Rhetoric of Philippians and Pauline Interpretation", *Interpretation* 61/3 (July 2007), 245-255
- Marshall, Christopher D., *Beyond Retribution: A New Testament Vision for Justice, Crime, and Punishment* (Grand Rapids: Eerdmans, 2001)
- Marshall, I H., "The Meaning of Reconciliation" in Geulich, R, ed., *Unity and Diversity in New Testament Theology* (Grand Rapids: Eerdmans, 1978), 117-132
- _____, *The Gospel of Luke: A Commentary on the Greek Text* (Grand Rapids: Eerdmans, 1978)
- Marshall, Peter, *Enmity in Corinth: Social Conventions in Paul's Relations with the Corinthians* (Tübingen: J. C. B. Mohr, 1987)
- Martin, Dale B., "Review Essay: Justin J. Meggitt, *Paul, Poverty and Survival*", *Journal for the Study of the New Testament* 84 (December 2001), 51-64
- Martin, David, "Designing Institutions in the 'Recognition Space' of Native Title" in Toussaint, Sandy, ed., *Crossing Boundaries: Cultural, Legal, Historical and Practice Issues in Native Title* (Melbourne: Melbourne University Press, 2004), 67-77, 212
- Martin, Ralph P., *Reconciliation: A Study of Paul's Theology* (Eugene, Oregon: Wipf and Stock, 1989, 2nd edition)
- Martin, Troy B., "The Christian's Obligation Not to Forgive", *The Expository Times* 108/12 (September 1996), 360-362
- _____, "The Good as God (Romans 5.7)", *Journal for the Study of the New Testament* 25/1(2002), 55-70
- Martinello, Jennifer, "As Strands of Plaited Music: My Chinese-Aboriginal-Anglo Heritage" in Edwards, Penny and Yuafang, Shen, eds., *Lost in the Whitewash: Aboriginal-Asian Encounters in Australia, 1901-2001* (Canberra: The Australian National University Humanities Research Centre, 2003), 23-35
- Martínez, Julia, "Separatism and Solidarity: Chinese and Aboriginal Sporting Connections" in Edwards, Penny and Yuafang, Shen, eds., *Lost in the Whitewash: Aboriginal-Asian Encounters in Australia, 1901-2001* (Canberra: The Australian National University Humanities Research Centre, 2003), 103-113
- Matheson, Peter J., "The Catholic Church and Aboriginal Land Rights", *Journal of the Institute of Catholic Education* 9 (1989), 86-103
- Matties, Gordon H., *Ezekiel 18 and the Rhetoric of Moral Discourse* (Atlanta: Scholars Press, 1990; Society of Biblical Literature Dissertation Series number 126)
- McCaughey, Terence, "Northern Ireland: Burying the Hatchet, Not the Past", in Nigel Biggar (ed.), *Burying the Past: Making Peace and Doing Justice after Civil Conflict* (Washington: Georgetown University Press, 2001), 254-268
- McConchie, Peter, *Elders: Wisdom From Australia's Indigenous Leaders* (Cambridge: Cambridge University Press, 2003)
- McConvell, Patrick, "A Short Ride on a Time Machine: Linguistics, Cultural History and Native Title" in Toussaint, Sandy, ed., *Crossing Boundaries: Cultural, Legal, Historical and Practice Issues in Native Title* (Melbourne: Melbourne University Press, 2004), 34-49, 210-211
- McCoy S.J., Brian, "The Living History of Deaths in Custody" in Brennan S.J., Frank, ed., *Reconciling Our Differences: A Christian Approach to Recognising Aboriginal Land Rights* (Richmond, Victoria: Aurora Books, 1992), 19-34
- McDermott, Peter M., "Wik and Doctrine of Tenures: A Synopsis" in Hiley QC, Graham, ed., *The Wik Case: Issues and Implications* (Sydney: Butterworths, 1997), 35-39

- McDonald, David, "Australia: The Royal Commission into Aboriginal Deaths in Custody" in Havemann, Paul, ed., *Indigenous Peoples' Rights in Australia, Canada and New Zealand* (Melbourne: Oxford University Press, 1999), 283-301
- McDonnell, John, "Land Rights and Aboriginal Development", *Quadrant* (June 2005), 30-33
- McFadyen, Alistair, *The Call to Personhood: A Christian Theory of the Individual in Social Relationships* (Cambridge: CUP, 1990)
- _____, *Bound to Sin: Abuse, Holocaust and the Christian Doctrine of Sin* (Cambridge: Cambridge University Press, 2000)
- McFadyen, Alistair and Sarot, Marcel, eds., *Forgiveness and Truth: Explorations in Contemporary Theology* (Edinburgh: T&T Clark, 2001)
- McFadzean, Gavan, "Meeting of the Minds: Progress in the Cape York Regional Agreement", *Chain Reaction* 77 (November 1998), 37
- McGlade, Hannah, "Doubtful Island" in Grattan, Michelle, *Essays on Australian Reconciliation* (Melbourne: Black Inc, 2000), 195-201
- _____, "Not Invited to the Negotiating Table': The Native Title Amendment Act 1998 (Cth) and Indigenous Peoples Right to Political Participation and Self-Determination Under International Law", *Balayi: Culture, Law and Colonialism* 1/1 (January 2000), 97-113
- _____, "Aboriginal Women and the Commonwealth Government's Response to Mabo – An International Human Rights Perspective" in Brock, Peggy, ed., *Words and Silences: Aboriginal Women, Politics and Land* (Crows Nest: Allen & Unwin, 2001), 139-156, 183-188
- _____, ed., *Treaty: Let's Get It Right! A Collection of Essays from ATSIC's Treaty Think Tank and Authors Commissioned by AIATSIS on Treaty Issues* (Canberra: Aboriginal Studies Press, 2003)
- _____, "Kung Fu ... it Means Hard Work" in Edwards, Penny and Yuafang, Shen, eds., *Lost in the Whitewash: Aboriginal-Asian Encounters in Australia, 1901-2001* (Canberra: The Australian National University Humanities Research Centre, 2003), 135-142
- _____, "Native Title, 'Tides of History' and Our Continuing Claims for Justice – Sovereignty, Self Determination and Treaty" in McGlade, Hannah, ed., *Treaty: Let's Get It Right! A Collection of Essays from ATSIC's Treaty Think Tank and Authors Commissioned by AIATSIS on Treaty Issues* (Canberra: Aboriginal Studies Press, 2003), 118-136, 200-216
- _____, "Race Discrimination in Australia: A Challenge for Treat Settlement" in Langton, Marcia; Tehan, Maureen; Palmer, Lisa; and Shain, Kathryn, eds., *Honour Among Nations?: Treaties and Agreements with Indigenous People* (Melbourne: Melbourne University Press, 2004), 273-287
- McGrath, Ann, *Born in the Cattle: Aborigines in Cattle Country* (Sydney: Allen & Unwin, 1987)
- _____, "The Golden Thread of Kinship: Mixed Marriages Between Asians and Aboriginal Women During Australia's Federation Era" in Edwards, Penny and Yuafang, Shen, eds., *Lost in the Whitewash: Aboriginal-Asian Encounters in Australia, 1901-2001* (Canberra: The Australian National University Humanities Research Centre, 2003), 37-58
- McGuinness, P.P., "Reconciliation is a Two-way Street" in Grattan, Michelle, *Essays on Australian Reconciliation* (Melbourne: Black Inc, 2000), 235-241
- McHugh, P.G., "From Sovereignty Talk to Settlement Time: The Constitutional Setting of Maori Claims in the 1990s" in Havemann, Paul, ed., *Indigenous Peoples' Rights in Australia, Canada and New Zealand* (Melbourne: Oxford University Press, 1999), 447-467

- McIntosh, Alistair, *Soil and Soul: People versus Corporate Power* (London: Aurum Press, 2001)
- McIntosh, Ian S., *Aboriginal Reconciliation and the Dreaming: Warramiri Yolngu and the Quest for Equality* (Needham Heights, Massachusetts: Allyn & Bacon, 2000)
- _____, "Personal Names and the Negotiation of Change: Reconsidering Arnhem Land's Adjustment Movement", *Anthropological Forum* 14/2 (July 2004), 141-162
- McIntyre, Greg, "How Wik Applies to Western Australia" in Hiley QC, Graham, ed., *The Wik Case: Issues and Implications* (Sydney: Butterworths, 1997), 27-29
- McKenna, Mark, *Looking for Blackfellas' Point: An Australian History of Place* (Sydney: University of New South Wales Press, 2002)
- McLoughlin, Annie, "Fire Unearths forgotten Aboriginal Settlement", *The Australian*, 3rd February, 2006
- Mead, Richard T., "Epochs in the History of Interpretation of 2 Corinthians 5.14-21" in Lewis, Jack P. ed., *Interpreting 2 Corinthians 5.14-21: An Exercise in Hermeneutics* (Lewiston, New York: The Edwin Mellen Press 1989), 65-86
- _____, "Exegesis" in Lewis, Jack P. ed., *Interpreting 2 Corinthians 5.14-21: An Exercise in Hermeneutics* (Lewiston, New York: The Edwin Mellen Press 1989), 143-162
- Meeks, Wayne A., *In Search of the Early Christians* (New Haven: Yale University Press, 2002)
- Meggitt, Justin J, *Paul, Poverty and Survival* (Edinburgh: T&T Clark, 1998)
- _____, "Response to Martin and Theissen", *Journal for the Study of the New Testament* 84 (December 2001), 85-94
- Meggitt, M.J. 1964. "Indigenous Forms of Government Among the Australian Aborigines of Central Australia", in *Bijdragen Tot de Taal-Land-En Volkenkunde*, 120.
- Mellor, Howard and Yates, Timothy, eds., *Mission, Violence and Reconciliation* (Calver, Hope Valley, nr Sheffield: Cliff College Publishing, 2004)
- Memmott, Peter, "Social Structure and Use of Space Amongst the Lardil" in Peterson, Nicolas and Langton, Marcia, eds., *Aborigines, Land and Land Rights* (Canberra: Australian Institute of Aboriginal Studies, 1983), 33-65
- Merkel, H., "καταλλάσω, ἀποκαταλλάσω, καταλλαγή" in Balz, Horst, and Schneider, Gerhard, *Exegetical Dictionary of the New Testament* volume 2, 261-263
- Merlan, Francesca, "The Regimentation of Customary Practice: From Northern Territory Land Claims to Mabo", *The Australian Journal of Anthropology* 6/1&2 (1995), 64-82
- _____, "Attitudinal and Structural Changes in Indigenous and Settler Relations to Land" in Manderson, Lenore, ed. *Reconciliation: Voices from the Academy (1998 Annual Symposium of the Academy of the Social Sciences in Australia)* (Canberra: Academy of the Social Sciences in Australia Occasional Paper Series 2/1999), 40-48
- van der Merwe, Hugo, "National and Community Reconciliation: Competing Agendas in South African Truth and Reconciliation Commission", in Nigel Biggar (ed.), *Burying the Past: Making Peace and Doing Justice after Civil Conflict* (Washington: Georgetown University Press, 2001), 85-106
- Merwin, W.S., *The Miner's Pale Children* (New York: Atheneum, 1970)
- Meyers, Gary D., ed., *The Way Forward: Collaboration and Cooperation 'In Country' (Proceedings of the Indigenous Land Use Agreements Conference, 26-29 September, 1995, Darwin, Northern Territory, Australia)*, (Native Title Tribunal, 1996, 2nd edition)

- Mgxashe, Mxolisi, “ ‘Reconciliation: A Call to Action’ “ in Villa-Vicencio, Charles and Verwoerd, Wilhelm, ed., *Looking Back Reaching Forward: Reflections on the Truth and Reconciliation Commission of South Africa* (Cape Town: University of Cape Town Press 2000)
- Miller, Glen T, “2 Corinthians 5.11-6.13”, *Interpretation* (April 2000), 186-188
- Milligan, George, *St Paul’s Epistles to the Thessalonians: The Greek Text with Introduction and Notes* (London: MacMillan and Co, 1908)
- Milliken, Robert, “A New Confidence” in Grattan, Michelle, *Essays on Australian Reconciliation* (Melbourne: Black Inc, 2000), 121-128
- Miloo, Wyrker, “Native Title is Not Land Rights: An Alternative Indigenous Perspective”, *Journal of Australian Indigenous Issues* 1/1 (April, 1998), 25-34
- Mills, Brian and Mitchell, Roger, *Sins of the Fathers: How National Repentance Removes Obstacles for Revival* (Tonbridge: Sovereign World, 1999)
- Mills, Brian and Pickering, Brian, *Fountains of Tears: Changing Nations Through the Power of Repentance and Forgiveness* (Tonbridge: Sovereign World, 2004)
- Minow, Martha, “Innovating Responses to the Past: Human Rights Institutions”, in Nigel Biggar (ed.), *Burying the Past: Making Peace and Doing Justice after Civil Conflict* (Washington: Georgetown University Press, 2001), 87-100
- Mitchell, Margaret, *Paul and the Rhetoric of Reconciliation: An Exegetical Investigation of the Language and Composition of 1 Corinthians* (Louisville: Westminster/John Knox Press, 1991)
- _____, “New Testament Envoys in the Context of Greco-Roman Diplomatic and Epistolary Conventions: The Example of Timothy and Titus”, *Journal of Biblical Literature* 111(4) (1992), 641-662
- _____, Review of Bieringer, R. and Lambrecht, J, *Studies on 2 Corinthians* (Leuven: Leuven University Press, 1994) *Theologische Literaturzeitung* 121/4 (Jahrgang 1996), 354-355
- _____, *The Heavenly Trumpet: John Chrysostom and the Art of Pauline Interpretation* (Louisville: Westminster John Knox Press, 2002)
- _____, “The Corinthian Correspondence and the Birth of Pauline Hermeneutics” in Burke, Trevor J., and Elliott, J. Keith, ed., *Paul and the Corinthians: Studies on a Community in Conflict. Essays in Honour of Margaret Thrall* (Leiden: Brill, 2003), 17-53
- _____, “Paul’s Letters to Corinth: The Interpretive Intertwining of Literary and Historical Reconstruction” in Daniel Schowalter and Steven J. Friesen, ed., *Urban Religion in Roman Corinth*, (Harvard Theological Studies 53; Cambridge: Harvard University Press, 2005), 307-338
- Mitchell, Paul, “Supporting Aboriginal People to Manage their Land Themselves: Mutual Responsibility and shared Problem Solving” in Walsh, Fiona and Mitchell, Paul, eds., *Planning for Country: Cross-Cultural Approaches to Decision-Making on Aboriginal Lands* (Alice Springs: Jukurrpa Press, 2002), 79-87
- _____, “Money Story” in Walsh, Fiona and Mitchell, Paul, eds., *Planning for Country: Cross-Cultural Approaches to Decision-Making on Aboriginal Lands* (Alice Springs: Jukurrpa Press, 2002), 136-141
- Moberly, R W L, *The Bible, Theology, and Faith: A Study of Abraham and Jesus* (Cambridge: Cambridge University Press, 2000)
- _____, *The Theology of the Book of Genesis* (Cambridge: Cambridge University Press, 2009)
- Moens, Gabriël A., “Mabo and Political Policy-Making by the High Court” in Stephenson, M.A. and Ratnapala, Suri, eds., *Mabo: A Judicial Revolution* (St Lucia: University of Queensland Press, 1993), 48-62

- Moloney, Jo, "Participatory Planning – Traditional Owners Have Their Say" in Walsh, Fiona and Mitchell, Paul, eds., *Planning for Country: Cross-Cultural Approaches to Decision-Making on Aboriginal Lands* (Alice Springs: Jukurrpa Press, 2002), 181-186
- Moltmann, J., *God in Creation* (London: SCM, 1985)
- Montville, Joseph V., "Religion and Peacemaking" in Helmick SJ, Raymond G., and Petersen, Rodney L., *Forgiveness and Reconciliation: Religion, Public Policy, and Conflict Transformation* (Pensylvania: Templeton Foundation Press, 2001), 97-116
- Moore, Graham (with Jocelyn Davies), "Culture and Communication in Aboriginal Land Management in New South Wales: A Koori Perspective" in Baker, Richard; Davies, Jocelyn; and Young, Elspeth, eds., *Working on Country: Contemporary Indigenous Management of Australia's Lands and Coastal Regions* (Melbourne: Oxford University Press, 2001), 108-122
- Moore, Stephen, *God's Gym: Divine Male Bodies of the Bible* (New York: Routledge, 1996)
- Morphy, Howard, "'Now You Understand': An Analysis of the Way Yolngu Have Used Sacred Knowledge to Retain Their Autonomy" in Peterson, Nicolas and Langton, Marcia, eds., *Aborigines, Land and Land Rights* (Canberra: Australian Institute of Aboriginal Studies, 1983), 110-133
- _____, *Aboriginal Art* (London: Phaidon Press Ltd, 1998)
- Morris, Barry, "Dhan-gadi Resistance to Assimilation" in Keen, Ian, ed., *Being Black: Aboriginal Cultures in 'Settled' Australia* (Canberra: Aboriginal Studies Press, 1988), 33-63
- _____, "The Politics of Identity: From Aborigines to the First Australian" in Beckett, Jeremy, ed., *Past and Present: The Construction of Aboriginality* (Canberra: Aboriginal Studies Press, 1988), 63-85
- _____, "Frontier Colonialism as a Culture of Terror" in Attwood, Bain and Arnold, John, eds, *Power, Knowledge and Aborigines* (Victoria: La Trobe University Press, 1992), 72-87
- Morse, Bradford W., "Indigenous-Settler Treaty Making in Canada" in Langton, Marcia; Tehan, Maureen; Palmer, Lisa; and Shain, Kathryn, eds., *Honour Among Nations?: Treaties and Agreements with Indigenous People* (Melbourne: Melbourne University Press, 2004), 50-68
- Mosala, Itumeleng J., "The Meaning of Reconciliation: A Black Perspective" *Journal of Theology for Southern Africa* 59 (1987), 19-25
- Moyle, Richard, "Songs, Ceremonies, and Sites: The Agharringa Case" in Peterson, Nicolas and Langton, Marcia, eds., *Aborigines, Land and Land Rights* (Canberra: Australian Institute of Aboriginal Studies, 1983), 66-93
- Muecke, Stephen, "Lonely Representations: Aboriginality and Cultural Studies" in Attwood, Bain and Arnold, John, eds, *Power, Knowledge and Aborigines* (Victoria: La Trobe University Press, 1992), 32-44
- Muers, Rachel, *Living for the Future: Theological Ethics for Coming Generations* (Edinburgh: T&T Clark, 2008)
- Muir, Edward, "Images of Power: Art and Pageantry in Renaissance Venice" *American Historical Review* 84 (1979), 16-52
- Muir, Jan and Morgan, Monica, "Yorta Yorta: The Community's Perspective on the Treatment of Oral History" in Gray, Geoffrey and Paul, Mandy, *Through a Smoky Mirror: History and Native Title* (Canberra: AIATSIS, 2002), 1-9
- Müller-Farenholz, Geiko, *The Art of Forgiveness: Theological Reflections on Healing and Reconciliation* (Geneva: World Council of Churches Publications, 1997)

- Mundine, Djon, "Negotiating Co-Existence" in Grattan, Michelle, *Essays on Australian Reconciliation* (Melbourne: Black Inc, 2000), 191- 201
- Murray, Tim, "Aboriginal Prehistory and Australian Archaeology: The Discourse of Australian Prehistoric Archaeology" in Attwood, Bain and Arnold, John, eds, *Power, Knowledge and Aborigines* (Victoria: La Trobe University Press, 1992), 1-19
- Myall Creek Memorial Committee, *The Myall Creek Massacre: Its History, Its Memorial and the Opening Ceremony*, Pamphlet produced by the Myall Creek Memorial Committee, Bingara, New South Wales, 2001
- Myers, Ched, *Binding the Strong Man: A Political Reading of Mark's Story of Jesus* (Maryknoll: Orbis Books, 1988)
- Myers, Fred R., "Always Ask: Resource Use and Land Ownership Among Pintupi Aborigines of the Australian Western Desert." in Williams, Nancy M, and Hunn, Eugene S, eds., *Resource Managers: North American and Australian Hunter-Gatherers* (Colorado: Westview Press Ltd, 1982, American Association for the Advancement of Science Selected Symposium 67), 173-195
- _____, "Unsettled Business: Acrylic Painting, Tradition, and Indigenous Being" in Taylor, Luke; Ward, Graeme K.; Henderson, Graham; Davis, Richard; and Wallis, Lynley A., eds., *The Power of Knowledge, The Resonance of Tradition* (Canberra: Aboriginal Studies Press, 2005), 3-33
- Nakata, Martin, "Treaty and the Self-determination Agendas of Torres Strait Islanders: A Common Struggle" in McGlade, ed., *Treaty: Let's Get It Right! A Collection of Essays from ATSIC's Treaty Think Tank and Authors Commissioned by AIATSIS on Treaty Issues* (Canberra: Aboriginal Studies Press, 2003), 166-184, 200-216
- Nanos, Mark D., "The Inter- and Intra-Jewish Political Context of Paul's Letter to the Galatians", in Horsley, Richard A., ed., *Paul and Politics: Ekklesia, Israel, Imperium, Interpretation – Essays in Honour of Krister Stendahl* (Harrisburg: Trinity Press International, 2000), 146-159
- Nash, David, "Proving Country, Prospecting for Places: Re-visiting Karlantjpa Country" in Walsh, Fiona and Mitchell, Paul, eds., *Planning for Country: Cross-Cultural Approaches to Decision-Making on Aboriginal Lands* (Alice Springs: Jukurrpa Press, 2002), 164-169
- National Gallery of Australia, *Culture Warriors: Australian Indigenous Art Triennial* (National Gallery of Australia, 2009, second edition)
- National Indigenous Youth Movement of Australia, "A Story of Emergence – NIYMA's Views on a Treaty" in McGlade, Hannah, ed., *Treaty: Let's Get It Right! A Collection of Essays from ATSIC's Treaty Think Tank and Authors Commissioned by AIATSIS on Treaty Issues* (Canberra: Aboriginal Studies Press, 2003), 107-117, 200-216
- National Native Title Tribunal, *Mediating Native Title Applications: A Guide to National Native Title Tribunal Practice* (Canberra: Commonwealth of Australia, 2003)
- _____, *Native Title Stories*, 2004, available in video (ISBN 0 642 262152) and DVD formats.
- Neate, Graeme, "Review of the Northern Territory Land Rights Act", *Indigenous Law Bulletin* 4/15 (1988), available on the web page (as at 17.4.06): <http://www.austlii.edu.au/au/journals/ILB/1998/71.html>
- _____, *Aboriginal Land Rights Law in the Northern Territory* Volume 1 (Chipendale: Alternative Publishing Co-operative Ltd, 1989)
- _____, "Turning Back the Tide? Issues in the Legal Recognition of Continuity and Change in Traditional Laws and Customs", *Native Title Conference*, 3rd

- September 2002, Geraldton, Western Australia, available on the web page (at 16.4.06): http://ntru.aiatsis.gov.au/ntconf2002/ntconf_neatepaper.pdf
- _____, “Agreement Making and the *Native Title Act*” in Langton, Marcia; Tehan, Maureen; Palmer, Lisa; and Shain, Kathryn, eds., *Honour Among Nations?: Treaties and Agreements with Indigenous People* (Melbourne: Melbourne University Press, 2004), 176-188
- Nesbitt, Brad; Baker, Lynn; Copley, Peter; Young, Frank; and Anangu Pitjantjatjara Land Management, “Cooperative Cross-cultural Biological Surveys in Resource Management: Experiences in the Anangu Pitjantjatjara Lands” in Baker, Richard; Davies, Jocelyn; and Young, Elspeth, eds., *Working on Country: Contemporary Indigenous Management of Australia’s Lands and Coastal Regions* (Melbourne: Oxford University Press, 2001), 187-198
- Newbiggen, Leslie, *The Gospel in Today’s Global City* (Birmingham: Selly Oak Colleges, 1996)
- Newspoll, Saulwick & Muller and Hugh Mackay, “Public Opinion on Reconciliation” in Grattan, Michelle, *Essays on Australian Reconciliation* (Melbourne: Black Inc, 2000), 33-52
- Noonuccal, Oodgeroo: See also Kath Walker, the name given to her by white Australians.
- Noonuccal, Oodgeroo, *Australia’s Unwritten History: More Legends of Our Land* (Sydney: Harcourt Brace Jovanovich, 1992)
- _____, *Stradbroke Dreamtime* (Sydney: Angus & Robertson, 1993 (2nd edition))
- Norman, Heidi, “An Examination of the Limitations of Reconciliation as a Framework for Aboriginal Policy Development”, *Journal of Australian Indigenous Issues* 5/2 (June, 2002), 10-17
- Northcott, Michael, *An Angel Directs the Storm: Apocalyptic Religion and American Empire* (London: I. B. Taurus, 2004)
- Novak, Ralph Martin, *Christianity and the Roman Empire: Background Texts* (Harrisburg: Trinity Press International, 2001)
- NSW Ecumenical Council, “Walking with Indigenous Australians”, a study kit for small groups, available from the National Council of Churches, Sydney
- Oakes, Peter, *Philippians: From People to Letter* (Cambridge: Cambridge University Press, 2001)
- _____, ed., *Rome in the Bible and In the Early Church* (Carlisle: Paternoster Press, 2002)
- _____, “God’s Sovereignty over Roman Authorities: A Theme in Philippians” in in Oakes, Peter, ed., *Rome in the Bible and In the Early Church* (Carlisle: Paternoster Press, 2002), 126-141
- O’Brien, P. T., “Col. 1.20 and the Reconciliation of all Things” *The Reformed Theological Review* 33/1 (1974), 45-53
- _____, *The Epistle to the Philippians: A Commentary on the Greek Text* (Grand Rapids: Eerdmans, NIGTC Series, 1991)
- O’Donovan, Oliver, “Political Theology, Tradition and Modernity” in Rowland, Christopher, *The Cambridge Companion to Liberation Theology* (Cambridge: Cambridge University Press, 1999), 235-247
- O’Donovan, Oliver and O’Donovan, Joan Lockwood, *Bonds of Imperfection: Christian Politics, Past and Present* (Grand Rapids: Eerdmans, 2004)
- O’Faircheallaigh, Ciaran, *A New Approach to Policy Evaluation: Mining and Indigenous Peoples* (Aldershot: Ashgate, 2002)
- _____, “Evaluating Agreements between Indigenous Peoples and Resource Developers” in Langton, Marcia; Tehan, Maureen; Palmer, Lisa; and Shain,

- Kathryn, eds., *Honour Among Nations?: Treaties and Agreements with Indigenous People* (Melbourne: Melbourne University Press, 2004), 303-328
- O'Hair, R.B., "Mabo and Land Rights – Searching for a Golden Thread" in Stephenson, M.A. and Ratnapala, Suri, eds., *Mabo: A Judicial Revolution* (St Lucia: University of Queensland Press, 1993), 63-
- Okure, Teresa, "In Him All Things Hold Together: A Missiological Reading of Colossians 1.15-20" *International Review of Mission* 91 (2002), 62-72
- Olive, Noel, ed., *Karijini Mirlimirli: Aboriginal Histories from the Pilbara* (South Fremantle: Fremantle Arts Centre Press, 1997)
- Olson, R.E. and Hall, C.A., *The Trinity* (Grand Rapids: Eerdmans, 2002)
- Ortega, Ofelia, "Conversion as a Way of Life in Cultures of Violence" in Helmick SJ, Raymond G., and Petersen, Rodney L., *Forgiveness and Reconciliation: Religion, Public Policy, and Conflict Transformation* (Pensylvania: Templeton Foundation Press, 2001), 373-384
- Osiek, Carolyn, "Philippians" in Schüssler Fiorenza, Elisabeth, *Searching the Scriptures*, vol. 2: *A Feminist Commentary* (New York: Crossroad, 1994)
- Pagels, Elaine, "Christian Apologists and "The Fall of the Angels": An Attack on Roman Imperial Power?" *Harvard Theological Review* 78/3-4 (1985), 301-25
- Palmer, Carol; Walsh, Fiona; and Shadforth, Arthur, "Making a Plan of Management: Workshops with the Anangu Traditional Owners of Uluru-Kata Tjuta National Park" in Walsh, Fiona and Mitchell, Paul, eds., *Planning for Country: Cross-Cultural Approaches to Decision-Making on Aboriginal Lands* (Alice Springs: Jukurrpa Press, 2002), 148-154
- Palmer, Kingsley, "Migration and Rights to Land in the Pilbara" in Peterson, Nicolas and Langton, Marcia, eds., *Aborigines, Land and Land Rights* (Canberra: Australian Institute of Aboriginal Studies, 1983), 172-180
- _____, "Dependency, Technology and Governance" in Taylor, Luke; Ward, Graeme K.; Henderson, Graham; Davis, Richard; and Wallis, Lynley A., eds., *The Power of Knowledge, The Resonance of Tradition* (Canberra: Aboriginal Studies Press, 2005), 101-115
- Palmer, Lisa, "Introduction: Agreement Making, Outcomes, Constraints and Possibilities" in Langton, Marcia; Tehan, Maureen; Palmer, Lisa; and Shain, Kathryn, eds., *Honour Among Nations?: Treaties and Agreements with Indigenous People* (Melbourne: Melbourne University Press, 2004), 251-253
- Pardoe, Colin, "Arches of Radii, Corridors of Power: Reflections on Current Archaeological Practice" in Attwood, Bain and Arnold, John, eds., *Power, Knowledge and Aborigines* (Victoria: La Trobe University Press, 1992), 132-141
- Parker, Russ, *Healing Wounded History: Reconciling Peoples and Places* (Cleveland: The Pilgrim Press, 2001)
- Patterson, Sue, "Between Men and Women", in Gunton, Colin E, ed., *The Theology of Reconciliation* (London: T&T Clark 2003), 125-140
- Paul, Mandy, "Reflecting on Past Practice: The Alice Springs Arrernte Claim" in Toussaint, Sandy, ed., *Crossing Boundaries: Cultural, Legal, Historical and Practice Issues in Native Title* (Melbourne: Melbourne University Press, 2004), 142-151, 218-219
- Paul, Mandy, and Gray, Geoffrey, *Through a Smoky Mirror: History and Native Title* (Canberra: AIATSIS, 2002)
- Pearson, Noel, "Aboriginal Disadvantage" in Grattan, Michelle, *Essays on Australian Reconciliation* (Melbourne: Black Inc, 2000), 165-175
- _____, "A Troubling Inheritance", Address to the Canberra Press Club, November 1993, reprinted in Poynton, Peter, ed., *Race & Class: Aboriginal Australia: Land, Law and Culture* 35/4 (April-June 1994), 1-9

- _____, "From Remnant Title to Social Justice", *The Australian Journal of Anthropology* 6/1&2 (1995), 95-100
- _____, "The Fifth Annual Hawke Lecture", Bob Hawke Prime Ministerial Centre, University of South Australia, 3rd November, 2002, available on the web page (at 15.4.06): <http://www.capeyorkpartnerships.com/team/noelpearson/papers.htm>
- _____, "The High Court's Abandonment of 'the Time-Honoured Methodology of the Common Law' in Its Interpretation of Native Title in *Mirriuwung Gajerrong* and *Yorta Yorta*", Sir Ninian Stephen Annual Lecture 2003, Law School, University of Newcastle, available on the web page (at 15.4.06): <http://www.capeyorkpartnerships.com/team/noelpearson/papers.htm>
- _____, "Where We've Come From and Where We're at with the Opportunity that is Koiki Mabo's Legacy to Australia", *Mabo Lecture, Native Title Representative Bodies Conference*, Alice Springs, 3rd June, 2003, available on the web page (as at 17.4.06): <http://www.capeyorkpartnerships.com/team/noelpearson/papers.htm>
- _____, "Land is Susceptible of Ownership" in Langton, Marcia; Tehan, Maureen; Palmer, Lisa; and Shain, Kathryn, eds., *Honour Among Nations?: Treaties and Agreements with Indigenous People* (Melbourne: Melbourne University Press, 2004), 83-100
- Percy, Martyn, "The Gospel Miracles and Modern Healing Movements" *Theology* XCIX no. 793 (January/February 1997), 8-17
- Peris, Nova, "Sorry Day Speech, Melbourne 2003" in McGlade, Hannah, ed., *Treaty: Let's Get It Right! A Collection of Essays from ATSIC's Treaty Think Tank and Authors Commissioned by AIATSIS on Treaty Issues* (Canberra: Aboriginal Studies Press, 2003), 198-199, 200-216
- Perkins, Rachel and Langton, Marcia, *First Australians: An Illustrated History* (Carlton: The Miegunyah Press, 2008)
- Peterson, Nicolas "Rights, Residence and Process in Australian Territorial Organisation" in Peterson, Nicolas and Langton, Marcia, eds., *Aborigines, Land and Land Rights* (Canberra: Australian Institute of Aboriginal Studies, 1983), 134-145
- Peterson, Nicolas and Langton, Marcia, eds., *Aborigines, Land and Land Rights* (Canberra: Australian Institute of Aboriginal Studies, 1983)
- Peterson, Rodney L., "A Theology of Forgiveness: Terminology, Rhetoric, and the Dialectic of Interfaith Relationships" in Helmick SJ, Raymond G., and Petersen, Rodney L., *Forgiveness and Reconciliation: Religion, Public Policy, and Conflict Transformation* (Pennsylvania: Templeton Foundation Press, 2001), 3-25
- Petri, Helmut and Petri-Odermann, "A Nativistic and Millenarian Movement in North West Australia" in Swain, Tony and Bird Rose, Deborah, *Aboriginal Australians and Christian Missions: Ethnographic and Historical Studies* (The Australian Association for the Study of Religions, 1988), 391-396
- Pettman, Jan, "Gendered Knowledges: Aboriginal Women and the Politics of Feminism" in Attwood, Bain and Arnold, John, eds, *Power, Knowledge and Aborigines* (Victoria: La Trobe University Press, 1992), 120-131
- Peukert, Helmut, "Fundamental Theology and Communicative Praxis as the Ethics of Universal Solidarity" in Reimer, A. James, ed., *The Influence of the Frankfurt School on Contemporary Theology: Critical Theory and the Future of Religion: Dubrovnik Papers in Honour of Rudolf J. Siebert* (Lewiston: The Edwin Mellen Press, 1992)
- Pfeil, Margaret R., "Social Sin: Social Reconciliation?" in Maclean, Iain S., ed., *Reconciliation, Nations and Churches in Latin America* (Aldershot: Ashgate, 2006), 171-189

- Phillips, Scott K., *Everyday Diversity: Australian Multiculturalism and Reconciliation in Practice* (Altona: Common Ground Publishing Ltd, 2001)
- Phillpot, Stuart, "Understanding Whitefella Secret Cattle Business" in Baker, Richard; Davies, Jocelyn; and Young, Elspeth, eds., *Working on Country: Contemporary Indigenous Management of Australia's Lands and Coastal Regions* (Melbourne: Oxford University Press, 2001), 199-213
- Placher, William C., "Christ Takes Our Place: Rethinking Atonement", *Interpretation* 53 (1999), 5-20
- Pokrifka-Joe, Todd, "Probing the Relationship between Divine and Human Forgiveness in Matthew: Hearing a Neglected Voice in the Canon", in *Forgiveness and Truth*, edited by Alistair McFadyen and Marcel Sarot, 165-172
- Porter, Stanley E., *Καταλλάσσω in Ancient Greek Literature, with Reference to the Pauline Writings* (Cordoba: Ediciones El Almendro de Cordoba, 1994)
- Posey, Darrell Addison, "Intellectual Property rights and the Sacred Balance: Some Spiritual Consequences from the Commercialization of Traditional Resources" in Grim, John A., ed., *Indigenous Traditions and Ecology: The Interbeing of Cosmology and Community* (Cambridge, Massachusetts: Harvard University Press, 2001), 1-23
- Povinelli, Elizabeth A., *The Cunning of Recognition: Indigenous Alterities and the Making of Australian Multiculturalism* (Durham: Duke University Press, 2002)
- Powelson, John P., *The Story of Land: A World History of Land Tenure and Agrarian Reform* (Cambridge MA: Lincoln Institute of Land Policy, 1988)
- Pratt, John, "Assimilation, Equality, and Sovereignty in New Zealand/Aotearoa: Maori and the Social Welfare and Criminal-Justice Systems" in Havemann, Paul, ed., *Indigenous Peoples' Rights in Australia, Canada and New Zealand* (Melbourne: Oxford University Press, 1999), 316-327
- Pratt, Victoria L., "From Conquest to Communion with Creation: Toward an Intentional Theology of Restoration and Reconciliation" *American Baptist Quarterly* 15/1 (1996), 72-79
- Price, S.R.F., *Rituals and Power: The Roman Imperial Cult in Asia Minor* (Cambridge: Cambridge University Press: 1984)
- Prichard, Jude, "Just do it!': How an Aboriginal Landcare Video was Made" in Walsh, Fiona and Mitchell, Paul, eds., *Planning for Country: Cross-Cultural Approaches to Decision-Making on Aboriginal Lands* (Alice Springs: Jukurrpa Press, 2002), 160-163
- Pwerle, Louis, "Little Bit Hard for Us, You Know" in Walsh, Fiona and Mitchell, Paul, eds., *Planning for Country: Cross-Cultural Approaches to Decision-Making on Aboriginal Lands* (Alice Springs: Jukurrpa Press, 2002), 74-76
- Quiggan, Robyn and Janke, Terri, "How Do We Treat Our Treasures? Indigenous Heritage Rights in a Treaty" in McGlade, Hannah, ed., *Treaty: Let's Get It Right! A Collection of Essays from ATSIC's Treaty Think Tank and Authors Commissioned by AIATSIS on Treaty Issues* (Canberra: Aboriginal Studies Press, 2003), 53-71, 200-216
- Rabinowitz, Dan, "Strife in Nazareth: Struggles Over the Religious Meaning of Place" *Ethnography* 2/1 (March 2001), 93-113
- von Rad, G., *Old Testament Theology*, 2 volumes (New York: Harper & Row, 1962-65)
- Rae, Murray, "A Remnant People: The Ecclesia as Sign of Reconciliation", in Gunton, Colin E, ed., *The Theology of Reconciliation* (London: T&T Clark 2003), 93-108
- Ramsland, John, *Custodians of the Soil: A History of Aboriginal-European Relationships in the Manning Valley of New South Wales* (Taree: Greater Taree City Council, 2001)

- Rangatiratanga, Tino, "Maori in the Political and Administrative System" in Havemann, Paul, ed., *Indigenous Peoples' Rights in Australia, Canada and New Zealand* (Melbourne: Oxford University Press, 1999), 378-399
- Read, Peter, "The Stolen Generations: The Removal of Aboriginal Children in New South Wales 1883 to 1969", New South Wales Ministry of Aboriginal Affairs, Occasional Paper No. 1, 1981. The fourth reprinting, dated 2006, is available as at 1.3.10 on the web page: www.daa.nsw.gov.au/publications/StolenGenerations.pdf
- _____, *Belonging: Australians, Place and Aboriginal Ownership* (Cambridge: Cambridge University Press, 2000)
- _____, "Aborigines, Chinese and the Bicentennial: The Inverell District Bicentennial Memorial" in Edwards, Penny and Yuafang, Shen, eds., *Lost in the Whitewash: Aboriginal-Asian Encounters in Australia, 1901-2001* (Canberra: The Australian National University Humanities Research Centre, 2003), 125-133
- Reeves, J, *Building on Land Rights for the Next Generation: Report of the Review of the Aboriginal Land Rights (Northern Territory) Act 1976* (Canberra: Australian Government Publishing Service, 1998)
- Research Institute for Humanities and Social Sciences, *Sharing Country: Land Rights, Human Rights, and Reconciliation After Wik – Proceedings of a Public Forum held at the University of Sydney on February 28, 1997* (The Research Institute for Humanities and Social Sciences, The University of Sydney, 1997)
- Reynolds, Henry, *Frontier: Aborigines, Settlers and Land* (Sydney: Allen & Unwin, 1987)
- _____, *Dispossession: Black Australians and White Invaders* (Sydney: Allen & Unwin, 1989)
- _____, *The Law of the Land* (Ringwood: Penguin, 1992, 2nd edn.)
- _____, "The Mabo Judgment in the Light of Imperial Land Policy", *University of New South Wales Law Journal* 16/1 (1993), 27-44
- _____, *Fate of a Free People: The Classic Account of the Tasmanian Wars* (Camberwell: Penguin, 2nd edn 2004)
- _____, *Aboriginal Sovereignty: Reflections on Race, State and Nation* (Sydney: Allen & Unwin, 1996)
- _____, *This Whispering in our Hearts* (Sydney: Allen & Unwin, 1998)
- _____, *Why Weren't We Told?: A Personal Search for the Truth About Our History* (Ringwood: Viking, 1999)
- _____, "New Frontiers: Australia" in Havemann, Paul, ed., *Indigenous Peoples' Rights in Australia, Canada and New Zealand* (Melbourne: Oxford University Press, 1999), 129-140
- _____, "A Crossroads of Conscience" in Grattan, Michelle, *Essays on Australian Reconciliation* (Melbourne: Black Inc, 2000), 53-59
- _____, *Fate of a Free People* (Ringwood: Penguin, 2004, 2nd edn.)
- Reynolds, Henry and Dalziel, Jamie, "Aborigines and Pastoral Leases – Imperial and Colonial Policy 1826-1855", *University of New South Wales Law Journal* 19/2 (1996), 315-377
- Ridderbos, H, "The Biblical Message of Reconciliation" chapter 5 of his *Studies in Scripture and Its Authority* (Grand Rapids: Eerdmans, 1978), 72-90
- Ridgeway, Aden, "Mabo Ten Years On – Small Steps or Giant Leap" in McGlade, Hannah, ed., *Treaty: Let's Get It Right! A Collection of Essays from ATSIC's Treaty Think Tank and Authors Commissioned by AIATSIS on Treaty Issues* (Canberra: Aboriginal Studies Press, 2003), 185-197, 200-216
- _____, "Addressing the Economic Exclusion of Indigenous Australians through Native Title", *The Mabo Lecture, National Native Title Conference*, Coffs

- Harbour, 3rd June, 2005, available on web page (as at 17.4.06):
http://www.democrats.org.au/speeches/index.htm?speech_id=1616&display=1
 and <http://ntru.aiatsis.gov.au/conf2005/papers/RidgewayA.pdf>
- Rigney, Lester-Irabinna, "Indigenous Education, Languages and Treaty: The Redefinition of a New Relationship with Australia" in McGlade, Hannah, ed., *Treaty: Let's Get It Right! A Collection of Essays from ATSIC's Treaty Think Tank and Authors Commissioned by AIATSIS on Treaty Issues* (Canberra: Aboriginal Studies Press, 2003), 72-87, 200-217
- Riley, Michelle, "'Winning' Native Title: The Experience of the Nharnuwangga, Wajarri and Ngarla People", *Land, Rights, Laws: Issues of Native Title* 2/19 (November, 2002), available on web page (as at 17.4.06):
<http://ntru.aiatsis.gov.au/ntpapers/IP19v2.pdf>
- Ritter, David, "The 'Rejection of Terra Nullius' in *Mabo: A Critical Analysis*", *Sydney Law Review* 18/1 (1996), 5-33
- _____, "No Title Without History" in Gray, Geoffrey and Paul, Mandy, *Through a Smoky Mirror: History and Native Title* (Canberra: AIATSIS, 2002), 81-92
- _____, "Lawyers and Rats: Critical Legal Theory and Native Title" in Toussaint, Sandy, ed., *Crossing Boundaries: Cultural, Legal, Historical and Practice Issues in Native Title* (Melbourne: Melbourne University Press, 2004), 128-141, 214-218
- Ritter, David, and Flanagan, Frances, "The Most Obvious of Dodges: Preserving the Evidence of Aboriginal Elders in Native Title Claims" in Keon-Cohen, Bryan, ed., *Native Title in the New Millennium: A Selection of Papers from the Native Title Representative Bodies Legal Conference 16-20 April 2000, Melbourne, Victoria* (Canberra: Aboriginal Studies Press, 2001), 285-304
- Roberts, J. Deotis, *Liberation and Reconciliation: A Black Theology* (Maryknoll, NY: Orbis Books 1994 (2nd edition))
- Robinson, Cathy and Mununggurij, Nanikiya, "Sustainable Balance: A Yolngu Framework for Cross-Cultural Collaborative Management" in Baker, Richard; Davies, Jocelyn; and Young, Elspeth, eds., *Working on Country: Contemporary Indigenous Management of Australia's Lands and Coastal Regions* (Melbourne: Oxford University Press, 2001), 92-107
- Roetzel, Calvin J., "Response: How Anti-Imperial was the Collection and How Emancipatory was Paul's Project?" in Horsley, Richard A., ed., *Paul and Politics: Ekklesia, Israel, Imperium, Interpretation – Essays in Honour of Krister Stendahl* (Harrisburg: Trinity Press International, 2000), 227-230
- Rogers, Eugene F., *Sexuality and the Christian Body* (Oxford: Blackwell, 1999)
- Rose, Deborah, "Jesus and the Dingo" in Swain, Tony and Rose, Deborah Bird, *Aboriginal Australians and Christian Missions: Ethnographic and Historical Studies* (The Australian Association for the Study of Religions, 1988), 361-375
- _____, "Ned Kelly Died for our Sins (1988)" in Charlesworth, Max, ed., *Religious Business: Essays on Australian Aboriginal Spirituality* (Cambridge: Cambridge University Press, 1998), 103-119
- _____, *Hidden Histories: Black Stories from Victoria River Downs, Humbert River, and Wave Hill Stations* (Canberra: Aboriginal Studies Press, 1991)
- _____, *Dingo Makes Us Human: Live and Land in an Aboriginal Australian Culture* (Cambridge: Cambridge University Press, 1992)
- _____, "Women and Land Claims", *Land Rights, Laws: Issues of Native title*, 1995, Issues Paper No 6, AIATSIS (available as at 6.3.09:
http://ntru.aiatsis.gov.au/publications/issue_papers.html)
- _____, *Nourishing Terrains: Australian Aboriginal views of landscape and wilderness*, (Canberra: Australian Heritage Commission, 1996). In January 2005,

- this was available to read on the web page
<http://www.ahc.gov.au/publications/generalpubs/nourishing/pubs/nourishing.pdf>
- _____, "Social Justice, Ecological Justice, Reconciliation" in Manderson, Lenore, ed. *Reconciliation: Voices from the Academy (1998 Annual Symposium of the Academy of the Social Sciences in Australia)* (Canberra: Academy of the Social Sciences in Australia Occasional Paper Series 2/1999), 30-39
- _____, "Sacred Site, Ancestral Clearing, and Environmental Ethics", in Rumsey, Alan and Weiner, James (eds.), *Emplaced Myth: Space, Narrative and Knowledge in Aboriginal Australia and Papua New Guinea* (Honolulu: University of Hawaii Press, 2001), 99-119
- _____, "The Silence and Power of Women" in Brock, Peggy, ed., *Words and Silences: Aboriginal Women, Politics and Land* (Crow's Nest: Allen & Unwin, 2001), 92-116, 181
- _____, "The Saga of Captain Cook: Remembrance and Morality" in Attwood, Bain and Magowan, Fiona, eds., *Telling Stories: Indigenous History and Memory in Australia and New Zealand* (Crow's Nest: Allen & Unwin, 2001), 61-79, 228
- _____, in collaboration with Sharon D'Amico, Nancy Daiyi, Kathy Deveraux, Margaret Daiyi, Linda Ford and April Bright, *Country of the Heart: An Indigenous Australian Homeland* (Canberra: Aboriginal Studies Press, 2002)
- _____, "Reflections on the Use of Historical Evidence in the Yorta Yorta Case" in Gray, Geoffrey and Paul, Mandy, *Through a Smoky Mirror: History and Native Title* (Canberra: AIATSIS, 2002), 35-47
- _____, *Reports from a Wild Country: Ethics for Decolonisation* (Sydney: University of New South Wales Press, 2004)
- _____, "A Recursive Epistemology: Entanglements and Ethics", in press
- Rose, Deborah, in collaboration with Sharon D'Amico, Nancy Daiyi, Kathy Deveraux, Margaret Daiyi, Linda Ford and April Bright, *Country of the Heart: An Indigenous Australian Homeland* (Canberra: Aboriginal Studies Press, 2002)
- Rose, Deborah Bird and Swain, Tony, "Introduction" in Swain, Tony and Bird Rose, Deborah, *Aboriginal Australians and Christian Missions: Ethnographic and Historical Studies* (The Australian Association for the Study of Religions, 1988), 1-8
- Rose, Michael, ed., *For the Record: 160 Years of Aboriginal Print Journalism* (Sydney: Allen & Unwin, 1996)
- Ross, Helen, "Social Impact Assessment: Coronation Hill" in Baker, Richard; Davies, Jocelyn; and Young, Elspeth, eds., *Working on Country: Contemporary Indigenous Management of Australia's Lands and Coastal Regions* (Melbourne: Oxford University Press, 2001), 320-336
- Rouhanna, Nadim N. and Korper, Susan H., "Dealing with the Dilemmas Posed by Power Asymmetry in Intergroup Conflict", *Negotiation Journal* (October 1996), 353-366
- Rowell, Meredith, "Women and Land Claims in the Northern Territory" in Peterson, Nicolas and Langton, Marcia, eds., *Aborigines, Land and Land Rights* (Canberra: Australian Institute of Aboriginal Studies, 1983), 256-267
- Rowland, Christopher, "The Apocalypse and Political Theology" in Bartholomew, C., Chaplin, J., Song, R., and Wolters, A., eds, *A Royal Priesthood?: The Use of the Bible Ethically and Politically, A Dialogue with Oliver O'Donovan* (Grand Rapids: Zondervan, 2002), 241-254
- Rowland, Christopher and Roberts, Jonathan, *The Bible for Sinners: Interpretation in the Present Time* (London: SPCK, 2008)
- Rowley, C.D., *The Destruction of Aboriginal Society: Aboriginal Policy and Practice – Volume 1* (Canberra: Australian National University Press, 1970)

- Rowse, Tim, "Middle Australia and the Noble Savage: A Political Romance" in Beckett, Jeremy, ed., *Past and Present: The Construction of Aboriginality* (Canberra: Aboriginal Studies Press, 1988), 161-177
- _____, "Stehlow's Strap: Functionalism and Historicism in Colonial Ethnography" in Attwood, Bain and Arnold, John, eds, *Power, Knowledge and Aborigines* (Victoria: La Trobe University Press, 1992), 88-103
- Rumsey, Alan and Weiner, James (eds.), *Emplaced Myth: Space, Narrative and Knowledge in Aboriginal Australia and Papua New Guinea* (Honolulu: University of Hawaii Press, 2001)
- Sampley, J. P., "Paul's Frank Speech with the Galatians and the Corinthians," in *Philodemus and the New Testament World: Novum Testamentum Supplements* 111, 295-321
- _____, ed., *Paul in the Greco-Roman World: A Handbook* (Harrisburg: Trinity Press International, 2003)
- Sandercock, Leonie *Towards Cosmopolis: Planning for Multicultural Cities* (Chichester: John Wiley & Sons, 1998)
- Sansom, Basil, "A Grammar of Exchange" in Keen, Ian, ed., *Being Black: Aboriginal Cultures in 'Settled' Australia* (Canberra: Aboriginal Studies Press, 1988), 159-177
- _____, "The Past is a Doctrine of Person" in Beckett, Jeremy, ed., *Past and Present: The Construction of Aboriginality* (Canberra: Aboriginal Studies Press, 1988), 147-160
- _____, "In the Absence of Vita as Genre: The Making of the Roy Kelly Story" in Attwood, Bain and Magowan, Fiona, eds., *Telling Stories: Indigenous History and Memory in Australia and New Zealand* (Crows Nest: Allen & Unwin, 2001), 99-122, 230-234
- Sanson, Ann and Dudgeon, Pat, eds., *Special Issue of Australian Psychologist: Australian Indigenous Psychologies* 35/2 (July 2000)
- Sanson, Ann and Dudgeon, Pat, "Guest Editorial: Psychology, Indigenous Issues, and Reconciliation", *Australian Psychologist* 35/2 (July 2000), 79-81
- Saunders, Stanley P., "Learning Christ': Eschatology and Spiritual Formation in New Testament Christianity", *Interpretation* 56/2 (April 2002), 154-167
- Sayers, Andrew, *Sydney Nolan: The Ned Kelly Story* (New York: The Metropolitan Museum of Art, 1994)
- Schechter, Solomon, *Aspects of Rabbinic Theology: Major Concepts of the Talmud* (1909; this printing: New York: Schocken Books, 1961)
- Scheiber, Karin, "May God Forgive?", in *Forgiveness and Truth*, edited by Alistair McFadyen and Marcel Sarot, 173-180
- Schneemelcher, Wilhelm, ed., Wilson, R. McL., tr., *New Testament Apocrypha: Volume One – Gospels and Related Writings* (James Clarke & Co Ltd, 1991, Revised Edition)
- _____, *New Testament Apocrypha: Volume Two – Writings Relating to the Apostles; Apocalypses and Related Subjects* (James Clarke & Co Ltd, 1992, Revised Edition)
- Schneiders, Lyndon, "Shared Vision: Historic Land Use Agreement on Cape York Peninsula", *Chain Reaction* 80 (Spring 1999), 11-14
- Schreier C.P.P.S, Robert J., *Reconciliation: Mission and Ministry in a Changing Social Order* (Maryknoll: Orbis Books, 1992)
- _____, *The Ministry of Reconciliation: Spirituality and Strategies* (Maryknoll: Orbis Books, 1998)

- _____, “The Theology of Reconciliation and Peacemaking for Mission” in Mellor, Howard and Yates, Timothy, eds., *Mission, Violence and Reconciliation* (Calver, Hope Valley, nr Sheffield: Cliff College Publishing, 2004), 11-28
- _____, “The Spirituality of Reconciliation and Peacemaking in Mission Today” in Mellor, Howard and Yates, Timothy, eds., *Mission, Violence and Reconciliation* (Calver, Hope Valley, nr Sheffield: Cliff College Publishing, 2004), 29-43
- _____, “Preparing Missionaries to be Agents of Reconciliation and Peacemaking” in Mellor, Howard and Yates, Timothy, eds., *Mission, Violence and Reconciliation* (Calver, Hope Valley, nr Sheffield: Cliff College Publishing, 2004), 45-59
- Schreurs, Nico, “Truth and Reconciliation: Is Radical Openness a Condition for Reconciliation?”, in *Forgiveness and Truth*, edited by Alistair McFadyen and Marcel Sarot, 131-138
- Schüssler Fiorenza, Elisabeth, “The Praxis of Coequal Discipleship” in Horsley, Richard A., ed., *Paul and Empire: Religion and Power in Roman Imperial Society* (Harrisburg: Trinity Press International, 1997), 224-241
- _____, “Paul and the Politics of Interpretation”, in Horsley, Richard A., ed., *Paul and Politics: Ekklesia, Israel, Imperium, Interpretation – Essays in Honour of Krister Stendahl* (Harrisburg: Trinity Press International, 2000), 40-57
- Schwab, Jerry, “Ambiguity, Style and Kinship in Adelaide Aboriginal Identity” in Keen, Ian, ed., *Being Black: Aboriginal Cultures in ‘Settled’ Australia* (Canberra: Aboriginal Studies Press, 1988), 77-95
- Schwöbel, Christoph, “Reconciliation: From Biblical Observations to Dogmatic Reconstruction”, in Gunton, Colin E., ed., *The Theology of Reconciliation* (London: T&T Clark 2003), 13-38
- Scott, James C., *Domination and the Arts of Resistance: Hidden Transcripts* (New Haven: Yale University Press, 1990)
- Segal, Alan F., “Response: Some Aspects of Conversion and Identity Formation in the Christian Community of Paul’s Time”, in Horsley, Richard A., ed., *Paul and Politics: Ekklesia, Israel, Imperium, Interpretation – Essays in Honour of Krister Stendahl* (Harrisburg: Trinity Press International, 2000), 184-190
- Selby, Peter, “The Merciful Economy”, in *Forgiveness and Truth*, edited by Alistair McFadyen and Marcel Sarot, 99-118
- Miroslav Volf, *Exclusion and Embrace: A Theological Exploration of Identity, Otherness, and Reconciliation* (Nashville: Abingdon Press, 1996)
- Shadforth, Arthur, “It’s a different way of planning it” in Walsh, Fiona and Mitchell, Paul, eds., *Planning for Country: Cross-Cultural Approaches to Decision-Making on Aboriginal Lands* (Alice Springs: Jukurrpa Press, 2002), 94-98
- _____, “Mutitjulu Men Talk About the Plan of Joint Management Workshops” in Walsh, Fiona and Mitchell, Paul, eds., *Planning for Country: Cross-Cultural Approaches to Decision-Making on Aboriginal Lands* (Alice Springs: Jukurrpa Press, 2002), 176-179
- Sham-Ho, Helen, “Lost in the Whitewash: Concluding Comments” in Edwards, Penny and Yuafang, Shen, eds., *Lost in the Whitewash: Aboriginal-Asian Encounters in Australia, 1901-2001* (Canberra: The Australian National University Humanities Research Centre, 2003), 163-167
- Sharp, Lauriston, “Steel Axes for Stone Age Australians” in Spicer, E.H., ed., *Human Problems in Technological Change* (New York: The Russell Sage Foundation, 1952), 69-80
- Sharp, Nonie, *No Ordinary Judgment* (Canberra: Aboriginal Studies Press, 1996)
- _____, “Malo’s Law in Court: The Religious Background to the Mabo Case” in Charlesworth, Max, ed., *Religious Business: Essays on Australian Aboriginal Spirituality* (Cambridge: Cambridge University Press, 1998), 176-202

- Shaw, Graham, *The Cost of Authority: Manipulation and Freedom in the New Testament* (London: SCM, 1983)
- Shriver Jr., Donald W, *An Ethic for Enemies: Forgiveness in Politics* (New York: Oxford University Press, 1995)
- _____, “Where and When in Political Life Is Justice Served by Forgiveness?”, in Nigel Biggar (ed.), *Burying the Past: Making Peace and Doing Justice after Civil Conflict* (Washington: Georgetown University Press, 2001), 23-39.
- _____, “What is Forgiveness in a Secular Political Form?” in Helmick SJ, Raymond G., and Petersen, Rodney L., *Forgiveness and Reconciliation: Religion, Public Policy, and Conflict Transformation* (Pennsylvania: Templeton Foundation Press, 2001), 151-157
- Sieder, Rachel. “War, Peace, and the Politics of Memory in Guatemala”, in Nigel Biggar (ed.), *Burying the Past: Making Peace and Doing Justice after Civil Conflict* (Washington: Georgetown University Press, 2001), 184-206
- da Silva, Anthony, “Through Nonviolence to Truth: Ghandi’s Vision of Reconciliation” in Helmick SJ, Raymond G., and Petersen, Rodney L., *Forgiveness and Reconciliation: Religion, Public Policy, and Conflict Transformation* (Pennsylvania: Templeton Foundation Press, 2001), 295-317
- Smit, Joop F.M., “Epideictic Rhetoric in Paul’s First Letter to the Corinthians 1-4”, *Biblia* 84 (2003), 184-201
- Smith, Benjamin Richard, “Culture, Change and the Ambiguous Resonance of Tradition in Central Cape York Peninsula” in Taylor, Luke; Ward, Graeme K.; Henderson, Graham; Davis, Richard; and Wallis, Lynley A., eds., *The Power of Knowledge, The Resonance of Tradition* (Canberra: Aboriginal Studies Press, 2005), 223-235
- Smith, Diane, “Indigenous Land Use Agreements: Opportunities and Challenges”, paper presented to *Working with Native Title and Reaching Agreement – National Forum*, 29th April – 1st May, 1998, Sheraton Hotel, Brisbane
- Smith, Marie, “Putting the Past in Its Place: Issues of Victimhood and Reconciliation in Northern Ireland’s Peace Process”, in Nigel Biggar (ed.), *Burying the Past: Making Peace and Doing Justice after Civil Conflict* (Washington: Georgetown University Press, 2001), 107-130
- Smith, Paul Anthony, “Pastoral Leases and Native Title” in Hiley QC, Graham, ed., *The Wik Case: Issues and Implications* (Sydney: Butterworths, 1997), 23-26
- Smyth, Dermot, “Management of Sea Country: Indigenous People’s Use and Management of Marine Environments” in Baker, Richard; Davies, Jocelyn; and Young, Elspeth, eds., *Working on Country: Contemporary Indigenous Management of Australia’s Lands and Coastal Regions* (Melbourne: Oxford University Press, 2001), 60-74
- _____, “Joint Management of National Parks” in Baker, Richard; Davies, Jocelyn; and Young, Elspeth, eds., *Working on Country: Contemporary Indigenous Management of Australia’s Lands and Coastal Regions* (Melbourne: Oxford University Press, 2001), 75-91
- Smyth, Geraldine, “Brokenness, Forgiveness, Healing, and Peace in Northern Ireland” in Helmick SJ, Raymond G., and Petersen, Rodney L., *Forgiveness and Reconciliation: Religion, Public Policy, and Conflict Transformation* (Pennsylvania: Templeton Foundation Press, 2001), 319-349
- _____, “Respecting Boundaries and Bonds: Journeys of Identity and Beyond” in Tombs, David and Liechty, Joseph, eds., *Explorations in Reconciliation: New Directions in Theology* (Aldershot: Ashgate, 2006), 137-155
- Snodgrass, K. R., “Reconciliation: God Being God with Special Reference to 2 Corinthians 5.11-6.4” *Covenant Quarterly* 60/2 (2002), 3-23

- Snowdon, Greg, "A Picture is Worth a Thousand Words: Photo Story Books" in Walsh, Fiona and Mitchell, Paul, eds., *Planning for Country: Cross-Cultural Approaches to Decision-Making on Aboriginal Lands* (Alice Springs: Jukurrpa Press, 2002), 155-159
- Sobrinho, Jon, *The Principle of Mercy: Taking the Crucified People from the Cross* (ET Maryknoll, New York: Orbis Books, 1994)
- Sonn, Christopher C., Garvey, Darren C., Bishop, Brian J., and Smith, Leigh M., "Incorporating Indigenous and Crosscultural Issues into an Undergraduate Psychology Course: Experience at Curtin University of Technology", *Australian Psychologist* 35/2 (July 2000), 143-149
- Sorrenson, M.P.K., "The Settlement of New Zealand from 1835" in Havemann, Paul, ed., *Indigenous Peoples' Rights in Australia, Canada and New Zealand* (Melbourne: Oxford University Press, 1999), 162-179
- Soskice, Janet Martin, *Metaphor and Religious Language* (Oxford: Clarendon Press, 1985)
- de Soto, Hernando, *The Mystery of Capital: Why Capitalism Triumphs in the West and Fails Everywhere Else* (London: Bantam Press, 2000)
- Spindler, Sid, "A Program for Practical Reconciliation", *Dissent* 15 (Spring 2004), 55-57
- Stagg, Frank, "The Text" in Lewis, Jack P. ed., *Interpreting 2 Corinthians 5.14-21: An Exercise in Hermeneutics* (Lewiston, New York: The Edwin Mellen Press 1989), 23-28
- _____, "Exegesis" in Lewis, Jack P. ed., *Interpreting 2 Corinthians 5.14-21: An Exercise in Hermeneutics* (Lewiston, New York: The Edwin Mellen Press 1989), 163-178
- Stanley, Ruth, "Modes of Transition v. Electoral Dynamics: Democratic Control of the Military in Argentina and Chile", *Journal of Third World Studies* 18/2 (Fall 2001), 71-91
- Stanner, W.E.H., "The Aborigines" (1938), reprinted in Stanner, W.E.H., *White Man Got No Dreaming: Essays 1938-1973* (Canberra: Australian National University Press, 1979), 1-22
- _____, "The Dreaming" (1953), reprinted in Stanner, W.E.H., *White Man Got No Dreaming: Essays 1938-1973* (Canberra: Australian National University Press, 1979), 23-40
- _____, "Continuity and Change" (1958), reprinted in Stanner, W.E.H., *White Man Got No Dreaming: Essays 1938-1973* (Canberra: Australian National University Press, 1979), 41-66
- _____, "Durmugam: a Nangiomeri" (1959), reprinted in Stanner, W.E.H., *White Man Got No Dreaming: Essays 1938-1973* (Canberra: Australian National University Press, 1979), 67-105
- _____, "Caliban Discovered" (1962), reprinted in Stanner, W.E.H., *White Man Got No Dreaming: Essays 1938-1973* (Canberra: Australian National University Press, 1979), 144-164
- _____, "The History of Indifference Thus Begins" (1963), reprinted in Stanner, W.E.H., *White Man Got No Dreaming: Essays 1938-1973* (Canberra: Australian National University Press, 1979), 165-191; also reprinted in *Aboriginal History* 1/1 (1977), 13-26
- _____, "Aboriginal Territorial Organisation: Estate, Range, Domain and Regime", *Oceania* vol. 36 num. 1 (1965)
- _____, "After the Dreaming" (1968 Boyer Lectures), reprinted in Stanner, W.E.H., *White Man Got No Dreaming: Essays 1938-1973* (Canberra: Australian National University Press, 1979), 198-248

- _____, “The Yirrkala Land Case: Dress-rehearsal” (1970) , reprinted in Stanner, W.E.H., *White Man Got No Dreaming: Essays 1938-1973* (Canberra: Australian National University Press, 1979), 275-294
- _____, “Fictions, Nettles, Freedoms” (1972) , reprinted in Stanner, W.E.H., *White Man Got No Dreaming: Essays 1938-1973* (Canberra: Australian National University Press, 1979), 299-319
- _____, “After the Dreaming – Whither?” (1972) , reprinted in Stanner, W.E.H., *White Man Got No Dreaming: Essays 1938-1973* (Canberra: Australian National University Press, 1979), 320-339
- _____, “Aborigines and Australian Society” (1972) , reprinted in Stanner, W.E.H., *White Man Got No Dreaming: Essays 1938-1973* (Canberra: Australian National University Press, 1979), 340-358
- _____, “Land for Aborigines: Mr Hunt’s Criticisms Examined” (1973) , reprinted in Stanner, W.E.H., *White Man Got No Dreaming: Essays 1938-1973* (Canberra: Australian National University Press, 1979), 359-365
- _____, “Some Aspects of Aboriginal Religion”, *Colloquium* 9(1) (1976), 19-35, reprinted in Charlesworth, Max, ed., *Religious Business: Essays on Australian Aboriginal Spirituality* (Cambridge: Cambridge University Press, 1998), 1-23
- _____, *White Man Got No Dreaming: Essays 1938-1973* (Canberra: Australian National University Press, 1979)
- Stanton, John, “Old Business, New Owners: Succession and ‘the Law’ on the Fringe of the Western Desert” in Peterson, Nicolas and Langton, Marcia, eds., *Aborigines, Land and Land Rights* (Canberra: Australian Institute of Aboriginal Studies, 1983), 160-171
- Stark, Rodney, “Urban Chaos and Crisis: The Case of Antioch” in *The Rise of Christianity: A Sociologist Reconsiders History* (Princeton: Princeton University Press, 1996), 147-162
- Staub, Ervin and Pearlman, Laurie Anne, “Healing, Reconciliation, and Forgiving after Genocide and Other Collective Violence” in Helmick SJ, Raymond G., and Petersen, Rodney L., *Forgiveness and Reconciliation: Religion, Public Policy, and Conflict Transformation* (Pennsylvania: Templeton Foundation Press, 2001), 195-217
- Stephenson, M.A. and Ratnapala, Suri, eds., *Mabo: A Judicial Revolution* (St Lucia: University of Queensland Press, 1993)
- Stephenson, Peta, “Cross-Cultural Alliances: Exploring Aboriginal-Asian Literacy and Cultural Production” in Edwards, Penny and Yuafang, Shen, eds., *Lost in the Whitewash: Aboriginal-Asian Encounters in Australia, 1901-2001* (Canberra: The Australian National University Humanities Research Centre, 2003), 143-161
- Stone, S., *Aborigines in White Australia: A Documentary History* (Sydney: Heinemann Educational Books, 1974)
- Strang, Veronica, “Raising the Dead: Reflections on Native Title Process” in Toussaint, Sandy, ed., *Crossing Boundaries: Cultural, Legal, Historical and Practice Issues in Native Title* (Melbourne: Melbourne University Press, 2004), 9-23, 207-208
- Strelein, Lisa, “Culture and Commerce: The Use of Fishing Traditions to Prove Native Title” in Taylor, Luke; Ward, Graeme K.; Henderson, Graham; Davis, Richard; and Wallis, Lynley A., eds., *The Power of Knowledge, The Resonance of Tradition* (Canberra: Aboriginal Studies Press, 2005), 61-73
- _____, “Symbolism and Function: From Native Title to Aboriginal and Torres Strait Islander Self-Government” in Langton, Marcia; Tehan, Maureen; Palmer, Lisa; and Shain, Kathryn, eds., *Honour Among Nations?: Treaties and Agreements with Indigenous People* (Melbourne: Melbourne University Press, 2004), 189-20

- Stuhlmacher, Peter, "The Gospel of Reconciliation in Christ – Basic Features and Issues of a Biblical Theology of the New Testament" *Horizons in Biblical Theology* 1 (1979), 161-190
- _____, "Jesus as Reconciler: Reflections on the Problem of Portraying Jesus Within the Framework of a Biblical Theology of the New Testament", in his *Reconciliation, Law and Righteousness: Essays in Biblical Theology* (Philadelphia: Fortress Press 1982), 1-15.
- Suchet, Sandra, "Challenging 'Wildlife Management': Lessons for Australia from Zimbabwe, Namibia, and South Africa" in Baker, Richard; Davies, Jocelyn; and Young, Elspeth, eds., *Working on Country: Contemporary Indigenous Management of Australia's Lands and Coastal Regions* (Melbourne: Oxford University Press, 2001), 123-136
- Susin, Luiz Carlos and Aquino, Maria Pilar, *Reconciliation in a World of Conflicts Concilium* 2003/5 (London: SCM, 2003)
- Sutherland, Johanna and Muir, Kado, "Managing Country: A Legal Overview" in Baker, Richard; Davies, Jocelyn; and Young, Elspeth, eds., *Working on Country: Contemporary Indigenous Management of Australia's Lands and Coastal Regions* (Melbourne: Oxford University Press, 2001), 24-46
- Sutton, Peter, "Myth as History, History as Myth" in Keen, Ian, ed., *Being Black: Aboriginal Cultures in 'Settled' Australia* (Canberra: Aboriginal Studies Press, 1988), 251-268
- _____, *Native Title and the Descent of Rights* (National Native Title Tribunal, 1998)
- _____, *Native Title in Australia: An Ethnographic Perspective* (Cambridge: Cambridge University Press, 2003)
- Sutton, Peter and Rigsby, Bruce, "People with "Politicks": Management of Land and Personnel on Australia's Cape York Peninsula" in Williams, Nancy M, and Hunn, Eugene S, eds., *Resource Managers: North American and Australian Hunter-Gatherers* (Colorado: Westview Press Ltd, 1982, American Association for the Advancement of Science Selected Symposium 67), 155-171
- Swain, Tony, "On 'Understanding' Australian Aboriginal Religion (1985)" in Charlesworth, Max, ed., *Religious Business: Essays on Australian Aboriginal Spirituality* (Cambridge: Cambridge University Press, 1998), 72-93
- _____, "The Ghost of Space: Reflections of Warlpiri Christian Iconography and Ritual" in Swain, Tony and Bird Rose, Deborah, *Aboriginal Australians and Christian Missions: Ethnographic and Historical Studies* (The Australian Association for the Study of Religions, 1988), p. 452-469
- _____, "Dreaming, Whites and the Australian Landscape: Some Popular Misconceptions", *The Journal of Religious History* 15/3 (June 1989), 345-350
- Swain, Tony and Rose, Deborah Bird, *Aboriginal Australians and Christian Missions: Ethnographic and Historical Studies* (The Australian Association for the Study of Religions, 1988)
- Tan, Carolyn, "Confidentiality and Privilege: legal Proceedings and Anthropological Research" in Toussaint, Sandy, ed., *Crossing Boundaries: Cultural, Legal, Historical and Practice Issues in Native Title* (Melbourne: Melbourne University Press, 2004), 105-120, 214
- Tanner, Kathryn, "Justification and Justice in a Theology of Grace", *Theology Today* 55/4 (January 1999), 510-523
- Tatz, Colin, "The Dark Side of Sport" in Grattan, Michelle, *Essays on Australian Reconciliation* (Melbourne: Black Inc, 2000), 74-87
- Tavuchis, Nicholas, *Mea Culpa: A Sociology of Apology and Reconciliation* (Stanford, California: Stanford University Press, 1991)

- Tawa, Michael, "Reconciliation in Action: Design Projects at Warburton Ranges, WA: A Collaboration between the Ngaanyatjarra Community and the University of NSW" in Phillips, Scott K., *Everyday Diversity: Australian Multiculturalism and Reconciliation in Practice* (Altona: Common Ground Publishing Ltd, 2001), 37-51
- Taylor, John, "Goods and Gods: A Follow-Up Study of 'Steel Axes for Stone Age Christians'" in Swain, Tony and Bird Rose, Deborah, *Aboriginal Australians and Christian Missions: Ethnographic and Historical Studies* (The Australian Association for the Study of Religions, 1988), 438-451
- Taylor, Louise, "'Who's Your Mob?' – The Politics of Aboriginal Identity and the Implications for a Treaty" in McGlade, Hannah, ed., *Treaty: Let's Get It Right! A Collection of Essays from ATSIC's Treaty Think Tank and Authors Commissioned by AIATSIS on Treaty Issues* (Canberra: Aboriginal Studies Press, 2003), 88-106, 200-216
- Taylor, Luke, "Manifestations of the *Mimih*" in Taylor, Luke; Ward, Graeme K.; Henderson, Graham; Davis, Richard; and Wallis, Lynley A., eds., *The Power of Knowledge, The Resonance of Tradition* (Canberra: Aboriginal Studies Press, 2005), 182-198
- Taylor, Luke; Ward, Graeme K.; Henderson, Graham; Davis, Richard; and Wallis, Lynley A., eds., *The Power of Knowledge, The Resonance of Tradition* (Canberra: Aboriginal Studies Press, 2005)
- Taylor, Vincent *Forgiveness and Reconciliation: A Study in New Testament Theology* (London: Macmillan and Co., 1941)
- Tehan, Maureen, "Co-Existence of Interests in Land: A Dominant Feature of the Common Law", *Land, Rights, Laws: Issues of Native Title* 1/12 (January, 1997), available on web page (as at 17.4.06):
<http://ntru.aiatsis.gov.au/ntpapers/ntip12.pdf>
- _____, "A Hope Disillusioned, An Opportunity Lost? Reflections on Common Law Native Title and Ten Years of the *Native Title Act*", *Melbourne University Law Review* 27/2 (2003), 523-571
- _____, "Introduction: Contested Territory: Divided Past, Common Future" in Langton, Marcia; Tehan, Maureen; Palmer, Lisa; and Shain, Kathryn, eds., *Honour Among Nations?: Treaties and Agreements with Indigenous People* (Melbourne: Melbourne University Press, 2004), 117-119
- _____, "The Shadow of the Law and the British Columbia Treaty Process: '[Can] the unthinkable become common place?'" in Langton, Marcia; Tehan, Maureen; Palmer, Lisa; and Shain, Kathryn, eds., *Honour Among Nations?: Treaties and Agreements with Indigenous People* (Melbourne: Melbourne University Press, 2004), 147-162
- _____, "Introduction: Negotiating Co-existence" in Langton, Marcia; Tehan, Maureen; Palmer, Lisa; and Shain, Kathryn, eds., *Honour Among Nations?: Treaties and Agreements with Indigenous People* (Melbourne: Melbourne University Press, 2004), 173-175
- Tench, W., *Sydney's First Four Years* (Sydney: Angus and Robertson, 1961)
- Terreblanche, Sampie, "Dealing with Systemic Economic Justice" in Villa-Vicencio, Charles and Verwoerd, Wilhelm, ed., *Looking Back Reaching Forward: Reflections on the Truth and Reconciliation Commission of South Africa* (Cape Town: University of Cape Town Press 2000), 265-276
- Theissen, Gerd, *The Social Setting of Pauline Christianity* (Edinburgh: T&T Clark, 1982)

- _____, “Social Stratification in the Corinthian Community: A Contribution to the Sociology of Early Hellenistic Christianity” in Theissen, Gerd, *The Social Setting of Pauline Christianity* (Edinburgh: T&T Clark, 1982), 69-119.
- _____, “The Social Structure of Pauline Communities: Some Critical Remarks on J.J. Meggitt”, *Journal for the Study of the New Testament* 84 (December 2001), 65-84
- Theodoret of Cyrus, *Commentary on the Letters of St Paul* volume Two (Edited and Translated by Robert C. Hill) (Brookline, Massachusetts: Holy Cross Orthodox Press, 2001)
- Thiselton, Anthony, C., *The First Epistle to the Corinthians* (Grand Rapids: Eerdmans, NIGTC Series, 2000)
- _____, *First Corinthians: A Shorter Exegetical and Pastoral Commentary* (Grand Rapids: Eerdmans, 2006)
- Thompson, Alwyn “Forgiveness and the Political Process in Northern Ireland”, in *Forgiveness and Truth*, edited by Alistair McFadyen and Marcel Sarot, 139-144
- Thompson, David, “Bora, Church and Modernization at Lockhart River, Queensland” in Swain, Tony and Bird Rose, Deborah, *Aboriginal Australians and Christian Missions: Ethnographic and Historical Studies* (The Australian Association for the Study of Religions, 1988), 263-276
- Thompson, JA and Martens, Elmer A, פְּתִיחַ, *New International Dictionary of Old Testament Theology and Exegesis* volume 4, (Carlisle: Paternoster Publishing, 1997)
- Thompson, Leonard L, *The Book of Revelation: Apocalypse and Empire* (New York: Oxford University Press, 1990)
- Thomson, Neil, “The Australian Indigenous Health *InfoNet*: Knowledge Transfer to Assist Decision Making in Indigenous Health” in Taylor, Luke; Ward, Graeme K.; Henderson, Graham; Davis, Richard; and Wallis, Lynley A., eds., *The Power of Knowledge, The Resonance of Tradition* (Canberra: Aboriginal Studies Press, 2005), 141-153
- Thrall, Margaret E, *II Corinthians Volume I (I-VII)* (Edinburgh: T&T Clark, International Critical Commentary, Revised Edition, 2004)
- _____, *II Corinthians Volume II (VIII-XII)* (Edinburgh: T&T Clark, International Critical Commentary, 2000)
- Tickner, Robert, *Taking a Stand: Land Rights to Reconciliation* (Sydney: Allen & Unwin, 2001)
- Tombs, David, “Unspeakable Violence: The UN Truth Commissions in El Salvador and Guatemala” in Maclean, Iain S., ed., *Reconciliation, Nations and Churches in Latin America* (Aldershot: Ashgate, 2006), 57-83
- _____, “The Theology of Reconciliation and the Recovery of Memory Project in Guatemala” in Tombs, David and Liechty, Joseph, eds., *Explorations in Reconciliation: New Directions in Theology* (Aldershot: Ashgate, 2006), 85-99
- Tombs, David and Liechty, Joseph, eds., *Explorations in Reconciliation: New Directions in Theology* (Aldershot: Ashgate, 2006)
- Tonkinson, Robert, “Reflections on a Failed Crusade” in Swain, Tony and Bird Rose, Deborah, *Aboriginal Australians and Christian Missions: Ethnographic and Historical Studies* (The Australian Association for the Study of Religions, 1988), 60-73
- van Toorn, Penny, “Indigenous Australian Life Writing: Tactics and Transformations” in Attwood, Bain and Magowan, Fiona, eds., *Telling Stories: Indigenous History and Memory in Australia and New Zealand* (Crows Nest: Allen & Unwin, 2001), 1-20, 215-217
- Torrance, James B., “Southern Africa Today: The Kairos Debate” *Journal of Theology for Southern Africa* 55 (1986), 42-45

- Toussaint, Sandy, ed., *Crossing Boundaries: Cultural, Legal, Historical and Practice Issues in Native Title* (Melbourne: Melbourne University Press, 2004)
- Toussaint, Sandy; Tonkinson, Myrna; and Trigger, David, "Gendered Landscapes: the Politics and Processes of Inquiry and Negotiating Interests in Land" in Brock, Peggy, ed., *Words and Silences: Aboriginal Women, Politics and Land* (Crows Nest: Allen & Unwin, 2001), 157-174
- Tregenza, John Tungku, "Meetings with Anangu" in Walsh, Fiona and Mitchell, Paul, eds., *Planning for Country: Cross-Cultural Approaches to Decision-Making on Aboriginal Lands* (Alice Springs: Jukurrpa Press, 2002), 99-106
- Trevorrow, Tom and Trevorrow, Ellen, "Kumarangk: The Survival of a Battered People" in Grim, John A., ed., *Indigenous Traditions and Ecology: The Interbeing of Cosmology and Community* (Cambridge, Massachusetts: Harvard University Press, 2001), 485-493
- Trible, Phyllis, *God and the Rhetoric of Sexuality* (Philadelphia: Fortress Press, 1978)
- Trigger, David S., "Land Rights Legislation in Queensland: The Historical Issue of Association" in Peterson, Nicolas and Langton, Marcia, eds., *Aborigines, Land and Land Rights* (Canberra: Australian Institute of Aboriginal Studies, 1983), 192-201
- _____, "Anthropology in Native Title Court Cases: 'Mere Pleading, Expert Opinion, or Hearsay'?" in Toussaint, Sandy, ed., *Crossing Boundaries: Cultural, Legal, Historical and Practice Issues in Native Title* (Melbourne: Melbourne University Press, 2004), 24-33, 208-211
- Trudgen, Richard, *Why Warriors Lie Down and Die: Towards an Understanding of why Aboriginal people of Arnhem Land face the greatest crisis in health and education since European contact* (Aboriginal Resources and Development Services Inc., 2000)
- Turner, David L, "Paul and the Ministry of Reconciliation in 2 Cor. 5.11-6.2" *Criswell Theological Review* 4/1 (1989), 77-95
- Tuner, David H., "The Incarnation of Nambirrirrma" in Swain, Tony and Bird Rose, Deborah, *Aboriginal Australians and Christian Missions: Ethnographic and Historical Studies* (The Australian Association for the Study of Religions, 1988), 470-483
- Tutu, Desmond, *No Future Without Forgiveness* (London: Rider, 1999)
- Tyler, Anne, *Saint Maybe* (London: Vintage, 1992)
- Ucko, Hans, *The Jubilee Challenge: Utopia or Possibility - Jewish and Christian Insights* (World Council of Churches, 1997)
- Vachon, Daniel, and Toyne, Phillip, "Mining and the Challenge of Land Rights" in Peterson, Nicolas and Langton, Marcia, eds., *Aborigines, Land and Land Rights* (Canberra: Australian Institute of Aboriginal Studies, 1983), 307-326
- Vandeginste, Stef, "Rwanda: Dealing with Genocide and Crimes against Humanity in the Context of Armed Conflict and Failed Political Transition", in Nigel Biggar (ed.), *Burying the Past: Making Peace and Doing Justice after Civil Conflict* (Washington: Georgetown University Press, 2001), 223-253
- Vasta, Ellie, ed., *Citizenship, Community and Democracy* (Basingstoke: Macmillan Press Ltd, 2000)
- _____, "The Politics of Community" in Vasta, Ellie, ed., *Citizenship, Community and Democracy* (Basingstoke: Macmillan Press Ltd, 2000), 107-126
- Veracini, Lorenzo, "Terra Nullius and the 'History Wars'", On-Line Opinion: Australia's e-journal of Social and Political Debate, 10th February, 2006 (as at 3.3.10: <http://www.onlineopinion.com.au/view.asp?article=4141&page=0>)
- Verwoed, Wilhelm, "Towards Inclusive Remembrance after the 'Troubles': A Philosophical Perspective from within the South African Truth and Reconciliation

- Commission” in Tombs, David and Liechty, Joseph, eds., *Explorations in Reconciliation: New Directions in Theology* (Aldershot: Ashgate, 2006), 103-122
- Veth, “‘Abandonment’ or Maintenance of Country? A Critical Examination of Mobility Patterns and Implications for Native Title”, *Land, Rights, Laws: Issues in Native Title* 2/22 (April 2003), available on web page (as at 17.4.06): <http://ntru.aiatsis.gov.au/ntpapers/IPv2n22.pdf>
- Vika, Gcobani G. M., “Land Reform and Development in Post-Apartheid South Africa: A Recipe for Anarchy”, *Journal of Theology for Southern Africa* 110 (July 2001), 45-55
- Villa-Vicencio, Charles, *A Theology of Reconstruction: Nation-Building and Human Rights* (Cambridge: CUP, 1992)
- _____, “Restorative Justice: Dealing with the Past Differently” in Villa-Vicencio, Charles and Verwoerd, Wilhelm, ed., *Looking Back Reaching Forward: Reflections on the Truth and Reconciliation Commission of South Africa* (Cape Town: University of Cape Town Press 2000), 68-76
- _____, “Getting on With Life: A Move Towards Reconciliation” in Villa-Vicencio, Charles and Verwoerd, Wilhelm, ed., *Looking Back Reaching Forward: Reflections on the Truth and Reconciliation Commission of South Africa* (Cape Town: University of Cape Town Press 2000), 199-209
- _____, “Restorative Justice in Social Context: The South African Truth and Reconciliation Commission”, in Nigel Biggar (ed.), *Burying the Past: Making Peace and Doing Justice after Civil Conflict* (Washington: Georgetown University Press, 2001), 207-222
- _____, “Living in the Wake of the Truth and Reconciliation Commission: A Retroactive Reflection” in Maclean, Iain S., ed., *Reconciliation, Nations and Churches in Latin America* (Aldershot: Ashgate, 2006), 193-205
- Villa-Vicencio, Charles and Verwoerd, Wilhelm, ed., *Looking Back Reaching Forward: Reflections on the Truth and Reconciliation Commission of South Africa* (Cape Town: University of Cape Town Press 2000)
- de Villiers, Bertus, “South Africa: the Progress with Land Claims and Reflections on the Australian Process” in Keon-Cohen, Bryan, ed., *Native Title in the New Millennium: A Selection of Papers from the Native Title Representative Bodies Legal Conference 16-20 April 2000, Melbourne, Victoria* (Canberra: Aboriginal Studies Press, 2001), 377-389
- _____, “Exploring Non-Native Title Outcomes: Experiences in Southern Africa”, *Native Title Conference, 3-4 June, 2004, Adelaide*, available on the web page www.aiatsis.gov.au/rsrch/ntru/conf2004/papers/pdfs/BertusDeVilliers.pdf
- Vincent, Philip, “Noonkanbah” in Peterson, Nicolas and Langton, Marcia, eds., *Aborigines, Land and Land Rights* (Canberra: Australian Institute of Aboriginal Studies, 1983), 327-338
- _____, “Nharnuwangga, Wajarri and Ngarlawangga Consent Determination” in Toussaint, Sandy, ed., *Crossing Boundaries: Cultural, Legal, Historical and Practice Issues in Native Title* (Melbourne: Melbourne University Press, 2004), 121-127, 214
- Viner, Ian, “The Wik 10-Point Plan: A Plan for Racial Discrimination”, *Australian Rationalist* no. 45 (1997), 63-70
- Volf, Miroslav, *Exclusion and Embrace: A Theological Exploration of Identity, Otherness, and Reconciliation* (Nashville: Abingdon Press, 1996)
- _____, “The Social Meaning of Reconciliation” *Interpretation* 54/2 (April 2000), 158-172
- _____, “Forgiveness, Reconciliation, and Justice: A Christian Contribution to a More Peaceful Social Environment” in Helmick SJ, Raymond G., and Petersen, Rodney

- L., *Forgiveness and Reconciliation: Religion, Public Policy, and Conflict Transformation* (Pensylvania: Templeton Foundation Press, 2001), 27-49
- _____, “A Theology of Embrace in a World of Exclusion” in Tombs, David and Liechty, Joseph, eds., *Explorations in Reconciliation: New Directions in Theology* (Aldershot: Ashgate, 2006), 22-33
- Vorländer, H and Brown, C, “Reconciliation” in Brown, C, ed., *The New International Dictionary of New Testament Theology*, vol. 3 (Exeter: The Paternoster Press, 1978), 145-176
- Wacher, John, *The Towns of Roman Britain* (London: Batsford, 1995, 2nd edition)
- Wainright, Elaine M., “Place, Power and Potentiality: Reading Matthew 2.1-12 Ecologically”, *The Expository Times* 121/4 (January 2010), 159-167
- Walker, Kath: See also Oodgeroo Noonuccal, her Aboriginal name.
- Walker, Peter K., “Bishop Bell – The Man”, *The Expository Times* 121/5 (February 2010), 223-228
- Walker, Ranginui J., “Maori Sovereignty, Colonial and Post-Colonial Discourses” in Havemann, Paul, ed., *Indigenous Peoples’ Rights in Australia, Canada and New Zealand* (Melbourne: Oxford University Press, 1999), 108-122
- Wall, Deborah Ruiz, *Returning to the Heart in Gadigal Land: Reconciliation in Redfern – ‘The Block’* (1998) (available in the library of the Australian Institute of Aboriginal and Torres Strait Islander Studies, Canberra, Manuscript MS 3753)
- Walsh, Fiona, “Warlmanpa People Make a Ground Map” in Walsh, Fiona and Mitchell, Paul, eds., *Planning for Country: Cross-Cultural Approaches to Decision-Making on Aboriginal Lands* (Alice Springs: Jukurrpa Press, 2002), 129-135
- _____, “What do Participatory Planning Events Look Like?” in Walsh, Fiona and Mitchell, Paul, eds., *Planning for Country: Cross-Cultural Approaches to Decision-Making on Aboriginal Lands* (Alice Springs: Jukurrpa Press, 2002), 170-175
- Walsh, Fiona and Mitchell, Paul, eds., *Planning for Country: Cross-Cultural Approaches to Decision-Making on Aboriginal Lands* (Alice Springs: Jukurrpa Press, 2002)
- Walton, Steve, “The State They Were in: Luke’s View of the Roman Empire” in Oakes, Peter, ed., *Rome in the Bible and In the Early Church* (Carlisle: Paternoster Press, 2002), 1-41
- Wan, Sze-kar, “Collection for the Saints as Anticolonial Act: Implications of Paul’s Ethnic Reconstruction”, in Horsley, Richard A., ed., *Paul and Politics: Ekklesia, Israel, Imperium, Interpretation – Essays in Honour of Krister Stendahl* (Harrisburg: Trinity Press International, 2000), 191-215
- _____, *Power in Weakness: The Second Letter of Paul to the Corinthians* (Harrisburg: Trinity Press International, 2000)
- Wannenwetsch, Bernd, “The Political Worship of the Church: A Critical and Empowering Practice” *Modern Theology* 12/3 (July 1996), 269-299
- _____, “‘Members of One Another’: *Charis*, Ministry and Representation: A Politico-Ecclesial Reading of Romans 12” in Bartholomew, C., Chaplin, J., Song, R., and Wolters, A., eds., *A Royal Priesthood?: The Use of the Bible Ethically and Politically, A Dialogue with Oliver O’Donovan* (Grand Rapids: Zondervan, 2002), 196-220
- _____, *Political Worship: Ethics for Christian Citizens* (Oxford: Oxford University Press, 2004) (Translation by Margaret Kohl of the original 1997 publication of *Gottesdienst als Lebensform – Ethik für Christebürger*)
- Ward, Ian (Ribs), “How non-Aboriginal People Should Work with Aboriginal People on Land Management” in Walsh, Fiona and Mitchell, Paul, eds., *Planning for*

- Country: Cross-Cultural Approaches to Decision-Making on Aboriginal Lands* (Alice Springs: Jukurrpa Press, 2002), 77-78
- Wassmann, Jürg, "The Politics of Religious Secrecy", in Rumsey, Alan and Weiner, James (eds.), *Emplaced Myth: Space, Narrative and Knowledge in Aboriginal Australia and Papua New Guinea* (Honolulu: University of Hawaii Press, 2001), 43- 70.
- Waters, John, "Members of the Yorta Yorta Community v Victoria" *Native Title News* 6(2003)
- Watts, Fraser, "Shame, Sin and Guilt", in *Forgiveness and Truth*, edited by Alistair McFadyen and Marcel Sarot, 53-70
- Webb, Raelene and Pettit, Kenneth, "The Effect of Wik on Pastoral Leases with Provision for Access By Aboriginal People" in Hiley QC, Graham, ed., *The Wik Case: Issues and Implications* (Sydney: Butterworths, 1997), 30-34
- Weber, Leonard, "Land Use Ethics: The Social Responsibility of Ownership" in Evans, Bernard F., and Cusack, Gregory D., eds., *Theology of the Land* (Collegeville: Liturgical Press, 1987), 13-39
- Weber, Theodore R, "Guilt: Yours, Ours, and Theirs", *Worldview* 18 (February 1975), 15-22
- Webster, John, *Barth's Ethics of Reconciliation* (Cambridge: Cambridge University Press, 1995)
- _____, "The Ethics of Reconciliation", in Gunton, Colin E, ed., *The Theology of Reconciliation* (London: T&T Clark 2003), 109-124
- Wedderburn, A. J. M., "2 Corinthians 5.14 – A Key to Paul's Soteriology?" in Burke, Trevor J., and Elliott, J. Keith, ed., *Paul and the Corinthians: Studies on a Community in Conflict. Essays in Honour of Margaret Thrall* (Leiden: Brill, 2003), 267-283
- Weiner, James F., "Strangelove's Dilemma: Or, What Kind of Secrecy Do the Ngarrindjei Practice?", in Rumsey, Alan and Weiner, James (eds.), *Emplaced Myth: Space, Narrative and Knowledge in Aboriginal Australia and Papua New Guinea* (Honolulu: University of Hawaii Press, 2001), 139-160
- _____, "Afterword", in Rumsey, Alan and Weiner, James (eds.), *Emplaced Myth: Space, Narrative and Knowledge in Aboriginal Australia and Papua New Guinea* (Honolulu: University of Hawaii Press, 2001), 232-245
- Weinfeld, Moshe, "'Justice and Righteousness' – משפט צדקה – The Expression and Its Meaning" in Reventlow, H G and Hoffman, Y, *Justice and Righteousness: Biblical Themes and their Influence* (Sheffield: Sheffield Academic Press, 1992; *Journal for the Study of the Old Testament Supplement Series* 137), 228-246
- Welborn, L L, "On the Discord in Corinth: 1 Corinthians 1-4 and Ancient Politics" *Journal of Biblical Literature* 106/1 (1987), 85-111 (Also reprinted in a revised form in his book *Politics and Rhetoric in the Corinthian Epistles*, 1-42.)
- _____, *Politics and Rhetoric in the Corinthian Epistles* (Macon, Georgia: Mercia University Press, 1997)
- _____, "A Conciliatory Principle in 1 Corinthians 4.6" in Welborn, L. L., *Politics and Rhetoric in the Corinthian Epistles* (Macon, Georgia: Mercia University Press, 1997), 43-75
- _____, "Discord in Corinth: First Corinthians 1-4 and Ancient Politics" in Welborn, L L, *Politics and Rhetoric in the Corinthian Epistles* (Macon, Georgia: Mercia University Press, 1997), 1-42
- Wells, Pera, "Does Australia Have a Human Rights Diplomacy?" in Grattan, Michelle, *Essays on Australian Reconciliation* (Melbourne: Black Inc, 2000), 210-216
- Wells, Samuel, "How Common Worship Forms Local Character" *Studies in Christian Ethics* 15/1, 66-74

- Wengst, Klaus, *Pax Romana and the Peace of Jesus Christ* (ET: London: SCM, 1987)
- Wessells, Michael G. and Bretherton, Di, "Psychological Reconciliation: National and International Perspectives", *Australian Psychologist* 35/2 (July 2000), 100-108
- Westermann, C, *Creation* (London: SPCK, 1974)
- Wilcken S.J., John, "A Theological Approach to Reconciliation" in Brennan S.J., Frank, ed., *Reconciling Our Differences: A Christian Approach to Recognising Aboriginal Land Rights* (Richmond, Victoria: Aurora Books, 1992), 63-77
- Wild, Stephen A., ed., *Rom: An Aboriginal Ritual of Diplomacy* (Canberra: Australian Institute of Aboriginal Studies, 1986)
- Williams, David J, *Paul's Metaphors: Their Context and Character* (Peabody: Hendrickson, 1999)
- Williams, Demetrius, K., "Paul's Anti-Imperial "Discourse on the Cross": The Cross and Power in 1 Corinthians 1-4," *Society of Biblical Literature Seminar Series* 39 (November 2000), 796-823
- Williams, Joe, "Treaty Making in New Zealand/*Te Hanga Tiriti ki Aotearoa*" in Langton, Marcia; Tehan, Maureen; Palmer, Lisa; and Shain, Kathryn, eds., *Honour Among Nations?: Treaties and Agreements with Indigenous People* (Melbourne: Melbourne University Press, 2004), 163-170
- Williams, Nancy M, "A Boundary Is to Cross: Observations on Yolngu Boundaries and Permission" in Williams, Nancy M, and Hunn, Eugene S, eds., *Resource Managers: North American and Australian Hunter-Gatherers* (Colorado: Westview Press Ltd, 1982, American Association for the Advancement of Science Selected Symposium 67), 131-153
- _____, "Yolngu Concepts of Land Ownership" in Peterson, Nicolas and Langton, Marcia, eds., *Aborigines, Land and Land Rights* (Canberra: Australian Institute of Aboriginal Studies, 1983), 94-109
- _____, *The Yolngu and their Land: A System of Land Tenure and the Fight for its Recognition* (Stanford: Stanford University Press, 1986)
- Williams, Nancy M, and Hunn, Eugene S, eds., *Resource Managers: North American and Australian Hunter-Gatherers* (Colorado: Westview Press Ltd, 1982, American Association for the Advancement of Science Selected Symposium 67)
- Williams, Rhiân, "Native Title Mediation Practice: The Commonalities, the Challenges, the Contradictions – A Survey of Native Title Mediators", *AIATSIS Indigenous Facilitation and Mediation Project* 3, 2004. Available on web page (as at 6.4.09): <http://ntru.aiatsis.gov.au/ifamp/research/pdfs/report3ntmediationpractice.pdf>
- Williams, Rowan, *Resurrection: Interpreting the Easter Gospel* (London: Darton, Longman and Todd, 2002, 2nd edition)
- Williamson, Simon, "Implications of the Wik Decision for the Minerals Industry" in Hiley QC, Graham, ed., *The Wik Case: Issues and Implications* (Sydney: Butterworths, 1997), 45-50
- Willis, Peter, "Riders in the Chariot: Aboriginal Conversion to Christianity at Kununurra" in Swain, Tony and Bird Rose, Deborah, *Aboriginal Australians and Christian Missions: Ethnographic and Historical Studies* (The Australian Association for the Study of Religions, 1988), 308-320
- _____, "Riders in the Chariot: Aboriginal Conversion to Christianity in Remote Australia (1988)" in Charlesworth, Max, ed., *Religious Business: Essays on Australian Aboriginal Spirituality* (Cambridge: Cambridge University Press, 1998), 120-141
- Wilmer, Haddon, Jesus Christ the Forgiveness: Christology, Atonement and Forgiveness, in *Forgiveness and Truth*, edited by Alistair McFadyen and Marcel Sarot, 15-30
- Windschuttle, Keith, *The Fabrication of Aboriginal History. Volume I. Van Diemen's Land 1803-1847* (Sydney: Macleay Press, 2002)

- Wingred, Mary Lethert, *Claiming the City: Politics, Faith, and the Power of Place in St. Paul* (Ithaca: Cornell University Press, 2001)
- Wink, Walter, *Naming the Powers: The Language of Power in the New Testament* (Philadelphia: Fortress Press, 1984)
- _____, *Unmasking the Powers: The Invisible Powers That Determine Human Existence* (Philadelphia: Fortress Press, 1986)
- _____, “Niether Passivity nor Violence: Jesus’ Third Way (Matt. 5.38-42 par.)” in Swartley, William M., ed., *The Love of Enemy and Nonretaliation in the New Testament* (Louisville: Westminster John Knox Press, 1992), 102-125
- _____, *Engaging the Powers: Discernment and Resistance in a World of Domination* (Minneapolis: Augsburg Fortress, 1992)
- _____, *When the Powers Fall: Reconciliation in the Healing of the Nations* (Minneapolis: Fortress Press, 1998)
- Winter, Bruce, “Roman Law and Society in Romans 12-15” in Oakes, Peter, ed., *Rome in the Bible and In the Early Church* (Carlisle: Paternoster Press, 2002), 67-102
- Winter, Joan G., curator, *Native Title Business: Contemporary Indigenous Art* (Southport, Queensland: Keearia Press, 2002)
- Wire, Antoinette Clark, *The Corinthian Women Prophets: A Reconstruction Through Paul’s Rhetoric* (Minneapolis: Fortress Press, 1990)
- _____, “Response: The Politics of the Assembly in Corinth”, in Horsley, Richard A., ed., *Paul and Politics: Ekklesia, Israel, Imperium, Interpretation – Essays in Honour of Krister Stendahl* (Harrisburg: Trinity Press International, 2000), 124-129
- _____, “Response: Paul and Those Outside Power”, in Horsley, Richard A., ed., *Paul and Politics: Ekklesia, Israel, Imperium, Interpretation – Essays in Honour of Krister Stendahl* (Harrisburg: Trinity Press International, 2000), 224-226
- Wiseman, James, “Corinth and Rome I: 228 B.C. – A.D. 267”, *Aufstieg and Niedergang der Romischen* 1979, 438-548
- Wittgenstein, L., *Lectures and Conversations on Aesthetics, Psychology and Religious Belief*, ed. C Barrett (Oxford: Blackwells, 1970)
- Witherington III, Ben, *Conflict and Community in Corinth: A Socio-Rhetorical Commentary on 1 and 2 Corinthians* (Grand Rapids: Eerdmans, 1995)
- Wohling, Marc, “Ngaparrtji Ngaparrtji Nintilpayi: Reciprocal Thinking in Indigenous Land Management” in Baker, Richard; Davies, Jocelyn; and Young, Elspeth, eds., *Working on Country: Contemporary Indigenous Management of Australia’s Lands and Coastal Regions* (Melbourne: Oxford University Press, 2001), 156-170
- _____, “Stories About Listening” in Walsh, Fiona and Mitchell, Paul, eds., *Planning for Country: Cross-Cultural Approaches to Decision-Making on Aboriginal Lands* (Alice Springs: Jukurrpa Press, 2002), 118-121
- Wolff, Christian, “True Apostolic Knowledge of Christ: Exegetical Reflections on 2 Corinthians 5.14ff” in A. J. M. Wedderburn, ed., *Paul and Jesus* (Sheffield: Sheffield Academic Press, 1989), 81-98
- Wong, Ka Leung, “Profanation/Sanctification and the Past, Present and Future of Israel in the Book of Ezekiel”, *JSOT* 28/2 (2003), 210-239
- Worthington, Everett L., “Unforgiveness, Forgiveness, and Reconciliation and Their Implications for Societal Interventions” in Helmick SJ, Raymond G., and Petersen, Rodney L., *Forgiveness and Reconciliation: Religion, Public Policy, and Conflict Transformation* (Pensylvania: Templeton Foundation Press, 2001), 161-182
- Wright, N.T., “Paul’s Gospel and Caesar’s Empire”, in Horsley, Richard A., ed., *Paul and Politics: Ekklesia, Israel, Imperium, Interpretation – Essays in Honour of Krister Stendahl* (Harrisburg: Trinity Press International, 2000), 160-183

- _____, “Coming Home to St Paul? Reading Romans a Hundred Years After Charles Gore”, *SJT* vol. 55, no. 4, 2002, 392-407
- _____, “A Fresh Perspective on Paul?” *Bulletin John Rylands Library*, 83 no. 1, 21-39, based on his T.W. Manson Memorial Lecture, given on 26th October, 2000, also published in a slightly revised form in Bartholomew, C., Chaplin, J., Song, R., and Wolters, A., eds, *A Royal Priesthood?: The Use of the Bible Ethically and Politically, A Dialogue with Oliver O’Donovan* (Grand Rapids: Zondervan, 2002), 173-193
- Yoder, John Howard, *Body Politics: Five Practices of the Christian Community Before the Watching World*, (Nashville: Discipleship Press, 1992)
- _____, *The Politics of Jesus* (Grand Rapids: Eerdmans, 2nd edition, 1994)
- Young, Doug, Briggs, John, and Denholder, Anthony, “Into the Fray Again: Native Title and the Racial Discrimination Act” in Hiley QC, Graham, ed., *The Wik Case: Issues and Implications* (Sydney: Butterworths, 1997), 57-62
- Young, Elspeth, “Rhetoric to Reality in Sustainability: Meeting the Challenges in Indigenous Cattle Station Communities” in Taylor, Luke; Ward, Graeme K.; Henderson, Graham; Davis, Richard; and Wallis, Lynley A., eds., *The Power of Knowledge, The Resonance of Tradition* (Canberra: Aboriginal Studies Press, 2005), 116-129
- Young, Frances, *Sacrifice and the Death of Christ* (London: SPCK 1975)
- Young, Frances, and Ford, David F., *Meaning and Truth in 2 Corinthians* (London: SPCK, 1987)
- Young, Iris Marion, *Justice and the Politics of Difference* (Princeton: Princeton University Press, 1990)
- Yunupingu, Galarrwuy, ed., *Our Land is Our Life: Land Rights – Past, Present and Future* (St Lucia, Queensland: University of Queensland Press, 1997)
- Zalaquett, José, “Balancing Ethical Imperatives and Political Constraints: The Dilemma of New Democracies Confronting Past Human Rights Violations”, *Hastings Law Journal* 43/6 (1992), 1425-1438
- Zerbe, Gordon, “Paul’s Ethic of Nonretaliation and Peace” in Swartley, William M., ed., *The Love of Enemy and Nonretaliation in the New Testament* (Louisville: Westminster John Knox Press, 1992), 177-222
- _____, “The Politics of Paul: His Supposed Social Conservatism and the Impact of Postcolonial Readings,” *The Conrad Grebel Review* 21/1 (2003), 82-103
- Zimmerli, Walther, *Ezekiel volume 1*, Hermeneia Commentary (Philadelphia: Fortress Press, 1979)
- Zizioulas, J D, *Being As Communion: Studies in Personhood and the Church* (London: Darton, Longman and Todd, 1985)
- van Zyl, Paul, “Justice Without Punishment: Guaranteeing Human Rights in Transitional Societies” in Villa-Vicencio, Charles and Verwoerd, Wilhelm, ed., *Looking Back Reaching Forward: Reflections on the Truth and Reconciliation Commission of South Africa* (Cape Town: University of Cape Town Press 2000), 42-5