

**'With my eyes, my heart and with my brain I am thinking'<sup>1</sup>: Testimony, Treaty and Decolonising Indigenous History from Images**

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This paper examines Indigenous painting and art narrative of the far western desert as decolonising method in history. Indigenous experiences offered in images are studied for their value as Indigenous knowledges alongside a framework of epistemological racism that is re-evaluated here as an outcome of the European Enlightenment. In presenting Indigenous lived realities, knowledge and worldviews, it takes a focus on what *is*, rather than what is *not* and explores some potential methods of recording the *I* and not the *Other*. In observing this way of knowing the past the paper focuses on ways of differentiating Indigenous histories from Eurocentric understandings of history.

Failure to understand the lived realities of Indigenous peoples has played a strong role in the misconstruction of Indigenous histories. The following pages address critical assessment of scientific interpretations of Indigeneity by Indigenous decolonisation theories. The essay opens up questions about the influence of Enlightenment thinking on colonial history and concentrates on Indigenous images and narrative that inform history and decolonising methods that critically evaluate Eurocentric epistemologies and interpretations of Indigeneity. The critical approaches of decolonisation are examined within an academic context, alongside a summary of the historical development of discourse concerning philosophical, legal and cultural foundations of Indigenous

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<sup>1</sup> Janangoo Butcher Cherele, Artist Profile, Mangkaja Arts Resource Agency Aboriginal Corporation, Fitzroy Crossing.

<sup>2</sup> Thanks to the anonymous reviewer of this research article for comments on the text.

rights and human rights. An investigation of the various Enlightenment discourses that were brought to bear on popular attitudes regarding Indigenous peoples draws attention to those concepts that have contributed to the systematic denials of Indigenous rights in Australia. Finally, the pervasiveness of historical racism is examined through the ways in which such Eurocentric understandings have influenced western knowledge production - especially in regard to researching history. A review of Indigenous silence as resistance, Indigenous testimony, paintings and art narrative present a small selection of exemplary stories of cultural conflict and worldviews. They are proposed here as ways of knowing, that alongside the use of innovative research methods and fresh approaches to historical sources, hold the potential to achieve an alternative historical perspective of Indigenous experience.

### **Colonisation and Enlightenment principles of natural law and natural justice**

The following paragraphs summarise the ways in which twentieth century principles of human rights evolved from ancient and enlightenment principles of natural law and natural justice. A thorough understanding of these principles is important to the field of Indigenous studies but because this is obviously a huge area of scholarship, the scope of such a broad study is beyond the reaches of this essay. In light of this point, I will summarise the most obvious influences and call attention to areas that might be enhanced by further research. The natural law tradition was introduced in the sixteenth century to debate the rights and wrongs of colonisation. Enlightenment scholars argue that eighteenth-century

political thought included multiple Enlightenments.<sup>3</sup> While some Enlightenment thinkers such as Diderot, Kant and Herder saw humans as agents and rejected the conception of 'natural man,' others formed an imperialising ideology, which did not observe the rights of Indigenous peoples.<sup>4</sup>

Evangelical conquests influenced divine rights, human rights, and the ideological perspectives that were brought to bear on indigenous peoples and so influenced the ways in which human rights developed. Indigenous rights were also influenced by western invented perceptions of the new world. Such imaginings were created most predominantly by ideas about natural law that has resulted in an understanding of such principles as 'doctrines' of discovery.<sup>5</sup> Historians of intellectual history question the accuracy of an understanding of the awareness of the process as a legal 'doctrine'. This interpretation of the past as an outcome of indoctrination has ramifications concerning the accuracy of historical interpretation and requires further research. Historians propose that the dispossession of Indigenous peoples took place in many different forms beyond the law and that 'legal histories turn dispossession into a legal "event", abstracting it from reality.'<sup>6</sup> Further, historians also propose that natural law was not merely a formal or institutional system of law, but was more broadly understood as 'a philosophy or, more accurately, a mentality.'<sup>7</sup> Mentalities such as these, it is argued, not only influenced the formal legal system but they also

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<sup>3</sup> S. Muthu, *Enlightenment Against Empire*, (Princeton, 2003).

<sup>4</sup> *Ibid.*

<sup>5</sup> L. Behrendt, R. J. Miller, J. Ruru, and T. Lindberg, *Discovering Indigenous Lands, The Doctrine of Discovery in the English Colonies*, (Oxford, 2010).

<sup>6</sup> A. Fitzmaurice, 'The Genealogy of Terra Nullius', *Australian Historical Studies*, 38: 29, 2007, pp. 1-11.

<sup>7</sup> *Ibid.*, p. 2.

reflected Europeans' thinking more generally about their relations to each other and to the wider world.<sup>8</sup> It is this understanding of mentalities in Indigenous history that requires further research so as to understand with greater clarity the inherent processes of dissemination and cultural transmission of ideologies and mentalities in the processes of racial construction in that were active in the broader social domain.

### **Philosophical ideas regarding Indigenous rights**

Enlightenment narratives have been best described as 'grand philosophical histories or macro narratives' that 'trace the progress of societies from ancient times into the period of "barbarism and religion" and towards the creation of modern European civil society.'<sup>9</sup> Enlightenment narratives sought to explain the rise of European *ius gentium* and The Right of Nations. Although Enlightenment macro narratives and grand philosophical histories were undoubtedly influential, there is doubt about the diffusion of such opinion in broader society. Papal Bulls and philosophical ideas about Indigenous rights were formed according to the beliefs of de Las Casas, Sepulveda and Vitoria.<sup>10</sup> However, it is not clear whether there were convergences and divergences in attitudes towards Indigenous peoples in popular opinion. It is also not clear how Enlightenment narratives influenced popular culture and there is an inadequate understanding regarding the processes by which scientific ideas were disseminated amongst

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<sup>8</sup> *Ibid.*, p. 2.

<sup>9</sup> S. Muthu, 'The Politics of Enlightened Histories', *Political Theory*, Vol. 3, No. 2 (April 2003), p. 308.

<sup>10</sup> Anaya S. James, *Indigenous peoples in International Law* (Oxford, 1996).

broader society. Each of these aspects of the diffusion of ideas about colonisation requires further research.

In the discussion of empire it has been argued that there were two lively traditions of employing natural law. Throughout the eighteenth and nineteenth centuries both of these traditions were evident in any discussion of the problems of empire.<sup>11</sup> The first tradition, following Vitoria, was a defence of Indigenous rights and the second tradition took advantage of natural law to justify Indigenous dispossession. As a result of the Enlightenment, and the later inversion of Vitoria's natural law tradition, Indigenous rights were later expected to conform to European epistomes. Indigenous peoples were required to obey the rules according to a westernised historical construction of Indigeniety that was epistemologically racist. As studies have shown, Eurocentric values have significantly influenced perceptions of Indigenous lived realities. Scientific thinking construed Indigenous experience eurocentrically and formulated concepts of skin colour and classified Indigenous peoples accordingly.

### **Eurocentric Epistomes, Indigenous Policy and Indigenous Rights**

Eurocentric scientific philosophies were influential and informed the 'dying race' notion.<sup>12</sup> Scientific philosophies similarly influenced ideas about the construction of Indigenous gender roles and Australian policies of assimilation. As a direct result of the misconstruction of Indigenous identity, State government policies of so-called protection, and the broader White Australia

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<sup>11</sup> Fitzmaurice, p. 8.

<sup>12</sup> E. C. Eze, *Race and the Enlightenment: A reader*, (Cambridge 1997).

Policy further legitimated racism and the marginalisation of Indigenous Australians. Local government did not recognize equal citizenship rights for Indigenous people until the late twentieth century. One example of the outcome of historical epistemological racism is the evidenced by the findings of the Royal Commission into Aboriginal Deaths in Custody (RCIADIC) Regional report of Inquiry into Underlying Issues in Western Australia reported underlying historical, legislative and administrative discrimination.<sup>13</sup> Obviously, this is also a substantial area of learning, but for the purposes of this study, reference to the Commission is intended as an exemplar of the pervasiveness of epistemological racism in institutions.

Clearly then, Eurocentric values continue to have significant bearing on society. The quotations below articulate the ways in which society might observe Indigenous historical continuity and identity. The following definition of Indigenous people is provided according to a United Nations Sub-commission of Discrimination and Protection of Minorities, Study of the Problem of Discrimination against Indigenous Populations document of 1986:

Indigenous communities, peoples and nations are those which, having a historical continuity with pre-invasion and pre-colonial societies that developed on their territories, consider themselves distinct from other sectors of the societies now prevailing in those territories, or parts of them. They form at present non-dominant sectors of society and are determined to preserve, develop and transmit to future generations their ancestral territories, and their ethnic identities, as the basis of their continued existence as peoples, in accordance with their own cultural patterns, social institutions and legal systems.<sup>14</sup>

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<sup>13</sup> Royal Commission into Indigenous Deaths in Custody, Indigenous Law Resources, Reconciliation and Social Justice Library, Regional Reports, <http://www.austlii.edu.au/au/other/IndigLRes/rciadic/>

<sup>14</sup> Sub commission of Discrimination and Protection of Minorities, Study of the Problem of Discrimination against Indigenous Populations E/CN.4/Sub 2/986/Add. 4. Para 379 (1986). Thanks to my colleagues at the Koori Centre for bringing this quotation to my attention.

The following quotation defines the meaning of Indigenous rights within a framework of human rights:

Indigenous peoples have seized upon the institutional and normative regime of human rights that was brought within the fold of international law in the aftermath of World War II and adopted by the United Nations Charter ... Within the human rights framework; indigenous peoples are groups of human beings with fundamental human rights concerns that deserve attention.<sup>15</sup>

Because Eurocentric and scientific understandings of Indigeneity maintain historical continuity they contradict the United Nations understanding of Indigenous rights that are outlined above. Epistemological racism continues in the present day to influence Indigenous cultural patterns and weaken Indigenous rights. For example, in the book entitled *Reclaiming Indigenous Voice and Vision*, in his article entitled 'Indigenous rights in Canada', Ted Moses claims that 'existing human rights law is not well respected' and that a Quebec case 'clearly demonstrates a double standard based on race, Quebecois have the right, Indians do not.'<sup>16</sup> The reluctance of society to engage with Australia's colonial past is clearly seen in current debate about the Northern Territory intervention. As with the Royal Commission into Aboriginal Deaths in Custody, this is a huge area of study but is acknowledged in this paper as another pertinent example of an inability to acknowledge Indigenous rights. Not surprisingly, the federal Indigenous intervention will come under international scrutiny with a top United Nations official who is critical of a lack of rights for Australian Indigenous people. Northern Territory Indigenous leaders have told United Nations High

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<sup>15</sup> S. James Anaya, *Indigenous Peoples in International Law* 2<sup>nd</sup> ed. (New York, 2004), p. 7.

<sup>16</sup> T. Moses 'Indigenous Rights in Canada' in M. Battiste (Ed.,) *Reclaiming Indigenous Voice and Vision*, (Vancouver, 2000), p. 75.

Commissioner for Human Rights Navi Pillay that things have deteriorated under the intervention imposed by the Howard government in 2007. *The Age* reported that the United Nations officials argue that there is much discrimination against Indigenous peoples, together with lack of consultation and insufficient respect for land.<sup>17</sup> In Darwin, Ms Pillay was handed a petition signed by 6500 Australians calling for her support in restoring the rights of Aboriginal people in the Northern Territory.<sup>18</sup> The petition, organised by Melbourne-based group *Concerned Australians*, calls for the Gillard government to end the intervention, which it says is discriminatory. The government passed legislation last year to reinstate the Act after compulsory income management of welfare payments was broadened from 73 remote Northern Territory communities targeted under the intervention, to all welfare recipients in the Northern Territory. The intervention has also been criticised by the United Nations Human Rights Committee and the United Nations special rapporteur on Indigenous Rights.<sup>19</sup> There are many such instances of the outcomes of Eurocentric philosophical understandings of Indigenous experience and the misapplication of human rights in Indigenous contexts but to explore them fully is beyond the scope of this paper.

Indigenous peoples in Australia and overseas express the aspiration for a genuine anti-colonial existence. First Nations Indigenous Canadians, for example, expect to express their own versions of cultural identity. They reject the Indian Act as representative of an acceptable First Nations identity because, in a similar

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<sup>17</sup> L. Murdoch, 'Intervention Facing United Nations Criticism', *The Age*, May 23, 2011.

<sup>18</sup> *Ibid.*

<sup>19</sup> *Ibid.*

way to the ways in which Indigenous identities are perceived in Australia, they claim that 'ghosts of past policies' continue to influence it and reproduce colonialist perspectives that undermine First Nations Canadian Indigenous identity.<sup>20</sup> An alternative proposition is that Indigenous and settler state settlements and agreement-making processes adhere more closely to 'living documents.' Inuit leaders describe living documents as the means by which relationships are sought, developed and maintained. Agreement making provides a forum that is best described as an ongoing *process* and is not proposed to be a *conclusion* or *solution*, but instead is understood as an ongoing process. Treatise in Canada and America were the historical tool for managing competing claims backed by land rights, self-government agreements and common law.<sup>21</sup> In Australia, treaties were referred to in historical documents but rarely enacted.<sup>22</sup> It has been cogently argued, that where the government is looking for *solutions*, Indigenous communities put forward a *process* for managing living documents.<sup>23</sup> For example, the James Bay and Northern Quebec Agreement proposal is recommended as an important mechanism on which to build relationships and manage conflicts. The Cree and the Inuit peoples have asserted their right to govern their own lives. They demonstrate an insistence

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<sup>20</sup> S. Rutherford, 'Colonialism and the Indigenous Present: an Interview with Bonita Lawrence', *Institute of Race Relations*, Vol. 52 (1), 2010, pp. 9-18.

<sup>21</sup> Hildebrandt, Walter, Goodstriker, Wilton (Eds.), *The True Spirit and Original Intent of Treaty 7*, (Montreal, 1996), P. F. Prucha, *American Indian Treaties: the History of a Political Anomaly*, (Berkeley, 1994).

<sup>22</sup> State Library of Victoria, Port Phillip Association Papers 1835-1837 MS 11230. John Wedge wrote to Commissioner James Simpson and proposed seeking a treaty with the Indigenous communities to avoid bloodshed. He wrote of 'negotiating a treaty with the natives on the condition of non-interference on their part'.

<sup>23</sup> M. Langton, (Ed.), *Settling with Indigenous People: Modern Treaty and Agreement Making*, (Annandale, 2006), p. 4.

on the benefit for all Canadians of taking note of the lessons of Indigenous governance and practice.<sup>24</sup>

Eurocentric understandings of Indigenous experience also dominate the academy. Moreton-Robinson, for example, writes about the relationship between the coloniser and the colonised through the ways in which Indigenous women's life stories are presented collaboratively with non-Indigenous women or edited by them. Such editing she suggests, conforms to 'white literary practice.'<sup>25</sup> In particular, she writes about the ways in which anthropological representations of Indigenous women have influenced academic understandings of Indigeneity. According to Moreton-Robinson, past anthropological methods of understanding - which have misrepresented the lived realities of Indigenous women, are based on scientific ways of understanding that have become internalised in public and academic discourses.<sup>26</sup> Writing of inherent colonial agendas she suggests that racism is 'something that operates in the public sphere but not the private.'<sup>27</sup> Moreton-Robinson draws out the involvedness and contradictions of the positioning of 'white feminist academic practice.' Further, she argues that white feminist academia 'centres whiteness and reproduces inequality.'<sup>28</sup> Likewise, she suggests that 'teaching 'race' in terms of structural inequality more often than not reduces it to a biological category that has social consequences only for the 'Other.'<sup>29</sup> The cultural values, norms and beliefs of

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<sup>24</sup> *Ibid.*, p. 4.

<sup>25</sup> A. Moreton-Robinson, *Talkin' Up to the White Woman: Indigenous Women and Feminism*, (Queensland, 2002).

<sup>26</sup> *Ibid.*, p. 75.

<sup>27</sup> *Ibid.*, p. 42.

<sup>28</sup> *Ibid.*, p. 47.

<sup>29</sup> *Ibid.*, p. 47.

'Others' are subordinated to those of the institution.'<sup>30</sup> According to Moreton-Robinson, 'white feminists who teach about 'race' leave whiteness uninterrogated and centred but invisible.'<sup>31</sup>

### **Decolonisation Methods**

Part of the problem of why Eurocentric racism continues to be so influential in current affairs lays in restricted ways of understanding the past and in the ways that history is written. Eurocentric understandings of the past raise questions about the ways in which we know history and the ways of knowing it and recording it beyond the scope of our present knowledge. It has been suggested by those working in decolonising methodologies that in order to challenge the 'practices of colonial, western worldviews and the inherent knowledges, methods, morals and beliefs.' that research must 'decolonise existing colonial, western research practices'.<sup>32</sup> In response to western research practices and in order to contribute to a continued critique of western knowledge systems, scholars working in the field of Indigenous studies present an alternative to western knowledge production and have effectively formulated decolonising methodologies.<sup>33</sup>

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<sup>30</sup> *Ibid.*, p. 48.

<sup>31</sup> *Ibid.*, p. 49.

<sup>32</sup> K. Martin, *Ways of knowing, ways of being and ways of doing: Developing a theoretical framework and methods for re-search and Indigenist research.* (2003). Retrieved 8 August, 2007, from [http://www.aiatsis.gov.au/\\_data/assets/pdf-file/578/MARTIN.pdf](http://www.aiatsis.gov.au/_data/assets/pdf-file/578/MARTIN.pdf)

<sup>33</sup> L. Tuhiwai Smith, *Decolonizing methodologies: Research and Indigenous peoples* (New York, 1999). J. Iseke-Barnes, 'Living and Writing Indigenous Spiritual Resistance', *Journal of Intercultural Studies*, Vol. 24, No. 3, 2003, pp. 211-238, L. Irabinna Rigney (Autumn 1999), 'Internationalisation of an Indigenous Anti-Colonial Cultural Critique of Research Methodologies: A Guide to Indigenist Research Methodology and its Principles, *Wicazo Sa Review*, Vol. 14, No. 2

## Colonialism and recording the 'I' and not the 'other'

### Recording the 'other'

Aboriginalist images of Indigenous peoples in nineteenth century photographs portray a colonial perspective that contrasts dramatically with Indigenous versions of history. Aboriginalist discourse controls and maintains an unchanging view of Indigenous experience. Aboriginalist representations of Indigenous peoples are to be found most extensively in European photographs. For example, the commissioners of the Inter colonial Exhibition, which was held in Melbourne, in 1866, first exhibited Walter Carl's portraits of Indigenous peoples living at Coranderrk, near Healesville in 1866.<sup>34</sup> Similarly, a photograph of unknown Indigenous girls sitting on the grass at Coranderrk, arranges them for the camera in an unsmiling, uncomfortable, orderly group pose.<sup>35</sup> Better-known examples are the images of Charles Kerry, John Lindt and Daniel Marquis. The photographs, produced during 1860 to 1900, demonstrate colonial control. According to experts, they strongly 'suggest the embedded nature of coloured race' and create a show box of the landscape and a particular European 'fixity' of posed men in painted backdrops, semi-naked 'stage managed' colonial mastery

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(Emergent ideas in Native American Studies), pp. 109-121C. Smith and H. Martin Wobst (eds.), *Indigenous Archaeologies: Decolonizing Theory and Practice* (London and New York, 2005), D. Foley (Summer 2003), 'Indigenous Epistemology and Indigenous Standpoint Theory', *Social Alternatives*, Vol. 22, No. 1, pp. 44-52, S. Wilson, *Research is Ceremony: Indigenous Research Methods*, (Halifax and Winnipeg, 2008), T. Janke, *Writing up Indigenous research: authorship, copyright and Indigenous knowledge systems* (Sydney 2009).

<sup>34</sup> The State Library of Victoria, *Portraits of Aboriginal Natives Settled at Coranderrk, near Healesville; about 42 miles from Melbourne. Upper Yarra. Also Views of the Station & Lubras Basket-Making, 1866*, H9./-06.

<sup>35</sup> *Ibid.*, 1865, *Photographic print of 8 Aboriginal Australian girls in European dress, seated on grass with bushland behind them*, H32549/8.

over the subject.<sup>36</sup> As a further example of Indigenous misrepresentation in images, see also, the contrast between the ways in which communities of the Ngaanyatjarra region of Western Australia remember Indigenous histories today and the ways in which they are represented in the photographs and documentary film of William Grayden and the history of Warburton range in the late 1950s.<sup>37</sup>

### **Recording the 'I'**

Negation of colonialist imagery is established by Ricky Maynard's historical images and documentary method of photographic depiction. In 'Urban Diary' the photographs aim to 'record the I and not the other' and 'what it is rather than what it is not.'<sup>38</sup> These images aim to historically record and present a continuity of cultural practice. 'The Moonbird People' series (1985-88), for example, elucidates a cultural tradition that is strongly believed to hold cultural significance for future generations. The photographs put on view the long-established history and cultural practice of the capture, the plucking and the filleting of mutton-birds. The photographs record the Tasmanian landscape within which these ancient activities take place. In a similar way, Maynard's photography reveals a social history of Aurakun that offers an Indigenous perspective of continuities in Indigenous history that are based firmly within the

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<sup>36</sup> M. Maynard, 'Staging Masculinity: Late Nineteenth Century Photographs of Indigenous Men', *Journal of Australian Studies*, No. 66. (2000), pp. 129-137.

<sup>37</sup> P. F. McGrath and D. Brooks, 'Their Darkest Hour: the films and photographs of William Grayden and the history of the "Warburton Range Controversy" of 1957', *Aboriginal History*, vol. 34, pp. 115-141.

<sup>38</sup> K. Munro, Curator of Aboriginal and Torres Strait Island Collections, Museum of Contemporary Art, Sydney, Guest Lecture, Koori Centre, 2010.

lived realities of Indigenous cultures. In contrast to popular opinion and colonialist discourse his work makes reference to the historical significance of cultural practice. He suggests that 'Australia needs to rid itself of the notion of having an 'acceptable history' and one that is pleasing to the senses and allows 'all of us' to feel united as one.'<sup>39</sup> Further, through photographic images, he recommends that Australia has avoided coming to terms the reality of its collective past. He asks, 'how can there be a future built on this?'<sup>40</sup> Of the historical significance of his artistry he states the following:

These are images that have a common concern about the meaning and social relevance in the making of history. In this sense they are about 'leaving proof.' Life in passing...and in complicated times. For the Indigenous picture-maker addressing this era of uncertainty, loss and pervasive moral turmoil – where proof seems absent – the problems of historical record amidst that turmoil become central to my work.<sup>41</sup>

### **Legal Testimony: Native Title Claims**

As with Ricky Maynard's photography, the colonialist representation of Indigeniety that is presented by western knowledge production is cancelled out by Indigenous legal testimony. Witnesses who relate their stories in legal depositions often provide such testimony and they are frequently relied upon to provide evidence, crucially where witnesses' reports establish a continuity of land occupation in Native Title legal claims. Such substantiation is useful for contesting colonialist or so-called 'official' versions of Indigenous experience and history. Indigenous storytelling and narrative provides 'credibility and rigor of

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<sup>39</sup> R. Maynard, 'Returning to Places that Name Us', in *Portrait of a Distant Land*, (Sydney, 2008).

<sup>40</sup> *Ibid.*, p. 48

<sup>41</sup> *Ibid.*

yarning' as an Indigenous form of conversation. As a research method, exploring Indigenous narrative is not simply information gathering. Research suggests that it might also be recognised as a means of creating a relationship with Indigenous storytellers, who, the authors suggest, unfold stories in the form of narrative, which holds a legitimate place in research gathering, enabling the application of Indigenous methodologies.<sup>42</sup> As another example of storytelling, authentic Indigenous representation is made through the telling of Indigenous life narrative that explain creation stories such as 'the women who made the seas for Gumbaynggir people.'<sup>43</sup> Such life stories inform, advise, provide history, destabilize Aboriginalist representation and create agency.

### **Silence as Resistance and Indigenous History from Legal Documents**

Not all legal testimony is as rich in historical detail as is the testimony that is established freely by Indigenous litigants in native title claims. There is, however, a limited role in understanding Indigenous history from legal sources. For example, *Black Glass* examines the documents of the Western Australian Courts of Native Affairs that were abolished in 1954.<sup>44</sup> The author describes the court as 'quick and dirty backroom criminal justice jurisdiction to provide a semblance of justice for Indigenous people.'<sup>45</sup> This study is focused on the files of

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<sup>42</sup> D. Bessarab and B. Ng'andu 'Yarning About Yarning as a Legitimate Method in Indigenous Research.' *Indigenous Journal of Critical Studies*, Volume 3, Number 1, 2010, p. 37. L. Barker "Hangin' out" and "Yarnin": Reflecting on the Experience of Collecting Oral Histories, *History Today*, Volume 5, No 1 (2008).

<sup>43</sup> M. Somerville and T. Perkins, *Singing the Coast*, (Canberra, 2010).

<sup>44</sup> K. Auty, *Black Glass*, (Fremantle, 2005), p. 9.

<sup>45</sup> *Ibid.*, p. 2.

the court and some well-documented cases to find out how the court operated. In researching the documents, Auty found communication in Indigenous peoples to be fraught with exclusionary practices, ambiguity, passive non-compliance, strategic non-disclosure and veiled sentiments where silence was used as a communication block. She warns against forming uneducated assumptions about Indigenous cultures. In this particular legal context, Indigenous silence is considered as historical practice. She maintains that 'the view from the outside is never as knowing as it is assumed to be.'<sup>46</sup> Indigenous narratives, she contends, 'involve silence, opacity, resistance and gratuitous concurrence' and that the Indigenous people involved were 'not transparent'.<sup>47</sup> In most cases there is a story that is deliberately withheld. Referring to such silence as agency, the author suggests the following:

Silence might represent strategic deferral or it may be sharply rhetorical in that it leaves a marked and unfilled gap such unyielding waiting is not the silence of the docile or the transparent. Silence might be a simple, culturally grounded reference to long held historical practices.<sup>48</sup>

The depositions of the trials of the New South Wales Supreme Court correspondingly provide limited historical information. The documents are silent about the social circumstances and personal details of Indigenous deponents. Although they do identify the nature of crime committed by Indigenous men and women and against them in the early nineteenth century to the early twentieth century. Although record is made of such crimes as murder, violence and theft, there are few records that encompass details of the history or

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<sup>46</sup> *Ibid.*, p. 4.

<sup>47</sup> *Ibid.*, p. 9.

<sup>48</sup> *Ibid.*, p. 86.

lived experience of Indigenous deponents.<sup>49</sup> In order to observe these histories we must turn to other sources.

## **History from Images**

### **Indigenous land rights, conflict history and cultural continuity**

Histories are possible through images as well as words. Australian native title land claims have demonstrated this. In contrast to the Western Australian Courts of Native Affairs and the New South Wales Supreme court records, the paintings and accompanying narrative of Indigenous artists are rich in historical detail. The images are regularly accepted as evidence of cultural continuity in Indigenous native title claims. Representative of one such history and in preparation for the Ngunnara Native Title claim hearings is the Ngunnara Canvas. Artists of the far western desert created collaborative canvases to provide legal testimony for native title land claims and successfully presented a history of cultural continuity. The Ngunnara canvas is a collective work by over sixty artists. It was created collaboratively from memory at Pirnini, south west of Fitzroy Crossing, on the northern edge of the Great Sandy Desert in the southern Kimberley region by artist claimants who created two canvasses, the second, produced in 1997, measured eight metres by ten metres.<sup>50</sup>

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<sup>49</sup> The State Archives of NSW Depositions of Bathurst circuit c.1863, Depositions of Sydney Gaol delivery c.1863, Depositions of Goulburn Circuit c.1862, Depositions of Sydney Criminal Sessions c.1861, NSW Police Gazette c.1886. Most documents contain only surface information regarding the crime but without the particulars of Indigenous deponents.

<sup>50</sup> The Ngunnara Canvas, Mangkaja Arts Resource Agency Aboriginal Association, Fitzroy Crossing, Kimberley, Western Australia. Thanks to the artists and Pippa of Mangkaja Arts for giving me permission to refer to the images and narrative of the paintings.



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A striking representation and cultural repository of Indigenous knowledge, the painting is not only aesthetically important but is also historically and intellectually significant. At this point I should note that in this essay I do not offer an in-depth analysis of any image, although such an approach is relevant, this essay purely demonstrates the usefulness of such an image in making history.

In the past, artists from the far western desert prohibited public viewing of knowledge in painting because of Indigenous law which protected knowledge which was sacred and not to be revealed publically. While this is a matter of ongoing debate in some communities, the Warakurna community have permitted public access to their work and land rights feature strongly in their histories. For example, artist Eunice Yunurupa Porter in her painting 'Going Home', images a history of a 35 year struggle of the Indigenous community in lobbying for land rights for communities from the Warakurna region. The

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<sup>51</sup> The Ngurrara Canvas, Mangkaja Arts Resource Agency Aboriginal Association, Fitzroy Crossing, Kimberley, Western Australia. Thanks to the artists and to Pippa of Mangkaja Arts for giving me permission to refer to the images and narrative of the paintings.

lobbying of the government for resolutions in Ngaanyatjarra land rights claims took place in a meeting in Warburton in the early 1970s as her narrative and painting below testifies:



All the people went to Warburton for a big meeting. At the meeting we were told that the Government were going to help us to start the communities in Mantamaru, Blackstone, Tjekarli and Warakurna. We were so happy! People were jumping up saying 'I want to go home to Mantamaru!', 'I want to go to Warakurna!', 'Ngurraku!' Everybody rolled up their swags, blankets, billycans. The children and old people went in the trucks and some other people were walking. We were all so happy to be going to our home. In our new communities we didn't have houses or a shop. We were living in wiltjas and tents. The government trucks would come around to bring food and money to the community.<sup>52</sup>

The Australian Federal Court, in June, 2005, recognised the exclusive right of the Ngaanyatjarra people to 180,000 square kilometres of land between the Great Victoria Desert and the Gibson Desert. Eunice Porter gives a picture of the celebrations of this outcome by the locals at Puntjilpi, an outstation near Mantamaru. Her painting entitled 'Land Rights' below records the details of the

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<sup>52</sup> I would like to say thank you to the artists of the Warakurna community for giving me permission to include these images in my article. Eunice Porter, *Going Home*, Warakurna Art Gallery, Warakurna Artists Aboriginal Corporation, Western Australia.

signing of the document:



People had been trying to get it [native title] for a really long time. After they gave the paper [lease], we danced to show our culture. Some women were dancing Kungkarangkalpa – Seven Sisters. I was singing and I danced later on. All the whitefellas were watching and taking photos. It was a really happy day for us.<sup>53</sup>

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<sup>53</sup> Eunice Porter, *Land Rights*, Warakurna Art Gallery, Warakurna Artists Aboriginal Corporation, Western Australia.

Yangkana Madeleine Laurel's paintings illustrate intimate histories. They speak of locating bush foods and specific gender and cultural activities. For example, the accompanying narrative contains important geographical and historical details of where to locate bush foods. One painting describes the details of women's work and imparts knowledge about skills that are passed down from generation to generation in a history of how women collected bush foods in a Coolamon:

This is a painting about the women. A long time ago the women used to carry coolamon whenever they used to go to collect food from the bush. I learnt to carry one before my granny taught me how to carry food in one.<sup>54</sup>



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<sup>54</sup> Yangkana Madeleine Laurel, *Coolamon*, Mangkaja Arts Resource Agency Aboriginal Association, Fitzroy Crossing, Kimberley.

In a seemingly peaceful and beautiful landscape, Yangkana Madeleine Laurel provides an image and narrative of conflict history of battles between police and Bunuba peoples in 1894 to 1896. The image, which belies an ostensible tranquillity, relates the details of a chilling history that lies beneath the aesthetic surface appeal of the painting. The painting records the conflict that occurred and the acquisition of rock holes around the proposed settlement around Quanbun station. She writes:

This painting is about a place at Quanbun Station boundary. This place is a rock hole at a hill called Winjimurru. The rock hole is called Winjawa. A long time ago people used to live here. They used to get water from the rock hole. On the other side of the hill the police shot the people and threw their bodies inside. You can see the bones.<sup>55</sup>



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<sup>55</sup> Y. M. Laurel, *Winjawa*.

In another vibrant painting the artist narrates cultural details of how to fish for catfish and bream in the local area.<sup>56</sup>



Similarly, in a story about a dreaming she writes:

This is a barramundi dreaming at a place called Jaapirinykara. In one of the waters there are lots of barra'. When people go in a dream they can see these fish in the water. There is a person watching the fish, so no one can touch them. He has got a dog with him to chase people away from that place. That place is near Likil and Ninyjarta across the river in the flat country. It is there but you can't see it. You can see it in a dream and you can let them into the river if you get a chance when the man isn't watching. This is the story as it was told to me by the old people.<sup>57</sup>




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<sup>56</sup> Y. M. Laurel, *Kakaru*. We get kakaru (mussel) in the river. We feel around in the water. When we feel something hard we know it is kakaru. We get lots of them then we take it and cook them. Sometimes we use them for bait to get parulu (catfish) or walngka (bream). We get them to cook and eat with walngka or parlka (barramundi)

<sup>57</sup> Y. M. Laurel, *Jaapirinykara*.

Outlined above are a small but significant number of paintings that illustrate a diversity of historical detail from a community perspective that encompass valuable historical detail of Indigenous ways of knowing, recording and presenting Indigenous histories. Because they are reconstructed in this article they will lose some of their cultural meaning. Therefore, appropriate analytical and empirical research will appreciate more fully the depth of history that may be ascertained from images such as these. Whatever the case, these histories demonstrate continuity in Indigenous cultural practice beyond Eurocentric levels of understanding of an Indigenous past and as historical method they also possess significant decolonising potential. The perspectives that are presented in the documentary photography of Ricky Maynard, the collective testimony and combined standpoint in paintings such as the Ngurrara Canvas and the images and narrative of artists such as Yangkana Madeleine Laurel revise essentialist interpretations of Indigenous history. With a sufficiently flexible historical approach they hold the potential to provide fresh and inclusive historical perspectives of Indigenous experience.

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